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February 4, 2000

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**BY HAND DELIVERY**

Paul Hart
Office of Zoning
One Judiciary Square
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: Board of Zoning Adjustment
Application Number 16536
National City Christian Church

Dear Mr. Hart:

Pursuant to our telephone conversation yesterday, enclosed please find five copies of the additional architectural shadow study requested by Mr. Sockwell for the record. Also enclosed please find proposed findings of fact and conclusions of law and opinion in the above-referenced matter. These findings and conclusions are being provided pursuant to 11 DCMR §3121.2. A copy of these proposed findings and conclusions is being sent to ANC 2F pursuant to 11 DCMR §3121.4. For your convenience, I have also included a disk containing the proposed findings and conclusions.

Should require any further information, please do not hesitate to contact me.

Sincerely,

Dennis R. Hughes

Enclosures
cc: Helen Kramer, ANC 2F

BZA
Case No. 16536
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16536
EXHIBIT NO.27

# DRAFT FINDINGS OF FACT AND CONCLUSIONS OF LAW AND OPINION

Application No. 16536 of National City Christian Church pursuant to 11 DCMR 3103.2, for a variance under Subsections 530.1 and 533.4 from the building height restriction and recreation space requirements for the construction of an apartment house containing 175-180 units on the site that is now the parking lot and maintain the existing church in an SP-2 District at premises 14th and Thomas Circle Streets (Square 212, Lot 123).

**HEARING DATE:** **January 19, 2000**
**DECISION DATE:** **January 19, 2000 (Bench Decision)**

## ORDER

**PRELIMINARY MATTERS:**

1. On the date of hearing, the applicant, after explaining how the residential recreation space would be provided on site, with the consent of the Board, withdrew its application for a variance from subsection 533.4 as being no longer necessary. Pursuant to discussions held by the applicant with the Office of Planning and upon further study of the available spaces present in the subject property, it was determined that the applicant is able to satisfy the ten percent residential recreation space requirement.

2. The Board, pursuant to its rules, provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2F and to owners of property within 200 feet of the site.

3. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application, and which submitted a letter and testified in support of the application.

4. As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for variance pursuant to Section 3103.2. The only parties to the proceeding were the applicant and ANC 2F. No other person or entity requested to participate as a party or was granted party status in this proceeding.

5. Seven witnesses testified in support of the application, including the applicant and experts in architectural history, architecture, real estate development, urban planning, and traffic analysis. Five persons testified in opposition to the application.

6. The Office of Planning submitted a report and testified in support of the application.

**FINDINGS OF FACT:**

1. The property that is the subject of this application is known as premises 14th and N Streets, N.W. and consists of Lot 123 in Square 212. The property is roughly L-shaped and bounded by Thomas Circle and Massachusetts Avenue to its south, 14th Street to its east, N Street to its north, public alleys to its west and north, and the 90 foot high Heatherington Apartments building to its west.

2. The subject property has a total lot area of approximately 75,595 square feet.

3. Lot 123 is improved with the sanctuary and congregational and office space of the National City Christian Church. The subject building, erected in 1930 to the design of John Russell Pope, with additions, has been formally designated a historic landmark and is listed in the D.C. Inventory of Historic Sites.

4. The portion of Lot 123 proposed in the application to be occupied by an apartment building consists of approximately 19,630 square feet and is a rectangular space located to the north of the church building. This smaller portion of the subject property is currently utilized as an asphalt parking lot.

5. The applicant has proposed to construct a twelve-story apartment building measuring 110 feet in height and containing 175-180 units and approximately 175,000 square feet of gross floor area. Included in the proposal are three below-grade floors to provide parking for the occupants of the apartment building and the church.

6. The subject property is zoned SP-2. The SP-2 District is designed to stabilize the areas adjacent to the C-4 District and to act as a buffer between adjoining commercial and residential areas. SP zoning is designed to preserve and protect areas adjacent to commercial districts which contain a mix of medium to high density row houses, apartments, offices and institutions. The SP-2 District provides for a maximum floor area ratio (FAR) of 6.0 for residential uses. Non-residential FAR is limited to 3.5 FAR. There is a height limit of 90 feet. The project complies with all applicable use and density provisions set forth in the Zoning Regulations for the SP-2 District.

7. By Order No. 862 in Case No. 97-7, regarding SP text and map amendments, the District of Columbia Zoning Commission approved HP/SP-2 zoning for lots 115-117 and 122 in Square 212, which comprise the western and southwestern portions of the square. This approval by the Zoning Commission thereby permitted 8.5 FAR and 130 feet in building height.

8. At its regularly scheduled October 6, 1999 meeting, ANC 2F voted 4-0 to support the applicant's proposed height variance.

9. The applicant's development proposal was reviewed and granted conceptual design approval by the District of Columbia Historic Preservation Review Board (HPRB) at its November 18, 1999 public meeting. The HPRB approval noted the exemplary design of the building and found its massing to establish a pleasant rhythm.

10. The applicant testified that funding is desperately needed for the church's service and outreach efforts. National City Christian Church is an active urban congregation that is involved in many forms of community outreach and service. The church is also always exploring ways of expanding its ministry as well as its partnerships with other churches and with community groups.

11. The applicant testified that the maintenance and upkeep of the historic landmark church building places an acute strain on the financial resources of the church. The largest single item on the church's current $1 Million annual budget is property, with more than $300,000 spent on day-to-day operations and maintenance and upkeep of the landmark building and grounds. This amount covers only the most pressing of repairs needed to the structure. It does not include needed replacement of the roof or repairs caused by moisture intrusion into the limestone façade. The church has been given estimates that the needed repairs for the building could total $1 Million.

12. The applicant testified that the open-air parking spaces lost to the church as a result of the development project will be replaced with a level of covered, below-grade parking, reserved for church use. The cost of constructing this level of parking will total more than $1 Million, exclusive of maintenance, repair and security.

13. The applicant testified that the project's approval by the Historic Preservation Review Board is predicated upon the incorporation of added design elements and the use of designated building materials. These aspects of the project could increase its cost by as much as $500,000.

14. The applicant testified that, owing to the subject property's location, the rents it could reasonably expect to achieve for the project would be discounted 15 to 20 percent from those rents of similar newly constructed residential projects in the downtown area.

15. The applicant testified that the proposed apartment building will contain approximately 175,000 square feet of area on twelve above-grade floors, thereby creating an FAR of approximately 2.3 for the apartment building and a total FAR for lot 123, when including the church building, of approximately 3.3.

16. The applicant testified and submitted evidence as to the visual and shadow impact of the proposed building as compared to a 90 foot matter of right building.

17. The applicant testified that the addition of 175-180 residential units would not have a significant negative impact upon traffic in the vicinity of the subject property; along N Street, 14th Street, Massachusetts Avenue and Thomas Circle. Residential traffic as well as service and loading functions will be channeled through the public alley located to the west of the property, accessible from N Street. Residential traffic is comparatively less intense and more dispersed over time than would be traffic to and from an office building on the same site.

18. The applicant testified that the church parking lost as a result of the project will be replaced by a level of underground parking devoted exclusively for church use within the apartment building.

19. The Office of Planning, by memorandum dated January 12, 2000, recommended that the application be approved. The Office of Planning was of the opinion that the applicant satisfied its burden of proof for a variance from the height restrictions of the SP District set forth in the Zoning Regulations.

20. Advisory Neighborhood Commission 2F, the only other party to this application, offered its support for the application, by letter dated November 15, 1999 and by testimony of the ANC 2F Secretary. ANC 2F concluded that the requested variance is appropriate because of the uniqueness and practical difficulties of the site, in that a historic landmark takes up most of the subject site and an apartment building on the remaining lot would be economically marginal if limited to a 90 foot height. The Commission further concluded that the limitation of the building to a floor area ratio of approximately 2.2 insures that the density contemplated by the Comprehensive Plan for the SP Zone will not be exceeded. Factors that weighed heavily in the ANC's unanimous decision were its preference for residential, over office or other development and the absence of significant adverse impacts on light, air or shadows on neighboring buildings. According to Section 3115.2 of the Zoning Regulations, the Board is to give "great weight" to the written report of the ANC.

21. Five witnesses testified in opposition to the application with concerns about the potential shadows cast by the proposed 110 foot high building upon neighboring buildings, the adequacy of parking for tenants and guests, and the overall impact on the neighborhood.

## CONCLUSIONS OF LAW AND OPINION:

Based upon the foregoing findings of fact, the Board concludes that the applicant is seeking an area variance under subsection 530.1 of the Zoning Regulations from the building height restriction in the SP-2 District. The granting of such variance relief requires proof of a practical difficulty upon the applicant arising out of some unique or exceptional condition of the property. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will substantially impair the intent of the zone plan.

The Board concludes and agrees with the Office of Planning and the ANC that the applicant has met the requisite burden of proof. The Board further concludes that the site is subject to extraordinary or exceptional conditions by virtue of the irregular lot shape and the presence of the historic National City Christian Church building on the subject site, which create a practical difficulty upon the applicant in complying with the height restriction of the SP Zone. Finally, the Board concludes that the relief requested will not cause substantial detriment to the public good. The project will increase the housing stock in this neighborhood, will allow the applicant to expand its community outreach and service programs, and will provide this neighborhood with an architecturally exceptional product. Furthermore, this residential project will stimulate support service and retail operations which will contribute to the vitality of the neighborhood.

It is therefore ORDERED that this application be **GRANTED.**

**VOTE: 3-0** (Sheila Cross Reid, Kwasi Holman and Robert Sockwell to grant.)

PURSUANT TO 11 DCMR 3121.5, RECORD LEFT OPEN FOR SUBMISSION OF ARCHITECTURAL STUDY DEMONSTRATING IN ELEVATION THE POTENTIAL SHADOW EFFECTS OF THE APPLICATION.

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

**ATTESTED BY:** _____
**Jerrily R. Kress, FAIA**
**Director**

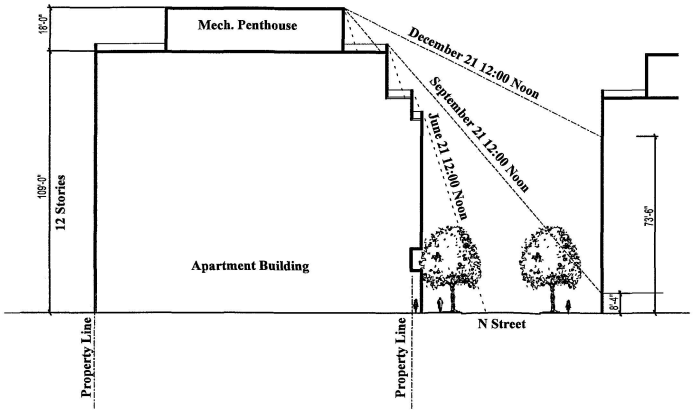
**FINAL DATE OF ORDER:** _____

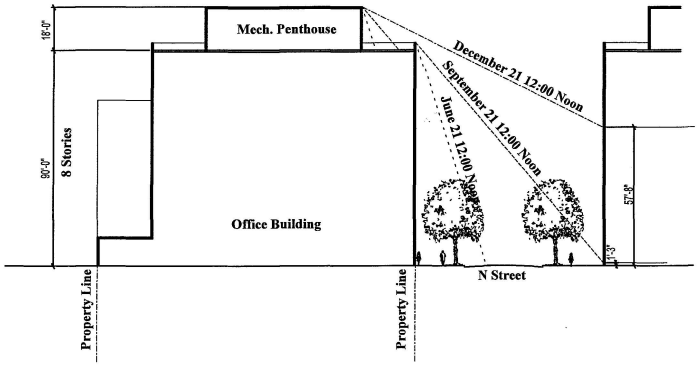
PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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SHADOW STUDIES

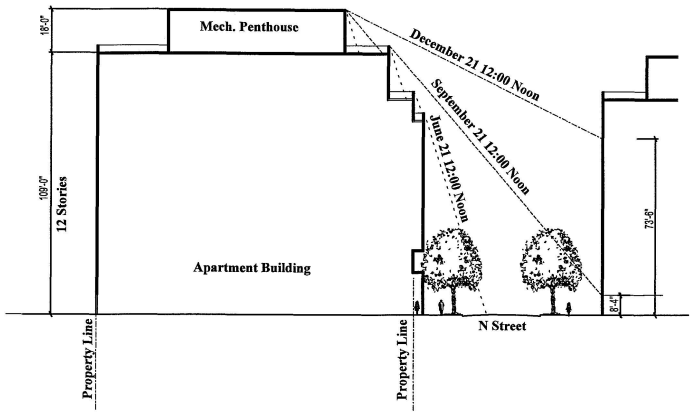
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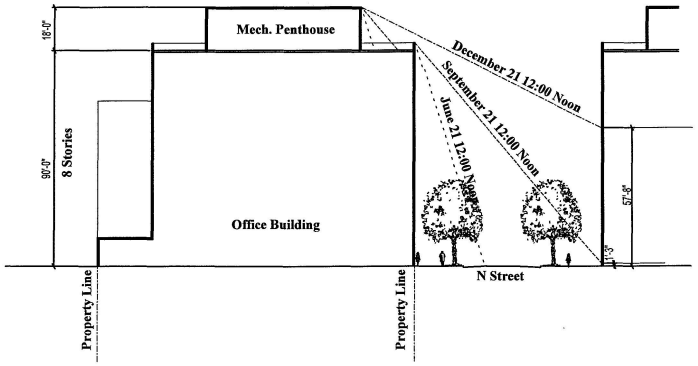
# Thomas Circle - 14th & N

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1300 Spring Street, 4th Floor
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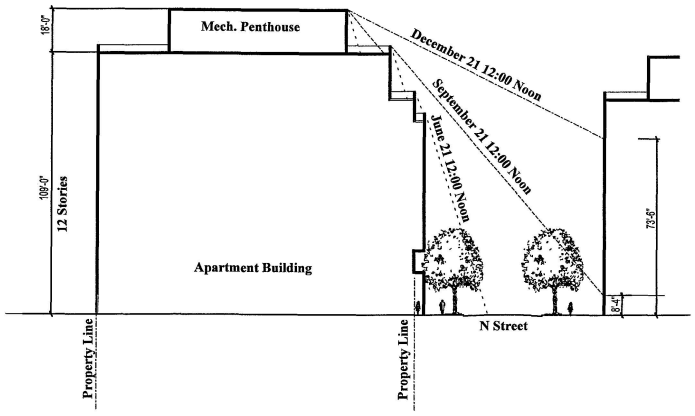
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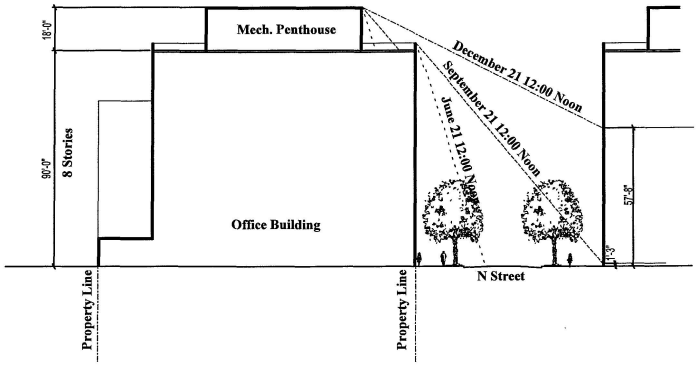
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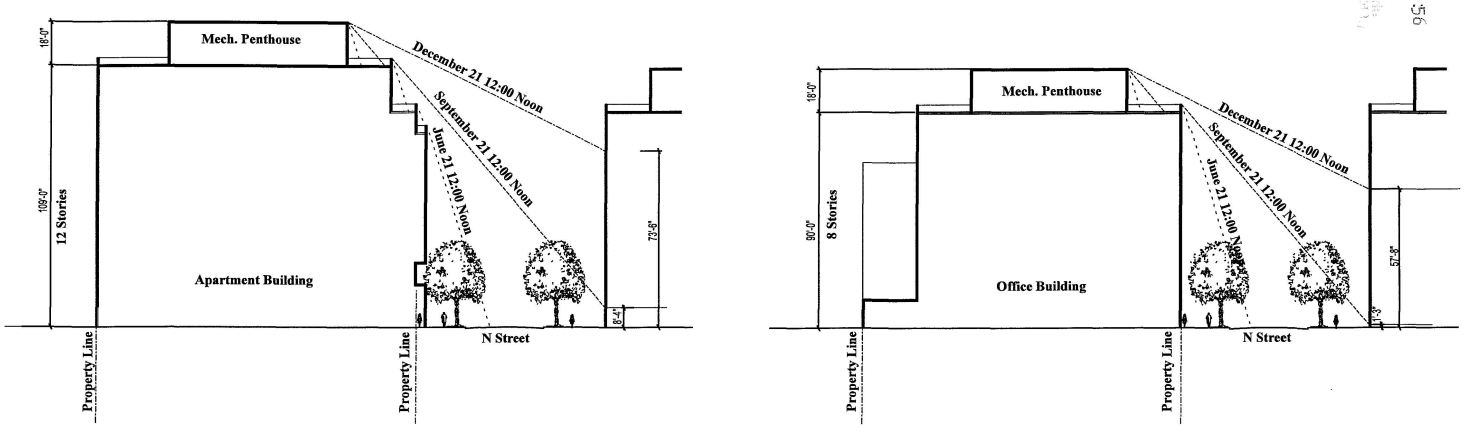
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