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Outline of Testimony before the Board of Zoning Adjustment

**BZA Application No. 18489
3357-3359 Georgia Avenue, N.W.**

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I. Site location and description

A. Location

1. Southeast corner of the intersection of Georgia Avenue and Otis Place, N.W.
2. Project site consists of Lot 89 in Square 3033
3. Site located in the Park View area

B. Size

1. Site area is approximately 4,986 square feet
2. Site is generally rectangular in shape
3. Frontage of approximately 57.5 feet on Georgia Avenue and 85.9 feet on Otis Place
4. Bounded by 10 foot alley on the east side
5. Bounded by private property on the south side

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C. Existing site condition: vacant

II. Description of surrounding area

A. Park View area

**BOARD OF ZONING ADJUSTMENT
District of Columbia**
CASE NO. 18489
EXHIBIT NO. 31
Board of Zoning Adjustment
District of Columbia
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B. Remainder of Square 3033:

1. To the south: 1, 2 and 3 story commercial buildings fronting on Georgia Avenue
2. To the east:
 - a. On the north side of Newton Street: mixed residential of single family detached, semi-detached and row dwellings and apartment houses (in 2 to 3 story buildings)
 - b. On the south side of Otis Place: 2 story plus basement row dwellings
 - c. East of 6th Street:
 - (1) 2 story plus basement row dwellings on east side of 6th Street
 - (2) Bruce Monroe Elementary school on the west side of Warder Street between Otis Place and Newton Street

C. Uses to the south and north:

1. Mixed residential and commercial uses along Georgia Avenue, with some newer high rise residential buildings
2. Mixed moderate density residential uses along the east-west cross streets

D. Uses to the east:

1. Mixed moderate density residential
2. Park View Recreation Center

E. Uses to the west:

1. Haynes Public Charter School
2. Mixed moderate density residential

III. C-3-A District in the Georgia Avenue (GA) Neighborhood Commercial Overlay District

A. C-3-A

1. Uses (§§741 – 744)

- a. Commercial use permitted as a matter-of-right, including retail, service and office use
- b. Hotel
- c. Residential use permitted as carry-over from Special Purpose and Residential Districts

2. Height - maximum of 65 feet (§770.1)
3. Density - maximum of 4.0 FAR, with nonresidential uses limited to 2.5 FAR (§771.2)
4. Lot occupancy – residential uses limited to 75% (§772.1)
5. Rear yard – minimum of 2 1/2 inches per foot of height measured from the mean finished grade at the rear to the high point of the roof or parapet, but not less than 12 feet (§774.1)
6. Side yard - not required; if provided, minimum of 2 inches per foot of height of building (§775.5)
7. Parking (§2101.1)
 - a. For apartment house: minimum of 1 space for each 2 units
 - b. For retail use: minimum of 1 space for each 300 square feet of gross floor area and cellar floor area in excess of 3,000 square feet
8. Loading berth:
 - a. For residential: minimum of 1 berth @ 55 feet and 1 service/delivery loading space for apartment house with 50 or more units
 - b. For 5,000 up to 20,000 square feet of retail: minimum of 1 berth @ 30 feet
9. Inclusionary zoning (IZ) modifications:
 - a. 20% increase in FAR to 4.8
 - b. 5% increase in lot occupancy to 80%

B. Georgia Avenue Overlay District

1. Preferred retail uses must occupy a minimum of 50% of the gross floor area of the ground floor
2. No drive-throughs and limitations on other automobile-related uses
3. No less than 50% of street wall at the ground level must be devoted to entrances to the building or to commercial uses or to display windows
4. Design requirements applicable to the streetwall, glass, entrances and clear height on the ground level
5. Buildings with 14 foot clear height on the ground floor are permitted an additional 5 feet in overall height
6. Special exception required for fast food establishments, a new building on a lot of 12,000 square feet or more and enlargement of an existing building by 50% or more on a lot of 12,000 square feet or more

IV. Proposed development

- A. Use: apartment house with approximately 20 units
- B. Gross floor area of approximately 19,016 square feet (approximately 3.81 FAR), including 2,128 square feet of ground floor retail
- C. Height: 70 feet
- D. Parking: none provided

V. Relief required:

- A. Variance from the parking requirements for the number of spaces (§2101.1):
 1. Minimum required: 10 spaces (for the apartments)
 2. Proposed: none
 3. Variance: 10 spaces
- B. Special exceptions for:
 1. Roof structure (§411)
 - a. Required: single enclosure with walls of equal height setback 1:1 from exterior walls of building

- b. Proposed: 2 enclosures, both 8', 3" above the roof, meeting all applicable setbacks
 - c. Relief required: multiple enclosures
- 2. Rear yard (§774)
 - a. Minimum rear yard required: 13 feet, 9 inches
 - b. Minimum rear yard provided:
 - (1) Below the 20 foot plane: 12 feet (measured from the centerline of the alley)
 - (2) Above the 20 foot plane: 7 feet (measured from the east property line)
 - c. Relief required: 1 foot, 9 inches and 6 feet, 9 inches, respectively
- 3. Street wall build-to requirement (§1328.2)
 - d. Required: 75% of the street wall at the street level must be constructed to the property lines abutting both streets
 - e. Proposed: none of the street wall built to the property line (because of building restriction lines along both Georgia Avenue and Otis Place)
 - f. Relief required: exception from the street wall requirements for entire street frontages

VI. Standards for a variance (§3103.2)

- A. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,
- B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;

C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

VII. Compliance with the variance standards

A. Exceptional situation:

1. Size and width of the lot, particularly as they effect the ability to meet the parking requirements
2. Building restriction lines on both street frontages, reduce the buildable area by approximately 28%
3. Width of public alley at the rear (10 feet)
4. Limitation on taking access to required parking or loading from Georgia Avenue

B. Practical difficulty:

1. Retail requirement (minimum of 50% of the gross floor area of the ground floor) limits the number of surface parking spaces that can be provided
2. Size of site effectively precludes opportunity to put parking below grade or above grade
3. Size of parking space and area needed to provide access to the spaces make providing parking at the surface or on the ground floor unduly burdensome

C. No substantial detriment:

1. High transit accessibility, as well as bike parking and access to car sharing spaces, will lead to low demand for parking
2. Property will have only 20 units, so finding occupants who will not own cars can be accomplished without impacting the area

VIII. Standards for the roof structure special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

- C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...
- D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

IX. Compliance with the special exception standards for roof structure

- A. Size of building lot and other conditions:
 - 1. Small size of lot results in residential floor plates that are concentrated around the core with short hallways
 - 2. Entire south side of the building is devoted to core and vertical circulation
 - 3. Elevator is located across a corridor from the stairs
- B. Unduly restrictive and unreasonable:
 - 1. Stair tower to the roof is separated from the elevator core by a corridor
 - 2. Requiring single enclosure would add unnecessarily to the bulk on the top of the building
- C. Impact on light and air of other buildings
 - 1. Roof structures are well below permitted height
 - 2. Roof structures substantially exceed required setbacks from both street frontages and the alley
 - 3. Roof structures are mostly not visible
- D. Harmony with the purpose and intent of the Regulations
 - 1. Roof structures have been designed to minimize the height and bulk
 - 2. Meet all setbacks from streetwall edge and alley wall

X. Standards for the rear yard special exception

- A. Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants

- B. In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms
- C. Building plan shall include provisions for adequate off-street service functions
- D. Review by the Office of Planning and other relevant District departments and agencies

XI. Compliance with the rear yard special exception standards

- A. Are 4 windows in the side wall of the rowhouse to the east across the alley
- B. At that level, the rear yard is short by only 1 foot, 9 inches, an imperceptible difference
- C. Distance between rear wall of proposed building and side wall of existing house across the alley (17 feet) is greater than if the properties abutted without an alley and the new building only required a rear yard (13 feet, 9 inches at 2 1/2 inches per foot of height)
- D. Above the twenty foot plane, there are no facing windows for more than 300 feet
- E. Service and loading functions
 - 1. No off street loading required
 - 2. Delivery staging area located inside the building adjacent to the east wall of the building
- F. Agency review: Office of Planning report, dated January 8, 2013, filed in the record

XII. Standards for the street wall special exception (§1330.2)

- A. The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located;
- B. Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;
- C. Parking and traffic conditions associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences; and

- D. Noise associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences.

XIII. Compliance with the street wall special exception standards

- A. 100% of the street facing walls of the building is built to the building restriction line
- B. Building design is consistent with the developing character of Georgia Avenue and is lower in height than other buildings approved in the area
- C. No impact on vehicular access or egress, parking or traffic
- D. No impact on noise

XIV. Conclusions

- A. Size and shape of the property and presence of building restriction lines along both street frontages form exceptional conditions precluding parking from being constructed above or below grade
- B. Ground floor is required to have retail for at least 50% of the gross floor area
- C. Between retail and vertical service functions, there is no room to meet the parking requirements on the ground floor
- D. There are sufficient alternatives for access to the site using modes other than automobile travel
- E. Roof structures have been designed to be minimally visible
- F. Connecting wall to make single enclosure is not necessary
- G. Existing building restriction lines make it impossible to comply with the "build to" requirements
- H. Failure to grant relief from the "build to" requirement would prevent any development of the site
- I. The application should be granted