Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

Rec'd.
MAR 13 2001

Atlanta
Boston
Bradenton
Chicago
Fort Lauderdale
Jacksonville
Lakeland
Los Angeles
Melbourne
Miami
New York
Northern Virginia
Orlando
Providence
St. Petersburg
San Antonio
San Francisco
Seattle
Tallahassee
Tampa
Washington, D.C.
West Palm Beach

International Offices:
Buenos Aires*
Mexico City
Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo

*Representative Offices

STEVEN E. SHER
DIRECTOR OF ZONING
AND LAND USE SERVICES
202-663-7278
Internet Address:
ssher@hklaw.com

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16681
675 E Street, N.W.

Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP

March 13, 2001

I. Site location and description

A. Location

1. Southwest corner of the square bounded by 6th, 7th, E and F Streets, N.W.

2. Northeast corner of the intersection of 7th and E Streets, N.W.

3. Project site consists of lots 37 and 39 in Square 456 (to be combined into a single lot of record)

B. Size

1. Total site area is approximately 9,361 square feet

2. Site has 75 feet of frontage on 7th Street and approximately 120 feet of frontage on E Street

3. Site also fronts on twenty foot wide alley to the east

BZA
Case No. 16681
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO.16681
EXHIBIT NO.24

C. Existing site condition

1. Improved with 4 buildings

a. 4 four story vacant office building located at 501-507 7th Street, known as the Dime Savings Building or Murray Building

b. 2 story vacant commercial building at 629 E Street

c. 4 story vacant commercial building at 627 E Street

d. 3 story vacant commercial building at 625 E Street

2. Murray Building and 625-627 E Street are contributing buildings in the Downtown Historic District

3. Building at 629 E Street, non-contributing building in the Downtown Historic District, is to be demolished

II. Description of surrounding area

A. Penn Quarter/Gallery Place area

B. Area contains broad mix of uses and building types

C. Remainder of Square 456

1. Immediately to the north – 5 story commercial building occupied by the District Chop House

2. Further to the north – vacant buildings formerly occupied by the Hecht Company department store

3. Across the alley to the east – 10 story office building occupied by AARP

4. To the northeast – parking lot located on the south side of F Street

5. Further to the northeast – 5 story office building occupied by OBA Federal

D. Uses to the south in Square 457 (bounded by 6th, 7th D and E Streets)

1. Development site owned by GSA (formerly owned by PADC) to be improved with a large apartment house project

2. Large office buildings

E. Uses to the east in Square 488 (bounded by 5th, 6th, E and F Streets)

1. D.C. fire station

2. Development site under construction for an office building for the National Academy of Sciences (approved as a planned unit development)

F. Uses to the North in Squares 454 and 455 (bounded by 6th, 7th, F and H Streets)

1. MCI Center

2. Development site for Gallery Place project

3. Small commercial buildings along H and 6th Streets, many occupied by Chinese businesses

G. Use to the west in Square 430, (bounded by 7th, 8th, E and F Streets): General Post Office (Tariff Commission building) being converted to a hotel

III. Existing zoning: C-4

A. Uses (§§750 – 754)

1. Commercial use permitted as a matter-of-right, including retail, service and office use

2. Hotel

3. Residential use permitted as a carry-over from the Special Purpose and Residential Districts

B. Height - maximum of 110 feet (§770.1)

C. Density - maximum of 8.5 FAR (§771.2)

D. Lot occupancy – 100% permitted (§772.1)

E. Residential recreation space - minimum area equal to 5% of the gross floor area devoted to residential use (§773.3)

F. Rear yard – 2 ½ inches per foot of height but not less than 12 feet (§774.1)

G. Side yard - not required (§775.5)

H. Parking (§2101.1)

1. For apartment house use, minimum of one space for each four units

2. For office use, none required on a lot less than 10,000 square feet in area

3. No parking required for an addition to a contributing building in a historic district

I. Downtown Development (DD) Overlay District

1. Applies to new buildings and alterations or additions to existing buildings involving more than 100 percent of assessed value of building in any twelve month period

2. Height is maximum permitted under the Act of 1910 (110 feet for subject site)

3. Housing Priority Area C

a. Maximum FAR is 10.0

b. Minimum of 2.0 FAR required to be devoted to residential use (8.0 FAR available for commercial)

c. With purchase of TDRs, allowable on-site FAR is 10.5

4. Historic District

a. Limited to average of 6.0 FAR on-site

b. No rear yard required

IV. Proposed development

A. Demolition of noncontributing building at 629 E Street and construction of additions to existing contributing buildings

1. Six story addition above the existing Murray Building

2. New elevator core to serve separate parts of building

B. Use – apartment house of approximately 33 units with ground floor and cellar level preferred arts/retail space

C. Gross floor area of approximately 56,240 square feet for residential use and a total of approximately 8,979 square feet of arts/retail uses on the ground and cellar levels

D. Height - overall maximum height is 110 feet, with lower elements on the east side of approximately sixty feet

E. To be done through combined lot development as part of a larger commercial development in the northwest portion of the square

V. Relief required

A. Variance from the closed court width requirement

1. Required area is 450 square feet

2. Proposed area is 322.5 square feet

3. Variance of 127.5 square feet

B. Variance from the residential recreation space requirement

1. Required area is 2,812 square feet

2. No recreation space was proposed originally

3. Now propose to provide 708 square feet in the cellar

4. Variance required is 2,104 square feet

C. Special exception for a roof structure not meeting the 1:1 setback from the edge of the roof (no relief required for multiple roof structures or unequal height)

VI. Standards for a variance (§3103.2)

A. 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,

B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in 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;

C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

VII. Compliance with the variance standards

A. Closed court width

1. Exceptional or extraordinary situation or condition

a. Size of lot

b. Location of two buildings, separated by a 21.5 foot distance

c. Differing heights of buildings

d. Requirement to provide elevator access to both buildings

e. Atypical configuration for apartment house construction

2. Practical difficulty

a. Limited range of practical locations for elevator core meeting functional requirements

b. To require two separate elevator cores would create substantial inefficiencies in building and would carve out substantial interior space from two very small floorplates

c. Moving elevator core further to the north or the south, to the point where no court would be created or a conforming court would be created, would result in inability to access all units or creation of very impractical units

3. No detriment to the public good

a. Residential use is a preferred use and highly desired under the Zoning Regulations and the Comprehensive Plan

b. Only windows in the court face the longer dimension (21.5 feet)

B. Residential recreation space

1. Exceptional or extraordinary situation or condition

a. No ground level available space

b. Unequal roof heights

c. Roof areas of inadequate dimensions to meet the Regulations

2. Practical difficulty

a. Insufficient space of appropriate dimensions on the exterior to meet the requirement

b. Would require substantial amount of interior space devoted to recreational use

c. Compliance would require reducing the size of the apartment building, already a very small apartment building

3. No detriment to the public good

   a. Are other nearby open spaces available for recreation (e.g., Mall)

   b. Other recreational opportunities available in the broader Downtown area (e.g., YWCA, MCI Center)

   c. Small building does not require level of on-site amenities as might a larger building

VIII. Standards for the special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

IX. Compliance with the special exception standards

A. Operating difficulties

   1. Footprints of the buildings for apartment units make it difficult to meet setback requirements

   2. Need to provide for one consolidated core to serve both parts of what will be a single building for zoning purposes but will be in two distinct parts

B. Unduly restrictive and unreasonable

   1. No reasonable way to set elevator override back from edge of newly constructed elevator tower

2. Reconfiguring the building or redesigning the roof structures to increase the setback is unreasonable for an apartment building (dimensions are only 21.5 feet by 22.5 feet)

C. Impact on other buildings

1. Property is surrounded on all sides by commercial uses, which would not be affected by the proposed roof structures

2. Roof structure without setback is substantially removed from street frontages (61 feet from 7th Street and 37.5 feet from E Street)

3. Elevator core is significant design element and was encouraged during the historic preservation review process to be higher

4. There are limited areas from which the roof structures can be seen

X. Conclusions

A. Subject property is affected by exceptional conditions, because of the size of the site, the existence of buildings which contribute to the character of the historic district, the separation between the two parts of the buildings, the significant difference in height and the requirements of the Regulations as to recreation space and area of a closed court

B. Strict application of the Regulations would create significant difficulties for the renovation and addition of a new apartment units

C. The variances can be granted without substantial detriment to any surrounding properties

D. Approval of the application, allowing a new apartment house, would be a significant contribution to city policy of encouraging residential in this part of Downtown

E. The application should be granted