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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16733

525 and 575 Massachusetts Avenue, N.W.

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

June 19, 2001

I. Site location and description

A. Location

1. Southern portion of the square bounded by 5th, 6th, I and K Streets and Massachusetts Avenue, N.W.

2. Site also fronts on ten foot wide alley penetrating the rear portion of the site from the north

3. Project site consists of lot 25 in Square 484

4. Site located one block southeast of Mt. Vernon Square

B. Size

1. Total site area is approximately 30,600 square feet

2. Frontage of approximately 174 feet on 5th Street, 148 feet on 6th Street, 31 feet on I Street and 171 feet on Massachusetts Avenue

C. Existing site condition – vacant, used as a parking lot.

BZA
Case No. 16733
Exhibit No. 31
Board of Zoning Adjustment
District of Columbia
CASE NO.16733
EXHIBIT NO.31

I. Description of surrounding area

A. Mt. Vernon Square East area

B. Area contains broad mix of uses and building types

C. No significant new development in recent years

D. Remainder of Square 484: two and three story buildings fronting on 5th, 6th and K Streets used for miscellaneous commercial uses, including auto sales

E. Use to the north in Square 483: parking lot

F. Uses to the East in Squares 516 and S-516 (bounded by Massachusetts Avenue and 4th, 5th and K Streets)

1. House of Ruth at the corner of Massachusetts Avenue and I Street

2. Parking lots

3. Vacant lots and buildings

4. Used car lot at the corner of Massachusetts Avenue and 4th Street

5. Chester Arthur Building (90 foot office building leased to the General Services Administration)

G. Uses to the south

1. Triangular Federal park reservation bounded by Massachusetts Avenue and 6th and I Streets

2. Square 485, (bounded by 5th, 6th, H and I Streets)

a. Mostly 2 story residential buildings

b. Parking lots

c. Corinthian Baptist Church at the corner of 5th and I Streets

d. Gospel Mission on 5th Street

H. Uses to the west in Squares W484 and 452

1. Vacant land

2. Eight story office buildings (one occupied as the headquarters of National Public Radio)

II. Existing zoning: DD/C-2-C

A. Uses (§§720 – 734)

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 ninety feet (§770.1)

C. Density - maximum of 6.0 FAR, with nonresidential uses limited to 2.0 FAR (§771.2)

D. Lot occupancy - 80 percent permitted (§772.1)

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

F. Rear yard – fifteen feet (§774.11)

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 hotel use, minimum of one space for each two rooms usable for sleeping plus one space for each 150 square feet of floor area in the largest function room

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 (130 feet for subject site), with a setback required above 110 feet facing Massachusetts Avenue

3. Housing Priority Area A

a. Maximum FAR is 8.0

b. Minimum of 4.5 FAR required to be devoted to residential use (3.5 FAR available for commercial)

4. With purchase of TDRs, allowable on-site FAR is 8.5

5. With maximum off-site residential, on-site commercial density could be 4.85 FAR

III. Proposed development

A. Use

1. Apartment house of approximately 200 units

2. Hotel of approximately 155 suites

B. Gross floor area of approximately 307,100 square feet (10.04 FAR)

1. Apartment house: 200,000 square feet (6.54 FAR)

2. Hotel: 107,100 square feet (3.5 FAR)

C. Height

1. Apartment house is maximum of 130 feet (14 stories)

2. Hotel is maximum of 122 feet, 7 inches (13 stories)

3. Both have 1:1 setback above 110 feet facing Massachusetts Avenue

D. A total of 145 parking spaces provided in two separate garages, with an additional 95 spaces provided in vault space

IV. Relief required

A. Variance from the FAR limitation

1. Maximum permitted density is 260,100 square feet (8.5 FAR)

2. Proposed density is 307,100 square feet (10.04 FAR)

3. Variance is 47,000 square feet of residential FAR (1.54 FAR)

B. Variance from the residential recreation space requirement

1. Required area is 30,000 square feet

2. Proposed area is 10,000 square feet

3. Variance of 20,000 square feet

C. Variance from the open court requirement

1. Required minimum width is 42.9 feet (based on the height of court)

2. Width provided is 36.35 feet

3. Variance of 6.55 feet

V. 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.

VI. Compliance with the variance standards

A. Floor area ratio

1. Exceptional or extraordinary situation or condition

a. Contaminated soil conditions adds extra cost for site development

b. Site is key location, at the intersection of the 7th Street/ Chinatown residential corridor and the Mount Vernon Square East/NoMA area

2. Practical difficulty

a. Apartment building requires a minimum threshold of units to be realistic, to spread fixed costs over a sufficient number of units

b. Critical mass of units would not be met if building was limited to 8.5 FAR

3. No detriment to the public good

a. Zoning Commission has proposed amendments to the Zoning Regulations which would eliminate the need for this variance; timing is the only question

b. Use is permitted as a matter-of-right; residential is required under the DD District

c. Planning policies for the Mount Vernon Square area strongly encourage mixed use development, including residential

d. Proposed development would forego any office use on this site and be a combination of residential and hotel uses highly desired at this location

B. Residential recreation space

1. Exceptional or extraordinary situation or condition

a. Size of building related to size of lot (the 15% requirement for a 6.54 FAR building requires the equivalent of 0.98 FAR of recreation space)

b. Apartment building occupies only about seventy percent of the site

2. Practical difficulty

a. Insufficient space 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, thereby jeopardizing the critical mass necessary to support an apartment building

3. No detriment to the public good

a. Zoning Commission has proposed amendments to the Zoning Regulations which would eliminate the need for this variance; timing is the only question

b. Are other nearby open spaces available for passive recreation (e.g., Federal reservations, Mount Vernon Square, public space along Massachusetts Avenue)

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

C. Open court

1. Exceptional or extraordinary situation or condition

a. Shape of lot, penetrated by a ten foot public alley at the north end

b. Apartment house and hotel dictate shape of development and optimum wall-to-wall dimensions

2. Practical difficulty

   a. Apartment building and hotel requires design to provide for sufficient light and air for units

   b. Generally accepted wall-to-wall depth of 65 feet for the apartments and 55 feet for the hotel

   c. Requiring 43 foot open court compromises residential/ hotel design

3. No detriment to the public good

   a. There is substantial open space, in excess of the minimum required width, including the alley and the open space on both sides

   b. There is adequate light and air for all units in the building

VII. Consistency with the Comprehensive Plan

A. Land Use element and maps - property included in mixed-use high density commercial/high density residential category

B. Downtown element

1. Major policies

   a. Emphasize significant residential community and new hotels

   b. Mount Vernon Square subarea should be a primary location for residential development

   c. Massachusetts Avenue between 2nd and 7th Streets should have a mixed use character (residential/ commercial) with an opportunity for hotels

2. Residential land use

   a. "Undertake a variety of public and private programs to achieve a major increase in residential units" (§903.2(a))

   b. "Encourage residential in-fill as well as compatible major new residential development" (§903.2(b))

c. "Facilitate mixed-use development along Massachusetts Avenue, N.W., that emphasizes the residential component of that mix, primarily in high-rise apartment buildings" (§903.2(c))

d. "Encourage residential use as part of mixed use projects extending south through Chinatown and Gallery Place to connect with the proposed residential area on Pennsylvania Avenue, N.W." (§903.2(e))

3. Hotel land use

a. "Encourage and give priority to clustering of hotels ...around the new Convention Center at Mount Vernon Square" (§904.2(a))

b. "Encourage the retention and development of a full range of hotels in the Downtown area, especially moderately price hotels" (§904.2(d))

c. "Encourage the development of new hotels ...near the new convention center north of Mount Vernon Square, including such development on sites both south and north of Massachusetts Avenue" (§904.2(e))

4. Mount Vernon Square:

a. "Develop the primary residential neighborhood of Downtown at Mount Vernon Square with a mix of other uses including offices, hotels, and neighborhood retail" (§932.1(a))

b. "Support a mixed use character of residential and commercial, including the opportunity for hotel and sports/entertainment facility development, along Massachusetts Avenue between 2nd and 7th Streets" (§932.2(b)(4))

C. Ward Two Plan (10 DCMR Chapter 13)

1. Housing

a. "Stimulate production of new and rehabilitated housing to meet all levels of nee d and demand and to provide incentives for the types of housing needed at desired locations" (§1304.1(a))

b. "Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land-use policies" (§1305.1(a))

c. "Recommend suitable regulatory, zoning, tax and financing incentives under appropriate controls to meet housing production goals" (§1305.1(c))

2. Land Use

a. Objectives for residential land use:

"Develop new housing in Downtown in the area extending north of Pennsylvania Avenue through Gallery Place, Chinatown, and portions of Judiciary Square" (§1327.1(c)(2)

b. Actions in support of the hotel development objective:

(1) District government should "encourage new hotels to locate in the development opportunity areas" (§1331.1(a)(3))

(2) District government should "Encourage the development of new hotels at appropriate locations near the proposed new convention center" (§1331.1(a)(5))

c. Development Opportunity Areas:

"Develop a major new residential mixed-use community, including hotels, in the Mount Vernon Square area" (§1339.1(b))

VIII. Conclusions

A. Subject property is affected by exceptional conditions, because of the location of the site, subsoil conditions, the presence of the public alley on the north, the nature of the proposed building (an apartment house/hotel) and the requirements of the Regulations as to recreation space

B. Strict application of the Regulations, requiring the equivalent of almost 1 FAR (0.98 FAR) of recreation space, requiring substantial relocation of the hotel wing and/or the east-west wing of the apartment building and limiting the FAR to 8.5, would create significant difficulties for the construction of a new apartment building and hotel in an area where no new residential construction has occurred

C. The Zoning Commission has proposed to amend the Regulations which would eliminate the need for the FAR and recreation space variances

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

E. 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

F. The application should be granted