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## **Outline of Testimony before the Board of Zoning Adjustment**

**BZA Application No. 18772**  
**627 H Street, N.W.**

**Steven E. Sher**  
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**Holland & Knight LLP**

**June 10, 2014**

### **I Site location and description**

#### **A Location**

- 1 North side of H Street between 6th and 7th Streets, N W.
- 2 Project site consists of Lot 59 in Square 453
- 3 Site located in the Chinatown subarea of Downtown

#### **B Size**

- 1 Frontage on H Street and width of 60 5 feet
- 2 Frontage on 30 foot wide east-west alley at the rear
- 3 Land area of approximately 8,039 square feet
- 4 Bounded by private property on the east and west sides

#### **C Existing site condition unimproved**

### **II Description of surrounding area**

#### **A Remainder of Square 453**

- 1 Mixed commercial buildings, most of late 19th and early 20th century vintage along all street frontages

- 2 Immediately to the west are 3-4 story existing buildings (containing a drug store on the ground floor and restaurant)
- 3 Exceptions:
  - a Two office buildings for associations constructed in the mid 1990s at 630 and 636 I Street (directly across the alley from the subject property)
  - b 6<sup>th</sup> and I Street Synagogue, at the northeast corner of the square
  - c Wah Luck apartment house

B General area

- 1 High rise office buildings, hotels and apartment houses (including Gallery Place project directly across H Street to the south)
- 2 Lower rise buildings part of Downtown Historic District
- 3 Chinatown Arch spans H Street 75 feet east of the subject property
- 4 Verizon Center to the south
- 5 Convention Center to the north
- 6 Entrance to the Gallery Place Metrorail Station at the southeast corner of the intersection of 7th and H Streets (approximately 150 feet away)

III Existing zoning – DD/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. May be measured from centerline of alley at the rear and need not be provided below a plane 20 feet above the mean finished grade at the middle of the rear of the building

E Side yard - not required (§775 5)

F Parking (§2101 1)

- 1 For retail use, minimum of 1 space for each 750 square feet of gross floor area in excess of 3,000 square feet
- 2 For hotel use, minimum of 1 space for each 4 rooms usable for sleeping

G Loading (§2201.1)

1. For hotel with more than 200 rooms 1 loading berth @ 30 feet deep, 1 loading berth @ 55 feet deep and one service/delivery loading space
- 2 For a use which occupies 90% or more of the gross floor area of a building, loading shall be calculated as if that use occupied the entire building

H Downtown Development (DD) Overlay District

- 1 Applies to new buildings and alterations or additions to existing buildings involving more than 100 percent of assessed value of building in any twelve month period (§1700 5)
- 2 Height is maximum permitted under the Act of 1910 (110 feet for subject site) (§1701 7)
- 3 Chinatown: minimum of 0.5 FAR equivalent (may be above or below grade) must be devoted to retail and service uses (§1705 3)
- 4 Housing Priority Area B
  - a No maximum FAR for residential uses (§1706 7(b))
  - b Minimum of 3.5 FAR required to be devoted to residential use (6.0 FAR available for commercial) (§1706 5)

I Proposed development

- A. Use hotel with 245 rooms and retail on the ground floor and cellar
- B Gross floor area of approximately 68,227 square feet (approximately 8.49 FAR)
- C Height 10 feet
- D Parking no spaces provided

II Relief required.

A Variances

- 1 From the parking requirements for the number of spaces (§2101.1)
  - a Minimum required 48 spaces
  - b Proposed 0 spaces
  - c Variance 48 spaces
- 2. From the loading requirements (§2201.1)
  - a Required 1 berth @ 55 feet, 1 berth @ 30 feet and 1 service/delivery loading space
  - b Proposed 1 berth @ 30 feet and 1 service/delivery loading space
  - c Variance 1 berth @ 55 feet and 1 platform @ 200 square feet
- 3 From the court requirements (§776)
  - a Minimum width required for a court 3 inches per foot of height of court but not less than 12 feet
    - (1) 12 feet for a closed court on the west side of the building at the second floor level
    - (2) 20 feet, 10 inches for an open court on the west side of the building at the third floor level based on a height of court of 83 feet, 4 inches
    - (3) 23 feet, 4 inches for an open court on the east side of the building at the second floor level based on a height of court of 93 feet, 4 inches

b Proposed

- (1) 10 feet, 4 inches for a closed court on the west side of the building at the second floor level
- (2) 10 feet, 4 inches for an open court on the west side of the building at the third floor level
- (3) 8 feet, 2 inches for an open court on the east side of the building at the second floor level

c Variances

- (1) 1 foot, 8 inches for a closed court on the west side of the building at the second floor level
- (2) 10 feet, 6 inches for an open court on the west side of the building at the third floor level
- (3) 15 feet, 2 inches for an open court on the east side of the building at the second floor level

B Special exception for roof structure (§411)

- 1 Required single enclosure with walls of equal height setback 11 from exterior walls of building
- 2 Proposed single enclosure with walls of equal height and with varying setbacks
- 3 Relief required
  - a Roof structure of 18 feet 6 inches requires a setback of the same amount from exterior walls
  - b No setback is provided on the east court wall and a setback of 5 feet, 11 inches is provided from west court wall

C Special exception for waiver of the rear yard (§774 2)

- 1 Minimum rear yard required 22 feet (measured from the centerline of the alley at the rear)
- 2 Proposed 15 feet (measured from the centerline of the alley at the rear)
- 3 Relief required 7 feet

III 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

IV. Compliance with the variance standards

- A Exceptional situation
  - 1 Small size of the lot (area of only 8,039 square feet) for the use proposed
  - 2 Small width of the lot (only 60 5 feet) for the use proposed
  - 3 Encroachment of building on west side by an additional 7 inches
  - 4 Requirement to provide ground floor retail
- B Practical difficulty
  - 1 Size of site precludes underground parking
  - 2 Combined width of ramp, aisle and size of spaces takes up the entire width of the lot without room to ramp down to underground parking
  - 3 Widths and configuration of alleys preclude a 55 foot truck from getting to a loading berth in the rear
  - 4 Internal building functions (stairs, elevator core and trash room) and ground floor retail reduce space available at the ground level for loading berth
  - 5 Hotel rooms require windows, complying courts on both sides would not leave sufficient floor plate for corridors and rooms

- C No substantial detriment
  - 1 High transit accessibility (Gallery Place Metrorail Station entrance is across H Street), as well as bike parking and access to car sharing spaces (Walk Score of 97), will lead to low demand for parking per reports from DDOT and analysis prepared by Gorove|Slade
  - 2 Is significant parking capacity at nearby off-street garages
  - 3 Proposed court widths meet Building Code requirement for sufficient light and air
  - 4 Adjoining uses are commercial retail and office spaces
- V 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
- VI Compliance with the special exception standards for roof structure
  - A Size of building lot and other conditions
    - 1 Hotel use requires courts to provide light and air to guest rooms
    - 2 Width of lot and required setback forces roof structure toward the center of the lot, but width of floor plate for main north-south wing of the building (only 38 feet, 6 inches) would leave only 1 foot, 6 inches available for penthouse
    - 3 Small size of lot constrains locations for stair towers and elevator core
  - B Unduly restrictive and unreasonable
    - 1 Location of roof structure is dictated by location of stairs on floor plates below

- 2 Core is located toward the front of the building off the main entrance from the street and proximate to hotel reception area and front desk

C Impact on light and air of other buildings

- 1 Roof structure exceeds setbacks from street frontage and the alley and is within permitted height
- 2 Single penthouse has roof at maximum of 18 feet, 6 inches and highest only over center portion
- 3 Roof structures are not visible from the street in front of the building
- 4 Future development on sites to the east and west will likely further reduce view of roof structure from public space

D Harmony with the purpose and intent of the Regulations

- 1 Roof structure has been designed to minimize the height and bulk
- 2 Meets all setbacks from streetwall edge and alley wall

VII 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

VIII Compliance with the rear yard special exception standards

- A Are only 2 banks of small windows in the rear wall of the hotel
- B The facing buildings to the north across a 30 foot alley and are setback from their rear lot lines
- C The facing buildings to the north are 3 and 4 story commercial buildings (office and retail)



D. Service and loading functions

- 1 No off street loading or parking is being provided
- 2 Presence or absence of rear yard makes no material difference to whether parking and loading can be provided on-site

E Agency review: Office of Planning report, dated June 3, 2014, filed in the record

IX Conclusions

- A Size and width form exceptional conditions of the property precluding underground parking
- B Practical difficulty results from inability to provide underground parking
- C Ground floor configuration make parking and loading difficult and undesirable
- D. There are sufficient alternatives for access to the site using modes other than automobile travel and there is sufficient off-street parking available in the neighborhood for those who might choose to drive
- E Providing complying court widths would leave insufficient room for hotel floor plates
- F. Roof structures have been designed to be minimally visible
- G Granting less than the full rear yard would not be detrimental to the subject building or any adjoining buildings
- H The application should be granted