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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16726
13th and U Streets, N.W.

Steven E. Sher
Director of Zoning and Land Use Services
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I. Site location and description

A. Location

1. Southeast corner of the square bounded by 13th, 14th, U and V Streets, N.W.

2. Northwest corner of the intersection of 13th and U Streets, N.W.

3. Project site consists of a single lot of record, Lot 67 (formerly lots 37-39, 800-804, 828, 829, 832 and public alleys closed pursuant to D.C. Law 13-247) in Square 236

B. Size

1. Total site area is approximately 44,341 square feet

2. Site has frontage of approximately 361 feet on U Street and approximately 60 feet on 13th Street

BZA
Case No. 16726
Exhibit No. 31

Board of Zoning Adjustment
District of Columbia
CASE NO.16726
EXHIBIT NO.31

3. Site also partially fronts on a thirty foot wide alley to the north

C. Existing site condition:

1. Parking lot

2. Pre-fab temporary buildings

II. Description of surrounding area

A. U Street-Shaw area

B. Area contains broad mix of uses and building types

C. Major frontage along the U Street commercial corridor

D. Remainder of Square 236

1. To the north

a. 30 foot public alley followed by public ball field and playground

b. Along 13th Street, 2 story plus basement row dwellings and the Walker Memorial Baptist Church

2. To the west

a. 2 story commercial structures

b. Parking lots

E. Reeves Center (D.C. Government office building) at the northwest corner of 14th and U Streets

F. Entrance to the U Street/African American Civil War Memorial/Shaw Metrorail station at the southeast corner of 13th and U Streets

III. Existing zoning: Arts/CR, Arts/C-2-A and R-5-B

A. CR

1. Uses (§§601 – 618)

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

b. Hotel

c. Residential use

2. Height - maximum of 90 feet (§630.1)

3. Density - maximum of 6.0 FAR, with nonresidential uses limited to 3.0 FAR (§631.1)

4. Lot occupancy – residential uses limited to 75% (§634.1)

5. Rear yard – 3 inches per foot of height above the residential plane, but not less than 12 feet (§636.3)

6. Side yard - not required (§637.1)

7. Private residential recreation space - minimum area equal to 15% of the gross floor area devoted to residential use (§635.3)

8. Public space at ground level – area equal to 10% of total lot area

9. Parking (§2101.1)

a. For apartment house use, minimum of 1 space for each 3 units

b. For retail use, minimum of 1 space for each 750 square feet of gross floor area in excess of 3,000 square feet

B. C-2-A

1. Uses (§§720 – 734)

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

b. Hotel

c. Residential use permitted as carry-over from Special Purpose and Residential Districts

2. Height - maximum of 50 feet (§770.1)

3. Density - maximum of 2.5 FAR, with nonresidential uses limited to 1.5 FAR (§771.2)

4. Lot occupancy – residential uses limited to 60% (§772.1)

5. Rear yard –15 feet (§774.1)

6. Side yard - not required (§775.5)

7. Residential recreation space - minimum area equal to 20% of the gross floor area devoted to residential use (§773.3)

8. Parking (§2101.1)

   a. For apartment house use, minimum of 1 space for each 2 units

   b. For retail use, minimum of 1 space for each 300 square feet of gross floor area and cellar floor area in excess of 3,000 square feet

C. R-5-B

1. Uses (§§350 – 361)

   a. Single family detached, semi-detached and row dwellings

   b. Flats

   c. Apartments

2. Height - maximum of 50 feet (§400.1)

3. Density - maximum of 1.8 FAR (§402.4)

4. Lot occupancy – maximum of 60% (§403.2)

5. Rear yard – 4 inches per foot of height but not less than 15 feet (§404.1)

6. Side yard - not required (§405.6)

7. Parking (§2101.1): minimum of 1 space for each 3 dwelling units

D. Uptown Arts (Arts) Overlay District

1. Applies to all new construction (§1900.4)

2. Retail, service, arts and related uses must occupy no less than 50% of the ground level (§1901.1)

3. Height: setback required above 65 feet (§1902.2)

4. Streetwall requirement: no less than 75% of the streetwall to a height of 15 feet must be on the property line (§1903.3)

IV. Proposed development

A. Construction of new building with ground floor retail uses and apartment house above

B. Apartment house to contain approximately 186 units in approximately 196,000 square feet of gross floor area

C. Gross floor area of approximately 24,000 square feet for retail/arts uses on the ground floor

D. Height - overall maximum height is 82 feet (8 stories), with a 42 foot (4 story) element at the southeast corner of the site

E. Total of 173 parking spaces provided

V. Relief required

A. Special exception for multiple roof structures and walls of unequal height

B. Special exception for boundary lines crossing a lot

C. Variance from the court width requirement

1. East court

a. Required width is 12.2 feet

b. Proposed width ranges from 10 to 12 feet

c. Variance of 2.2 to 0.2 feet

2. Pedestrian easement

a. Required width is 10.2 feet

b. Proposed width is 4 feet

c. Variance of 6 feet

D. Variance from the private residential recreation space requirement

1. Required area is 29,950 square feet

2. Proposed area is 24,918 square feet

3. Variance required is 1,109 square feet

E. Variance from the public space at ground level requirement

1. Required area is 4,117 square feet

2. Proposed area is 1,826 square feet

3. Variance required is 2,291 square feet

F. Variance from the streetwall requirement

1. Required at the property line is 253 feet

2. Proposed is 209 feet

3. Variance required is 44 feet

VI. Standards for the roof structure 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.

VII. Compliance with the special exception standards for roof structure

A. Size of building lot

1. Building is designed in "E" shape with wings extending toward the street

2. Elevator tower is centrally located, stair towers are located towards end of halls

3. Roof structures are located over the core and the stair towers

4. Size of lot would require substantial connection between the three separate elements

B. Unduly restrictive and unreasonable

1. Would need approximately 96 feet of wall to make single connection

2. Elevator penthouse is 18 feet, six inches in height; stair penthouses can be substantially lower

3. Unreasonable to provide single enclosure of equal height, which would require more structure and higher structure on the roof

4. Would reduce area available for recreation space

C. Impact on light and air of other buildings

1. Roof structures meet all setback requirements

2. Stair penthouses are lower than the maximum permitted

3. Allowing three roof structures has significantly less impact than connecting into one

VIII. Standards for the boundary line special exception (§411.11)

A. Regulations applicable to the less restrictive districts (Arts/CR and Arts/C-2-A) may be extended into the more restrictive district (R-5-B)

B. Extension limited to 35 feet

C. Extension shall have no adverse effect upon the present character and future development of the neighborhood

D. Board may impose requirements pertaining to design, appearance, screening, location of structures, lighting or other requirements to protect adjacent or nearby property

IX. Compliance with the special exception standards for boundary line crossing a lot

A. Extension is 35 feet from west to east for the Arts/CR District and 35 feet from south to north for the Arts/C-2-A District

B. Project will have positive effect upon the present character and future development

1. Approved by the Historic Preservation Review Board

2. Area is designated as development opportunity area under the Comprehensive Plan

3. Major residential project in area and zone where residential is encouraged

4. Depth of C-2-A District as mapped is only 17 feet

5. In area now zoned R-5-B:

a. Only ground floor will be used for commercial and that is required under the Arts Overlay

b. Upper floors will be used for residential

c. Height will be only 42 feet, less than the 50 feet permitted

C. No special design requirements necessary

X. 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.

XI. Compliance with the variance standards

A. Open court

1. Exceptional or extraordinary situation or condition

a. Size of lot

b. Configuration of lot, with narrower extension to 13th Street

2. Practical difficulty

a. Increasing the width of the court reduces the width of the area available for apartments, which is already narrow

b. Other alternative would be to eliminate the courts entirely

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. Building is already below the permitted density and height

B. Residential recreation space

1. Exceptional or extraordinary situation or condition

a. Large size

b. Greater proportion of residential use than expected under the Regulations (90% as compared to 50%)

2. Practical difficulty

a. Insufficient space of appropriate dimensions

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

c. Compliance would require reducing the size of the apartment building

d. Have used all the available roof areas, balconies, etc.

3. No detriment to the public good

a. Are other nearby open spaces available for recreation (e.g., park area immediately to the north)

b. Building has a significant amount of space

C. Public space at ground level/street frontage design

1. Exceptional or extraordinary situation or condition

a. Regulations have requirements (one from the base zone and one from the overlay) that go in opposite directions

b. Long street frontage

2. Practical difficulty

a. Increase in one requires reduction in the other

b. Also have requirement for ground floor retail/arts uses

3. No detriment to the public good

a. Building has attempted to balance the competing regulations, rather than going all the way on one and having too little of the other

b. Building design was approved by HPRB

XII. Conclusions

A. Subject property is affected by exceptional conditions, because of the size of the site, the configuration of the site, the three zone categories now applicable to the property and the requirements of the Regulations as to public space, street design and first floor use

B. Strict application of the Regulations would create significant difficulties for the construction of a mixed use building with significant retail and apartment components

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

D. Roof structures as designed are appropriate for the building, and strict compliance with the Regulations would lead to more bulk and greater height

E. Three zone boundary lines create an unusual condition and allowing extension will allow appropriate use of the first floor

F. The application should be granted