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October 25, 2000

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Hand Delivery

District of Columbia Board of Zoning Adjustment
441 4th Street, NW
Second Floor
Washington, DC 20001

Re: BZA Application No. 16601,
Application of NJA Development Partners, LP
Residential and Hotel Development, Square 741

Dear Members of the Board:

This letter is submitted in response to the Board's letter dated September 26, 2000, concerning the above-referenced Application, for comments on the proposed conditions of the Board to the Order granting the requested special exception and variance relief. The numbering of paragraphs below follows the numbering of the proposed conditions given in the Board's September 26 letter.

1. Regarding the location of the emergency egress stair for the hotel, the Applicant confirmed at the September 19, 2000 public hearing that the proper location of that emergency egress stair was the location shown in Sheet 4 of the architectural drawings for the project, found at Exhibit C to the Applicant's Pre-Hearing Statement. Sheet 5 of those architectural drawings erroneously locates that egress stair at the southeasternmost portion of the hotel. Attached to this letter, the Applicant provides a revised Sheet 5, as discussed at the public hearing, which accurately portrays the location of the emergency egress stair. As a result, if the Board's approval references the plans as revised by the current submission, there is no further need for clarification of the location by the Applicant, thus rendering proposed condition 1 unnecessary.

BZA
Case No. 16601
Exhibit No. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.16601
EXHIBIT NO.41

7. The proposed condition requiring the Applicant to "allow rear access to Lot 19 for so long as the property remains unincorporated into the proposed hotel and apartment project as part of the alley closing process," should not be included as a condition of the Board's approval. No relief was requested of the Board with respect to this matter, and any issues regarding the alley closing process are properly within the authority of and the DC City Council.

11. The Applicant believes that the more appropriate wording for proposed condition 11 would be to delete the words "[p]rovide assurances that," and simply condition the Board's approval on the requirement that "The residential/apartment portion of the project shall satisfy the requirements for an apartment house as set forth in the Zoning Regulations and shall not be used as an inn or an expansion of the hotel for so long as the TDR variances granted pursuant to Section 1709 are utilized."

13. The Applicant suggests that such a condition is not necessary since the Applicant did not request any special exception or variance relief for antennas, towers, or satellite dishes. Such structures are already controlled by the Zoning Regulations and subject to processing with the Office of Planning upon submission of the building permit applications.

In a similar case involving variance relief for an apartment building, Application No. 16603, at 5th Street and Massachusetts Avenue, NW, the Board determined that regulation of roof antennas by Board condition was inappropriate since the variances requested had nothing to do with any proposed antennas to be placed atop the building. The same rationale as that discussed in Application No. 16603 applies to the subject case.

For the foregoing two reasons, namely that (1) the condition is unnecessary in that such structures are subject to the Zoning Regulations and are subject to review by the Office of Planning, and (2) the condition is not legally sustainable in that it has no relation to the special exception and variance relief granted, proposed condition 13 should not be included in the Board's Order.

Lastly, there is no evidence of record in this Application concerning antennas, their impact and the manner in which they might violate the Zoning Regulations in any way. As the decision of the Board must be based upon the record before it, this condition is inappropriate as being imposed on the basis of a view or concern outside the record.

For the foregoing reasons, the Applicant requests the Board to revise proposed conditions 1, 7, 11, and 13 as stated in the Board's letter of September 26, 2000, and to incorporate the Applicant's views herein expressed when finalizing the conditions of the Board's approvals of special exception and variance relief in this matter.

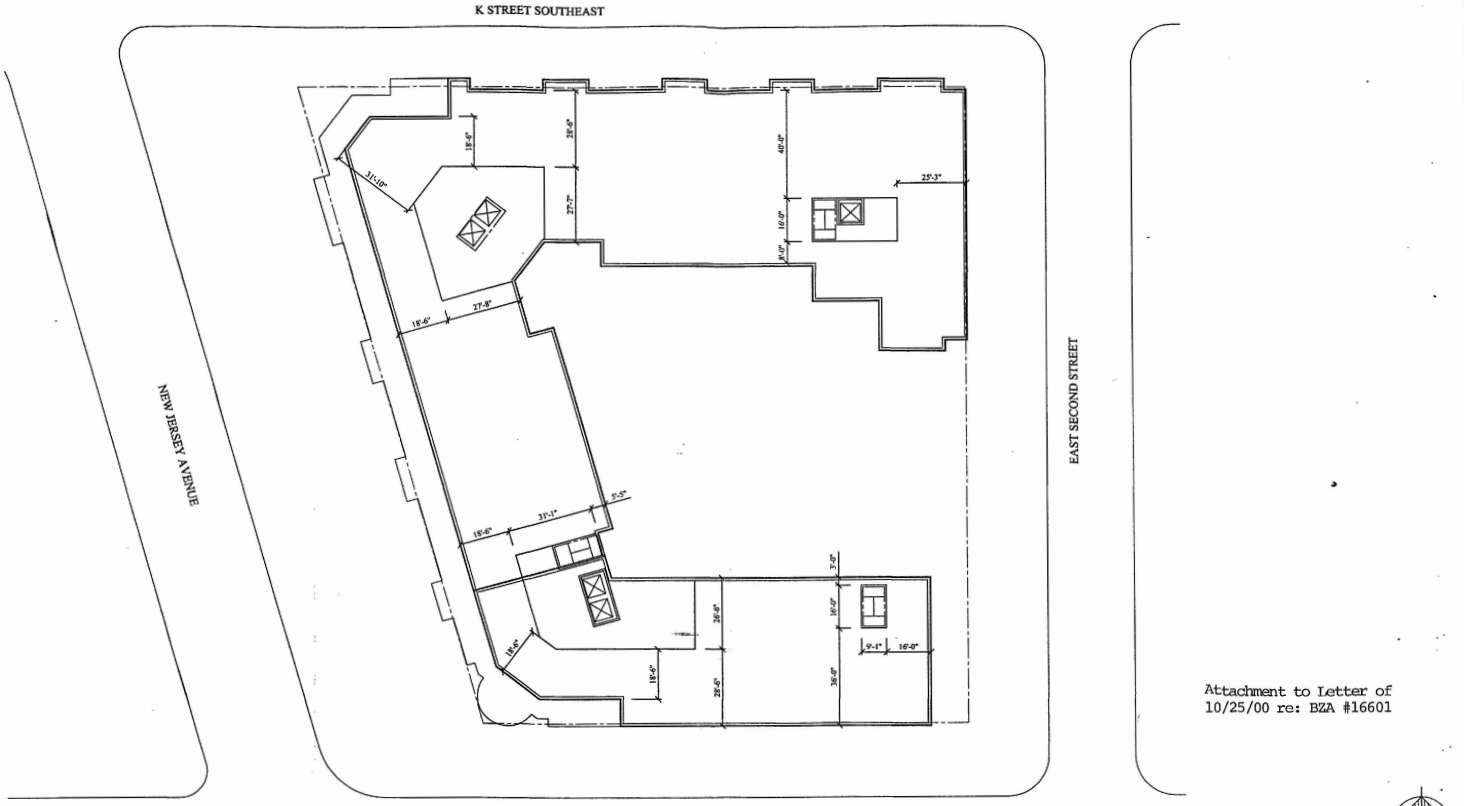
Respectfully submitted,

WILKES ARTIS, CHARTERED

By: _____
Norman M. Glasgow, Jr.

_____
Dennis R. Hughes

Enclosure
CC: ANC 6B
214004v.2



Roof Floor Plan

Attachment to Letter of
10/25/00 re: BZA #16601

Valhal Corp.

Capitol Hill Towers

SKG ARCHITECTS & PLANNERS

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SCALE 1/16"=1'-0" | DATE 9.15.00