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February 15, 2001

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By Hand:
Ms. Sheri Pruitt
Office of Zoning
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA Case No. 16669

Dear Ms. Pruitt:

With reference to the above matter, please find enclosed 10 copies of Order No. 14529 which is part of Exhibit K in the Statement of the Applicant. Please update the Board Members' packets with the enclosed.

If you have any questions, please give me a call.

Very truly yours,

Sharon Sanchez

Sharon S. Sanchez
Legal Assistant

/ss

Enclosures

BZA
Case No. 16669
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16669
EXHIBIT NO.27

GLM Properties
05/07/002

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14529,of GLM Properties, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exceptions under Paragraph 4101.44 to establish SP office uses on the subject site and Sub-section 3308.2 to erect a roof structure which does not meet the set back requirements, and for variances from the floor area ratio requirements (Sub-section 4301.1) and the service berth requirements (Sub-section 7302.1) for a proposed construction of an office building in a SP-2 District at premises 1301 M Street, N.W., (Square 245, Lot 28).

HEARING DATE: January 14, 1987
DECISION DATE: January 14, 1987 (Bench Decision)

FINDINGS OF FACT:

1. The application was amended to include the applicant's seeking special exception relief under Sub-section 3308.2 as the effective date of the amended regulations affecting roof structures was September 2, 1986.

2. The site is located on the northeast corner of the intersection of 13th and M Streets, N.W., and is known as 1301-1309 M Street, N.W. It is located in the SP District.

3. The site is 7,335 square feet in area. It is approximately 90 feet long and 81 feet wide. Part of the site is unimproved and is currently used as a parking lot. The remainder is occupied with a vacant two story building which formerly housed a supermarket.

4. Adjoining the subject site to the west are a group of three story rowhouse type units, followed by the International Inn, which is a 90 foot high hotel use. Across M Street to the south are two 90 foot buildings, and apartment house on the southeast corner of 13th and M and an office building on Massachusetts Avenue and M Street at Thomas Circle. To the southeast on the diagonally opposite corner of 13th and M Streets is a 90 foot apartment house, which is adjoined by a 90 foot apartment building fronting on Massachusetts Avenue and by another fronting on 12th Street, N.W. To the east, across 13th and M Streets is a ninety feet apartment building adjoined to the north by a supermarket, one parking lot and another high rise apartment building. To the south, along the west side of 13th Street

are one two-story commercial facilities and a high-rise apartment building. All of the commercial uses are non-conforming uses in the SP District.

5. The entire square is zoned SP as are all of the surrounding frontages of M and 13th Streets. There is C-4 zoning south of Thomas Circle and L Street, and R-5-C zoning north of N Street.

6. Pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations. The applicant is seeking a special exception under Paragraph 4101.44 to establish SP office uses on the site and for variances from the floor area ratio requirements (Sub-section 4301.1) and the service berth requirements (Sub-section 7302.1) to construct an office building at the site.

7. The application was previously approved by BZA Order No. 12705, dated October 24, 1978. Events beyond the control of GLM, after initial commencement of construction activities on the project, prevented GLM from proceeding with the project to completion on the original approval.

8. The building proposed in the subject application is the same as that of the original application, except that a second level of parking has been added.

9. The subject application does not require the special exception relief to reduce the number of required parking spaces that the previous application did. Due to changes in the Zoning Regulations, the applicant is now required to seek variance relief as listed above. In the precious application no variance relief was sought.

10. The proposed building will be eighty feet high, with seven stories and constructed of brick and glass.

11. The design of the structure is prosaic and intended to harmonize with those of other buildings in the area.

12. The prospective tenants of the building will be architectural, engineering and consultant firms and other professional and SP qualifying office tenants with space accommodations for approximately 250 employees.

13. The planned development of the site will provide 38,768 square feet of office space with parking for 26 cars and a 30 foot loading berth. There is a public parking lot one block to the north of the site at 13th and N Streets which can accommodate 80 vehicles on a daily basis and which has space available on a monthly basis. There is also a Metropark parking garage available for the public two blocks to the south, on the east side of 13th Street north of K Street.

14. There are 15 Metrobus routes within two blocks of the subject site. The McPherson Square Metrorail station is a 10 minute walk from the site.

15. The applicant proposes to erect a roof structure on the west side of the building containing elevator, fans, pumps, engineer's office and related equipment. In addition, there will be stairwell access to the structure. The material of the roof structure will blend harmoniously with the facades of the building. The height of the roof structure will be 18 feet, 5 inches.

16. The location of the roof structure on the west side of the building reflects the need to locate the stairwell and elevator core toward one side of the building in order to create an efficient floor configuration. The proposed location of the structure achieves this goal by minimizing the impact of the structure in relation to the building as a whole.

17. The applicant will comply with the penthouse setback regulations on the east (13th Street frontage), the south (M Street frontage), and north. The applicant proposes a zero setback from the west lot line. Due to the extremely small size of the lot, there is no realistic alternative solution and strict compliance with the setback requirements is impossible. There is no alternative placement of the roof structure which will totally comply with the roof structure setback provisions of the regulations. Placement of the elevator core in the center of the building would result in a totally inefficient layout in terms of use and circulation, and still would not comply with the setback regulations. The subject site will not have a roof structure on a property line abutting a street or alley.

18. In BZA Application No. 12705, the Board has previously found that the proposed FAR of 5.5 was appropriate for the proposed project because the proposed project was in harmony with the predominant use and height of the area. The current proposal would retain the identical 5.5 FAR.

19. It is not possible to construct a quality professional office building on a lot the size of the subject lot with the allowed FAR of 3.5. Such an FAR would eliminate many of the practical necessities for SP office use. The amount of office space provided would be inadequate for professional or other SP office use.

20. Because there is no alley through the square, there is no rear access to the building. Entrance for service/ delivery purpose can only be provided on either M or 13th Streets. The relatively small size of the site and proposed building dictates a combined use of space for both service

delivery and loading berth spaces. There is no other practical solution for the particular land configuration.

21. There is insufficient headroom in the garage to accommodate the required 10 foot clearance necessary for a service/delivery loading space. Subsurface conditions also make it more difficult and prohibitively costly to lower the garage to accommodate this space. Moreover, because the number of spaces provided is limited, the addition of the service/delivery space in the garage (assuming it could be done) would only result in the reduction of parking spaces.

22. There is no alley abutting the building and the applicant would be unable to assure a free and clear passage when such a space was being used. Without an alley to provide access, service users would be forced to use the parking entrance on 13th Street. This is not the ideal situation for traffic circulation.

23. As an alternative, applicant proposes to use the 30 foot loading berth provided for the building to accommodate service vehicles. In the event that two trucks arrive at the same time, curb loading is permitted on both M and 13th Streets.

24. Witnesses for the applicant testified that the building abuts a minor arterial and a local street and will not create any adverse traffic conditions. The development of the site for SP office purposes removes an eyesore and increases the general safety of the immediate neighborhood. The site will be appropriately landscaped. In addition, the retail business generated by the office workers will benefit the neighborhood. The Board concurs.

25. By letter dated January 7, 1987, Advisory Neighborhood Commission (ANC) 2C reported its support is of the opinion that the application meets the standards for the special exception and variance relief. The Board concurs with the reasoning and recommendation of the ANC.

26. Numerous letters and a petition were submitted to the record in support of the application.

27. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking special exceptions, the granting of which requires substantial evidence that the applicant has complied with the

requirements of Paragraph 3302.2 and 4101.44 and Sub-section 8207.2 of the Zoning Regulations.

Paragraph 4101.44 allows for the establishment of an office for an international organization, nonprofit organization, labor union, architect, dentist, doctors, engineer, lawyer or similar professional person, provided that:

4101.441 The use, height, bulk and design are in harmony with existing uses and structures on neighboring property;

4101.442 The use will not create dangerous or other objectionable traffic conditions;

4101.443 The Board may require such special treatment in the way of design, screening of buildings, accessory uses, signs and other facilities as it shall deem necessary to protect the value of neighboring property.

Sub-section 3308.2 provides that a special exception may be granted to allow a penthouse which does not meet the setback requirements of the SP-2 District.

The Board concludes that the applicant's has met its burden of proof. The proposed building will meet all the requirements of Paragraph 4101.44. The roof structure setback requirements of the Zoning Regulations state that a roof structure must be setback from all exterior walls a distance at least equal to its height above the roof upon which it is located. In this case, full compliance with that provision would be unduly restrictively, prohibitively expensive and unreasonable due to the relatively small size and shape of the lot, and the need to locate the building core to produce an efficient building configuration. The site is approximately 90 feet long and 81 feet wide. The extremely small size and square shape of the lot make it impossible to properly set back the roof structure from all sides of the building, and at the same time to achieve an efficient building. A center core would make it impossible to achieve an efficient floor configuration for a first class professional office building.

The requested relief will allow for a roof structure of reasonable dimensions, with minimal impact on surrounding properties, while at the same time complying with the Zoning Regulations to the greatest extent possible.

The Board further concludes that the applicants are seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional

narrowness, shallowness, shape or topographical condition. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan. Sub-section 4301.1 allows a FAR for the SP-2 District of 3.5, or 25,672.50 square feet for the site. The proposed building will have a FAR of 5.5 percent or 38,768.50 square feet necessitating a variance of 13,095.79 square feet, or 51.01 percent. Sub-section 7302.1 requires a service berth 20 feet deep be provided at the site. The applicant is providing a loading berth and loading platform but no service berth.

The Board concludes that the applicant has met its burden of proof. The Board found that the subject area is developed predominantly with highrise 90 foot buildings, and that there was a mix of residential, office and nonconforming retail uses. Since the last Board decision, two 90 foot high density residential buildings were built on the block between 12th and 13th Streets on M Street. The current proposal retains the same harmony as that previously approved by the Board. The proposed 5.5 FAR is reasonable for the area. Additionally, the site's configuration limits the applicants ability to provide a service/delivery loading space as required by the regulations. Application of this requirement would present a practical design problem for the applicant because of the limited size of the building and the lack of an access alley behind the building. As a practical matter, the only place a service/delivery loading space would be provided on site would be on the ramp leading from the street to the parking area. However, the required loading berth is already located in this area. As an alternative, the applicant proposes to use the 30 foot loading berth provided for the building to accommodate service vehicles in the event that two trucks arrive at the same time, curb loading is permitted on both M and 13th Streets. Thus the need for service/loading spaces can easily be satisfied under the existing proposals.

The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that it has accorded to Advisory Neighborhood Commission (ANC) 2C the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 9 of the record.

VOTE: 5-0 (William F. McIntosh, Paula L. Jewell, Charles R. Norris, Patricia N. Mathews and Carrie L. Thornhill to grant).

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

ATTESTED BY: _____
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: APR 3 '87 4/3/87

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS 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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