PREPARED STATEMENT AND AMENDMENT TO APPLICATION OF EAST OF THE RIVER COMMUNITY DEVELOPMENT CORPORATION
APPLICATION #16583
BOARD OF ZONING ADJUSTMENT 7/25/00

'00 JUL 24 P5:10

I. **INTRODUCTION**

II. **WAIVER OF BZA FILING FEE**

III. **ANC REPORT**

IV. **DESCRIPTION OF PROPERTY**

A. ***Location*** The property is located at 522-524 Raleigh Street, SE.

B. ***Type of Construction*** New Construction

C. ***Zoning*** Lots 52 and 53 are zoned **R-5-A.** Pursuant to previous miss communications the zoning for lot 52 was thought to be C-2-A. It is now clear that both lots 52 and 53 are zoned R-S-A and we amend our application accordingly.

1. MAXIMUM HEIGHT allowed is 3 stories or 40 ft. Our proposed building will be 3 stories and approximately 50 ft tall -- does not conform to R-5-A but conforms to C-2-A.

2. MAXIMUM PERCENTAGE OF LOT OCCUPANCY – 40%. **Our proposed building will have a lot occupancy of approximately 60% -- (3852/6420 sq. ft.)does not conform to R-5-A but conforms to C-2-A.**

3. MAXIMUM FLOOR TO AREA RATIO - .9 **Our proposed building will have a FAR of 1.5 (9,630 sq. ft.)– does not conform to R-5-A but conforms to C-2-A.**

4. PARKING SPACE REQUIREMENT – One space for every 600 SF = 12. **We intend to provide at least 12 parking spaces.**

5. SETBACK REQUIREMENTS – None for side yard and 20 ft. for rear yard. **We intend to provide a 36 ft. setback for the rear yard – conforms.**

V. **AREAS OF RELIEF REQUESTED**

Pursuant to discussions with your staff we amend out application to request AREA VARIANCES under Section 403 for lot occupancy, under Section 402 for Floor to Area

BZA
Case No. 16583
Exhibit No. 31

Board of Zoning Adjustment
District of Columbia
CASE NO.16583
EXHIBIT NO.31

Ratio and under Section 400 for height and a USE VARIANCE pursuant to 11 DCMR 3103.2 under Section 350.1.

VI. USE VARIANCES (THREE PART-TEST)

A. Three part test (D.C. Code ann. Section 5-424(g)(3)(1981)):

[A variance may be granted] "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, the strict application of any regulation adopted under D.C. Code Ann. Section 5-413 to 4-432 (1981) would result in a 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. Provided, that the relief can be granted without substantial detriment to the public good and with substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

B. EXCEPTIONAL SITUATION

There are multiple factors which combine to make the situation with respect to Lots 52 and 52 "exceptional" enough to warrant a grant of a variance by the BZA:

1. These residentially-zoned lots jut out onto a corridor which is developed almost exclusively for commercial use and is mostly zoned R-5-A. In fact, the two parcels are virtually surrounded by commercial development -- particularly commercial development on Martin Luther King, Jr. Avenue which bends uniquely near the site.

2. Moreover, the north-south alley between Raleigh St. and Parkland St. buffers these lots from the other residential development nearby. The alley conducts mostly commercial traffic between the two streets. It is exceptional to find residential lots virtually surrounded by commercial zoning and development where the residential lots are buffered from other nearby residential lots and are near a major commercial avenue which bends in an unusual way towards the lots.

The exceptional situation with respect to Lots 52 and 53 is a combination of the orientation of the lots toward the R-5-A zoning boundary, the lots' separation from the other residential lots by an alley used mainly for commercial traffic, the overwhelmingly commercial development which surrounds the lots, and the unique alignment to the lots of a major commercial corridor such as Martin Luther King, Jr. Avenue. This exceptional situation and condition of the lots make the lots best-suited for commercial uses which benefit the community.

C. UNDUE HARDSHIP TO THE OWNER

a. East of the River desperately needs office and conference space so that East of the River can provide community economic and social development services to Congress Heights. Ironically East of the

River may have to relocate out of the community in order to properly provide the services the community needs.

b. The cost of demolition of the dilapidated buildings on the current site and the construction of the office building necessitates building an office building of the size and dimensions that we are proposing to make it economically feasible to build.

D. NO SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD

a. The office building brings positive benefits to the public good. The demolition of the rundown buildings and the construction of an office building for the use of the community and East of the River will help to spur economic development in the area. The lots jut out on and border an area where the District of Columbia government through its Comprehensive Plan and developers through the East of the River Initiative have drafted and developed specific plans for commercial redevelopment of the area where the rundown buildings are located. Notably, the local ANC rejected plans for residential redevelopment of the lots. The lots have been undeveloped for residential use for close to 10 years which implies that a variance is necessary to make proper and best use of the lots for the public good. A variance on the lots for an office building fits the major redevelopment plans of the District of Columbia government and the East of the River Initiative and will not be a substantial detriment to the pubic good.

E. DOES NOT SUBSTANTIALLY IMPAIR THE INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN.

a. Almost of all the lots surrounding the subject lot are zoned for commercial use. Accordingly, the new building fits the character of the surrounding area and adds a logical piece to this commercial corridor. In addition the new building will be an anchor for the master plans for development which the District of Columbia government, private developers and the community have created as described above.

VII. AREA VARIANCES (PRACTICAL DIFFICULTIES TEST)

Area variances are determined under the "practical difficulties" prong of D.C. Code ann. Section 5-424(g)(3)(1981) recited above in Section VI.

1. Can't build a three-story building with the necessary amount of office space and parking to provide the community with a small business training

center, business and technology center, and community conference space and additional office space for East of the River under the height, floor area ratio and occupancy limits under the regulations.

2. It would not be economically feasible to build a three story building with a maximum height of only 40 feet, a floor area ratio of only .9 which occupies only 40% of the lot.

3. Unnecessarily burdensome on the community – If East of the River cannot obtain these area variances the two unused and rundown buildings will remain in close proximity to Martin Luther King Jr. Ave where the District of Columbia government, private development and East of River have major plans for economic and social development. The buildings are magnets for littering and criminal activity and the denial of these variances will be a major setback to the redevelopment plans of Mayor Williams and the Congress Heights community.

VIII. ADDITIONAL MATTERS (NICOLE PURI)

A. What will happen if BZA does not grant the variance?

B. Who is in support of East of the River's application for the relief requested?

IX. SUMMARY AND REQUEST FOR BENCH DECISION

X. WITNESS TESTIMONY

LATHAM & WATKINS
ATTORNEYS AT LAW
1001 PENNSYLVANIA AVE., N.W.
SUITE 1300
WASHINGTON, D.C. 20004-2505
TELEPHONE (202) 637-2200
FAX (202) 637-2201

FACSIMILE TRANSMISSION

THIS IS A RUSH DOCUMENT!
PLEASE DELIVER IMMEDIATELY TO PERSON NAMED BELOW.

DATE: July 24, 2000

To:

Name	Fax No.	Phone No.
John Fondersmith	202 442 7637	
Beverly Bailey or Sherie Pruitt	202 727 6072	

FROM: **Calvin Gladney**

RE: **East of the River Hearing Statement**

☐ ORIGINAL(S) WILL FOLLOW	NUMBER OF PAGES, INCLUDING COVER: 5

MESSAGE:

Per your request.

'00 JUL 24 P5:10
OFFICE OF
DISTRICT [illegible]

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THE FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL (202) 637-2392.