

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application for Lot 810, Square 221

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by FOTP, LLC, (the "Applicant") the owner of the property located at 1503-1505 Pennsylvania Avenue, NW, Square 221, Lot 810 (the "Site") in support of its application pursuant to 11 DCMR §§ 3104.1, 411.11 and 774.2 for special exception relief from (i) the penthouse setback requirements of 11 DCMR §§ 777.1 and 411.18; and (ii) from the minimum rear yard requirements of 11 DCMR § 774.1. The Applicant proposes an addition to the building historically known as the Riggs National Bank, in order to accommodate the establishment of the Museum of the American Educator, and to house offices and conference rooms at the Site. The Site is located in the C-4 District.

Pursuant to 11 DCMR § 3113.8, the Applicant will file its Statement of the Applicant with the Board of Zoning Adjustment ("Board" or "BZA") no fewer than 14 days prior to the public hearing for the present application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception and variance relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

I. Background

A. Description of Site and Surrounding Area

The Site consists of Lot 810 in Square 221. Square 221 is bounded by H Street to the north, 15th Street to the east, Pennsylvania Avenue to the south, and Madison Place to the west, all located in the northwest quadrant of the District of Columbia. The Site is located near the corner of Pennsylvania Avenue and 15th Street with frontage on Pennsylvania Avenue. A public alley approximately 24-feet wide is located to the north, the US Treasury Annex is located to the west, and the American Security and Trust Company Building is located to the east of the Site. The Site contains approximately 9,692 square feet of land area.

The Site is presently improved with a 5-story building known as the Riggs National Bank. The building contains substantial rooftop mechanical equipment that is currently exposed to view from Pennsylvania Avenue. The proposed modifications to the building submitted with this application have received concept approval from the Historic Preservation Review Board ("HPRB") and US Commission of Fine Arts.

B. Existing Zoning

The Site is zoned C-4. The building is listed as an Historic Landmark in the DC Inventory of Historic Sites, and a contributing structure in the 15th Street Financial Historic District and

Lafayette Square Historic District. The maximum permitted height for development on the Site is 80 feet, based on Appendix G of the Zoning Regulations and the 1910 Height Act.

C. Project Description

The Applicant proposes an expansion to the building to establish the Museum of the American Educator, and house offices and conference rooms at the Site. The proposed plan for the building includes an expansion of the 5th Floor, which is not visible since it is located behind the existing façade of the building. A one story addition is proposed above the 5th Floor that will replace the exposed mechanical equipment that is currently visible from Pennsylvania Avenue. The 6th Floor will be setback from historic Pennsylvania Avenue approximately 23 feet. The proposed additions will have a maximum height of 79 feet, as measured from the top of the curb at the northeast corner of Pennsylvania Avenue and Madison Place. The building contains approximately 38,130 square feet of total gross floor area (3.93 FAR). A handicap accessible entrance will be added to the south façade.

II. Special Exception Relief – Penthouse Setback

The Applicant seeks special exception approval pursuant to 11 DCMR §§ 3104.1 and 411.11 regarding the penthouse setback requirements of 11 DCMR §§ 777.1 and 411.18. Subsection 411.18(a)(2) of the Zoning Regulations requires that every penthouse must be set back a distance equal to its height from the rear building wall of the roof upon which it is located. In this case, the Applicant proposes to provide mechanical penthouse with a height of 10 feet with no setback from the rear building wall. In order to minimize visibility of the penthouse from Pennsylvania Avenue and other historic buildings in the vicinity, the penthouse cannot be set back 1:1 from the rear building wall, thus necessitating special exception relief.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. Under 11 DCMR § 411.11, the Board may grant special exception relief from the strict requirements for penthouses where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." 11 DCMR § 411.11. The Board may approve deviations from the penthouse requirements provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." *Id.*

The proposed penthouse is necessary for the operation of the building, and its location is driven by the building's core functions, the necessity of providing mechanical equipment, including elevator overrides, and the desire to minimize the penthouse's visibility from the historic structures primary frontage on Pennsylvania Avenue. The penthouse is set back greater than 1:1 from the southern property line and the façade which faces Pennsylvania Avenue. The walls of the penthouse have been designed with quality material in an effort to integrate the penthouse into the overall design of the building. The project has received concept approval from HPRB and Commission of Fine Arts, which includes the penthouse as proposed. In addition, the proposed penthouse will shelter the mechanical equipment that is currently visible from Pennsylvania

Avenue. Accordingly, the proposed penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under 11 DCMR § 411.11.

III. Special Exception Relief – Rear Yard

The Applicant seeks special exception approval pursuant to 11 DCMR §§ 3104.1 and 774.2 regarding the minimum rear yard requirements of 11 DCMR § 774.1. Section 774.1 of the Zoning Regulations states that in the C-4 District “a minimum rear yard depth must be provided of 2.5 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point on the main roof or parapet, but not less than 12 feet.” 11 DCMR § 774.1. The Applicant proposes to continue the existing condition of a nonconforming rear yard being provided. In this instance, due to the height of the proposed building a rear yard of 15 feet, 10 inches is required, thus necessitating special exception relief.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. Pursuant to Section 774.2 of the Zoning Regulations, the Board may waive the rear yard requirements pertaining to the C-4 District provided that the standards of Sections 774.3 through 774.6 are met.

(a) Sections 774.3 & 774.4-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. 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 rooms.

The building at the Site was constructed prior to May 12, 1958 and does not currently have a rear yard that complies with the Zoning Regulations. The 5th Floor expansion and 6th Floor addition will not increase the existing encroachment of the rear yard. The area of the building that will encroach into the rear yard will be occupied by office space on the 5th Floor and mechanical space on the 6th Floor.

The proposed 5th Floor expansion and 6th Floor addition will be separated from other buildings to the north, east, and west a sufficient distance to provide adequate light and air and to protect the privacy of building occupants. Since the 6th Floor will only contain mechanical equipment in the area encroaching into the rear yard, there will be no effect on the privacy of building occupants or on the amount of light and air. In addition, the 5th Floor expansion will not affect the privacy of building occupants or the amount of light and air provided since: (i) the windows facing north will be separated 20 feet, 9 inches from the building to the north; (ii) the windows facing west will be separated 23 feet, 4 inches from the Treasury Annex to the west; and (iii) a stairwell located above the adjacent roof abuts the American Security and Trust Company Building to the east. Furthermore, the proposal will increase the amount of light and air provided to the building as a whole, since the proposed 6th Floor addition and 5th Floor expansion will be open to the floors below. No apartment windows are affected by this applications.

(b) Section 774.5-The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.

Since the proposed addition increases the gross floor area by less than 50%, no additional parking is required. 11 DCMR § 2120.3. Moreover, an addition to an historic structure is not required to provide additional loading. 11 DCMR § 2200.5 Since the building expansion is exempt from additional off-street requirements, the proposal complies with the above requirement.

(c) Section 774.6-Upon receiving an application for an approval under § 774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

The application will be submitted to the Office of Planning, all relevant District of Columbia departments and agencies, and to the State Historic Preservation Office. As a result, the proposal complies with the above requirement.

Accordingly, the proposed addition is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under 11 DCMR §§ 774.2 through 774.6.