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Outline of Testimony before the Board of Zoning Adjustment

BZA Application No. 18516

1105 1st Street, N.E.

**Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP**

March 12, 2013

I. Site location and description

A. Location

1. Southeast corner of the intersection of 1st and L Streets, N.E.
2. Project site consists of Lot 53 in Square 713
3. Site located in the NoMA/North Capitol Street area

B. Size

1. Total site area is approximately 71,217 square feet
2. Lot has frontage of approximately 363 feet on L Street and approximately 228 feet on 1st Street
3. Lot is trapezoidal in shape
4. Site also adjoins the Metrorail/AMTRAK/CSX rail lines on the east

C. Existing site condition: vacant building formerly used as the Greyhound Bus Station

II. Description of surrounding area (see aerial photo, attached)

A. NoMA/North Capitol/Union Station area

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18516

EXHIBIT NO. 30

Board of Zoning Adjustment
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B. Remainder of the Square:

1. Parking lot at the northeast corner of 1st and K Streets
2. Metrorail equipment facility (1 story) at southeast corner of the square
3. Metrorail and other rail tracks to the east

C. To the north:

1. L Street - 90 feet wide
2. One NoMA Station (office building converted from the former Woodward & Lothrop Warehouse) in the block bounded by 1st, L and M Streets and the railroad tracks
3. Constitution Square (office building, apartment house, hotel and grocery store) in the block bounded by 1st, M and N Streets and the railroad tracks
4. U.S. Bureau of Alcohol, Tobacco and Firearms in the block bounded by 1st, 2nd and N Streets and New York and Florida Avenues
5. Courtyard by Marriott Hotel in the block bounded by 2nd Street and Florida Avenue and the railroad tracks
6. Other large office buildings as the first phase of large scale commercial and mixed use developments on the west side of 1st Street
7. Apartment houses under construction
8. Surface parking areas

D. To the east: rail yards and lines north of Union Station

E. To the south:

1. K Street - 147.67 feet wide
2. Office Building at 111 K Street
3. Other large scale office buildings in the block bounded by H, K, 1st and North Capitol Streets
4. Union Station and rail yards

F. To the west:

1. 1st Street - 110 feet wide
2. Office building at 90 K Street (northwest corner of the intersection of 1st and K Streets)
3. Surface parking

III. Existing zoning: C-3-C

A. Uses (§§741 – 744)

1. Commercial use permitted as a matter-of-right, including retail, service and office use
2. Hotel and inn
3. Residential use permitted as a carry-over from the Special Purpose and Residential Districts

B. Height - maximum of ninety feet (§770.1)

C. Density - maximum of 6.5 FAR (§771.2)

D. Rear yard:

1. Minimum of 2½ inches per foot of height, not less than twelve feet (§774.1)
2. On a corner lot, a court in lieu of a rear yard may be provided

E. Side yard - not required (§775.5)

F. Court width (§776):

1. For a nonresidential building: at any elevation in the court, minimum of 3 inches per foot of height, measured from the lowest level of the court to that elevation but not less than 12 feet
2. For a residential building: at any elevation in the court, minimum of 4 inches per foot of height, measured from the lowest level of the court to that elevation but not less than 12 feet

G. Closed court area (§776):

1. For a nonresidential building, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 250 square feet.
2. For a residential building, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet.

H. Parking (§2101.1):

1. For office use: minimum of one space for each 1,800 square feet of gross floor area in excess of 2,000 square feet
2. For retail use: minimum of one space for each 750 square feet of gross floor area in excess of 3,000 square feet
3. For apartment house: minimum of 1 space for each 4 units

I. Loading (§2201.1):

1. For office building with more than 200,000 square feet of gross floor area: 3 loading berths @ 30 feet deep and 1 service/delivery loading space
2. For retail with 30,000 to 100,000 square feet of gross floor area: 1 loading berth @ 30 feet deep, 1 loading berth @ 55 feet deep and 1 service/delivery loading space
3. For grocery store with 20,000 to 100,000 square feet of gross floor area: 1 loading berth @ 30 feet deep, 1 loading berth @ 55 feet deep and 1 service/delivery loading space
4. For apartment house with more than 50 units: 1 loading berth @ 55 feet deep and 1 service/delivery loading space

J. Downtown Development Receiving Zone

1. With use of transferable development rights (TDRs), height is maximum permitted under the Act of 1910 (130 feet for subject site)
2. With use of TDRs, maximum FAR is 10.0

IV. Proposed development

A. Use: mixed use development including:

1. Office building (approximately 346,072 square feet of gross floor area)
2. Ground floor retail and service uses, including a grocery store
 - a) Approximately 59,977 square feet of gross floor area
 - b) Additional space in the concourse level not counted in GFA
3. Apartment house (295 units)

B. Height: 130 feet

C. Overall floor area ratio: 9.5

D. Parking: 569 spaces proposed in a four level underground garage

E. Loading:

1. 2 berths @ 12 feet wide by 55 feet deep
2. 3 berths @ 12 feet wide by 30 feet deep
3. 4 service/delivery loading spaces @ 10 feet wide by 20 feet deep

V. Relief required:

A. Variance from the loading requirements (§2201.1)

1. Total minimum required: 3 berths @ 55 feet deep, 5 berths @ 30 feet deep and 4 service/delivery loading spaces
2. Proposed: 3 berths @ 55 feet deep, 2 berths @ 30 feet deep and 4 service/delivery loading spaces
3. Variance: 3 berths @ 30 feet deep

B. Variance from the closed court requirements for the court adjacent to the south lot line (§776.1):

1. Minimum width
 - a. Required based on height: 37 feet, 4 inches

- b. Proposed: 15 feet
- c. Variance: 22 feet, 4 inches
- 2. Minimum area
 - a. Required based on height: 2,787.06 square feet
 - b. Proposed: 1,588 square feet
 - c. Variance: 1,199.06 square feet

VI. Standards for a variance (§3103.2)

- C. 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,
- D. the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 (1994 Repl.) 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;
- E. 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.

II. Compliance with the variance standards

- A. Exceptional situation:
 - 1. Size and dimensions of the lot
 - 2. Location on the street intended for a pedestrian plaza in the public street extending onto the private property as proposed and supported by the NoMA BID
 - 3. Nature of the project as a large mixed use development with sizable residential and nonresidential components

B. Practical difficulty:

1. Providing more loading with the clearance required would eat into retail floor plates
2. Larger court would create an awkward condition for the residential floor plan at the south end
3. Requiring compliance with minimum court dimensions would adversely impact floor plan of apartment units
4. Providing no courts would create spaces with greater depth and limited windows

C. No substantial detriment:

1. Substantial open space will be provided as part of large plaza in the public street extending onto the private property
2. Owner of abutting property to the south supports location and size of court
3. Court proposed for property to the south will augment the actual amount of open space for both properties
4. Project will contain total of 5 loading berths and 4 service/delivery spaces
5. 55 foot berths could be used by multiple smaller trucks
6. Applicant has agreed to conditions regarding a loading management plan

VII. Conclusions

1. Exceptional situation arises from size and shape of property and nature and location of proposed improvements on the site
2. Practical difficulty results from impact on floor plate of having more loading on the below grade level with the necessary clearances
3. Building configuration with either a larger court or no court would create a burdensome condition for the apartment layout on the south side of the building
4. Court matches location of proposed court in building to be constructed to the south
5. Will be more than enough loading for the building with loading management plan

6. Application should be approved

