GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: December 11, 2001

SUBJECT: BZA Application #16809 (Gallery II Apartments)
719-735 6th Street, NW. (Square 486, Lots 11-13 and 804-808)

APPLICATION

The application by AvalonBay Communities, Inc. requests, pursuant to 11 DCMR 3103.2, variances from the provisions of Section 1706.4(f) that require the provision of residential recreational space equal to 5% of the gross floor area devoted to residential use; from Section 1705.3 that requires 0.5 FAR of preferred retail/arts space; and from Section 770.6(b) that require roof structure setbacks to be at least equal to its height above the roof.

SUMMARY RECOMMENDATION

The long, narrow shape and area of the property has reduced the capacity of the site to accommodate all the required retail space, recreational space, and rooftop setbacks and at the same time maximize the number of residential units. Based on the need to encourage and support the strategy for housing in the Chinatown area and the fact that the proposed reduction in residential recreational space and retail uses will not cause any harm to the public good, it is the view of the Office of Planning that flexibility is appropriate in order to achieve this goal through the granting of the variances requested and therefore recommends that the Board of Zoning Adjustment **APPROVE** the variances requested.

SITE AND AREA DESCRIPTION

The subject property is located at 770 5th Street, N.W. between G and H Streets, N.W. and is comprised of Lots 35, 818, 819, 821, 822, 823, and 827 that combine for a total of approximately 12,750 square feet of land area. The subject site is currently undeveloped and is being used as a surface parking lot. (Attachment 1)

BZA Case No. 16809 Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16809
EXHIBIT NO.25

The area surrounding the subject property is as follows:

To the north is an undeveloped property used as a parking lot and H Street, N.W;

To the east, across an 18-foot alley is the 10-story Red Roof Inn hotel at the corner of 5th and H Streets and the proposed site of AvalonBay's Gallery I Apartments;

To the south is a 3-story brick building adjacent to G Place; and

To the west are 6th Street that has a right-of-way of 100-feet, a public alley, old commercial and retail mid-rise buildings, and undeveloped lots of which several are used for parking.

PROPOSAL

The application proposes a 12-story building at a height of 121.5 feet, an area of 121,631 gross square feet, and a FAR of 9.54. The development will contain 132 apartment units and 5,833 square feet of retail space in addition to other amenities such as a mailroom, valet dry cleaning, and storage areas.

The applicant requests variances from the requirement to provide 5% recreational space (approximately 5,595 square feet), 0.5 FAR (approximately 6,475 square feet) of preferred retail/arts space, and a reduction in the setback requirement on one side of the roof structure.

ZONING REQUIREMENTS

The subject site is zoned DD/C-2-C, a zoning district with an overlay intended to achieve a mix of residential and commercial development. The C-2-C base zoning permits a density of up to 6.0 FAR, building heights of up to 90 feet, and residential lot occupancy of 80%. The DD district is divided in subsections and the subject site is included in the Chinatown and Residential and Mixed Use Development - Housing Priority Area "B" subsections. The DD requirements were recently amended via Zoning Text Amendment 00-30TA (Part 1), *Downtown Development Overlay District – Residential and Mixed Use Development, Housing Amendment* (Attachment 2, Order No. 943 (Revised)). The amendment allows a reduction in the recreational space requirement in the C-2-C District to 5%, provided that the bonus is dedicated to residential use (Attachment 2, page 7, Section 1706.4 (f)). Second, the amendment provides that the FAR limitations shall not apply to buildings devoted entirely to residential use, a combination of residential and listed retail and service uses or listed arts and arts related uses, provided that the height limitations and other yard requirements are met (Attachment 2, page 9, Section 1706.7(d)). The proposal meets all the yard requirements and therefore the FAR limitations of Section 1706.4 do not apply.

PLANNING CONTEXT

The concept for housing as part of a mixed-use objective of creating a "Living Downtown" was outlined in a the 1982 report, *Downtown D.C.: Recommendations for the Downtown Plan,* prepared by the Office of Planning and Development and the Mayor's Downtown Committee. Those recommendations were later incorporated and adopted as the Downtown Plan Element of the Comprehensive Plan in 1984. The concept for Downtown housing envisions a concentration of housing in the Pennsylvania Quarter area, with new housing threading north generally along the 7th Street corridor to connect with new housing in Gallery Place, Chinatown, and parts of Judiciary Square, then connecting with other major concentration of housing in the Mount Vernon Square Triangle. The proposed development of housing in Square 486 is especially important to this housing strategy, as it will play a critical role in establishing a link between the Pennsylvania Quarter and the Mount Vernon Square Triangle.

ANALYSIS

Residential Recreational Space

Section 773.4 states that "residential recreational space may be located at ground level, on or above the residential plane, on rooftops, or within a building or other structure" and Section 773.8 state that "no less than fifty percent (50%) of the total residential recreation space shall be outdoors."

To fulfill the requirement for 5% recreational space, a total of 5,595 square feet of space would be needed. Due to the long, narrow shape of the property, the required recreational and retail space combined would limit the number of residential units and other amenities for the residents. Additionally, because of the need for access to the lobby area, the loading area, and the parking garage combined with building and mechanical components in the rear yard area, the opportunities for providing outdoor recreation space are limited to non-existent. Further, recreational facilities are unable to be provided on the roof as it is occupied by other roof structures.

The applicant is the owner of the proposed Gallery I Apartments to the southeast of the site that will have approximately 5,000 square feet of recreational space on the rooftop and a fitness center on the first floor of the building. These facilities will be made available to the residents of Gallery II Apartments. A walkway between the buildings will be provided across the alley for easy access.

Preferred Retail/Arts Uses

The second variance request is from Section 1705.3, the requirement for the preferred retail/arts use. The location of the proposed project is on a side street of Chinatown and not along the

major 7th Street or H Street commercial/retail corridor. The development is required to provide 0.5 FAR or 6,375 square feet and the applicant is proposing 5,833 square feet of space, 542 square feet less than required, due to the limited overall ground floor space and the desire to provide other amenities for the residents on the ground floor.

Roof Top Structure

Section 770.6(b) requires that the housing for roof structures be setback from all exterior walls a distance that is at least equal to its height above the roof. The applicant proposes an 18'6" penthouse (maximum height allowed) around the stairway and elevator. The penthouse is setback 18'6" from the exterior walls on the east and west sides but only 6' on the south side. The setback on the south side is reduced due to the long, narrow shape of the property and hence the building which minimizes the amount to space to accommodate required mechanical equipment on the roof. As seen on Attachment 3, the location of the corridor air vent precludes further setback of the penthouse. Additionally, it is the aim of the required setback to minimize visibility from the street. In this case, this side of the building is adjacent to an undeveloped property and it is envisioned that with the development of that property the roof structure would not be visible from H Street.

Parking

The Zoning Regulations require a total of 37 parking spaces and 50 spaces are provided. The subject site is one block east of the Gallery Place Metro station and a number of Metro buses travel along H Street and 7th Street.

Standards for Approval

The standard by which the BZA should approve variances is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how the requested variances meet these standards:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The subject property is unique due to the fact that the property is long and narrow and is between two very small lots which are not a part of this project and if included could allow for the provision all the required facilities as well as providing space for required mechanical equipment on the site.

> **By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.**

The long, narrow shape and area of the property has affected the ability of the applicant to provide the required 5% recreational space, 0.5 FAR of retail space, and the roof structure setback combined.

The retail and some of the recreational space would be expected to be located on the ground floor. However, if both were provided, it would limit the area left for other amenities for residents. Since the required amount of retail and recreational space is unable to be accommodated on the ground floor the applicant has chosen to maximize the retail space they are able to provide. OP agrees with this strategy in that it serves the residents of the building as well as the satisfy the aim of providing ground floor retail space to encourage street activity along 6th Street as well within the overall Chinatown area. If the full extent of the required retail and recreational space were to be provided, then the number of residential units would be reduced at a time when the District is trying to maximize residences within the city.

Recreational space is usually provided on the ground floor of a building, on the rooftop of the building or outside of the building. The ability to provide recreational space on the ground floor of the building is limited due to its size and the requirement to provide retail space and other amenities. Providing the space on the rooftop is not possible due to the fact the required condenser units, the penthouse, and air vents utilize that most of the space. The space on the outside of the buildings is also limited as the building in front is located along the property line and the rear area is occupied by the ramp to the parking lot, a connection to the service lobby, and the remainder to be used by the retail use(s).

Regarding the roof structure, the reduction in the setback requirement is required due to shape and size of the lot and the necessity to provide mechanical equipment on the roof. These factors combine to make it impossible to meet the setback requirement on all sides on the penthouse.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Granting the variances requested would not impair the intent, purpose, and integrity of the Zoning Regulations as the request for a variance from providing the full 5% of the recreational space on the subject property is mitigated by the applicant allowing residents of the proposed apartments to use the facilities to be provided at the proposed Galley I Apartments. Secondly, the reduction in retail space is due to the small size and shape of the property and the need to provide other amenities on the ground floor but will meet the aim of having improving activity along 6th Street. Thirdly, the reduction in the penthouse setback is also due to the long, narrow shape of the site and the need to provide other necessary mechanical equipment etc. on the roof of the building. The reduced setback is adjacent to an undeveloped lot which when developed will not allow the penthouse to be seen from H Street. Additionally, the reduction in setback requirement will not affect the light and air on adjacent properties.

COMMUNITY COMMENTS

The project is subject to Chinatown Design Review pursuant to 10 DCMR 2400. The applicant will first meet with the Design Review Subcommittee followed by review by the Chinatown Steering Committee. Although the property is not within the Chinatown Historic District, the design is expected to reflect or be compatible with the architectural character the Chinatown area. A scheduled meeting with the Chinatown Steering Committee was cancelled and to date, a meeting has not been scheduled.

The application was reviewed by the Licensing & Zoning Committee of ANC 6A on November 14 and they recommended approval. A presentation was made to the full ANC on December 6, 2001. At the time of voting on the application, a full quorum as not present and they recommended that a decision on the application be delayed until a recommended by the Chinatown Steering Committee was available

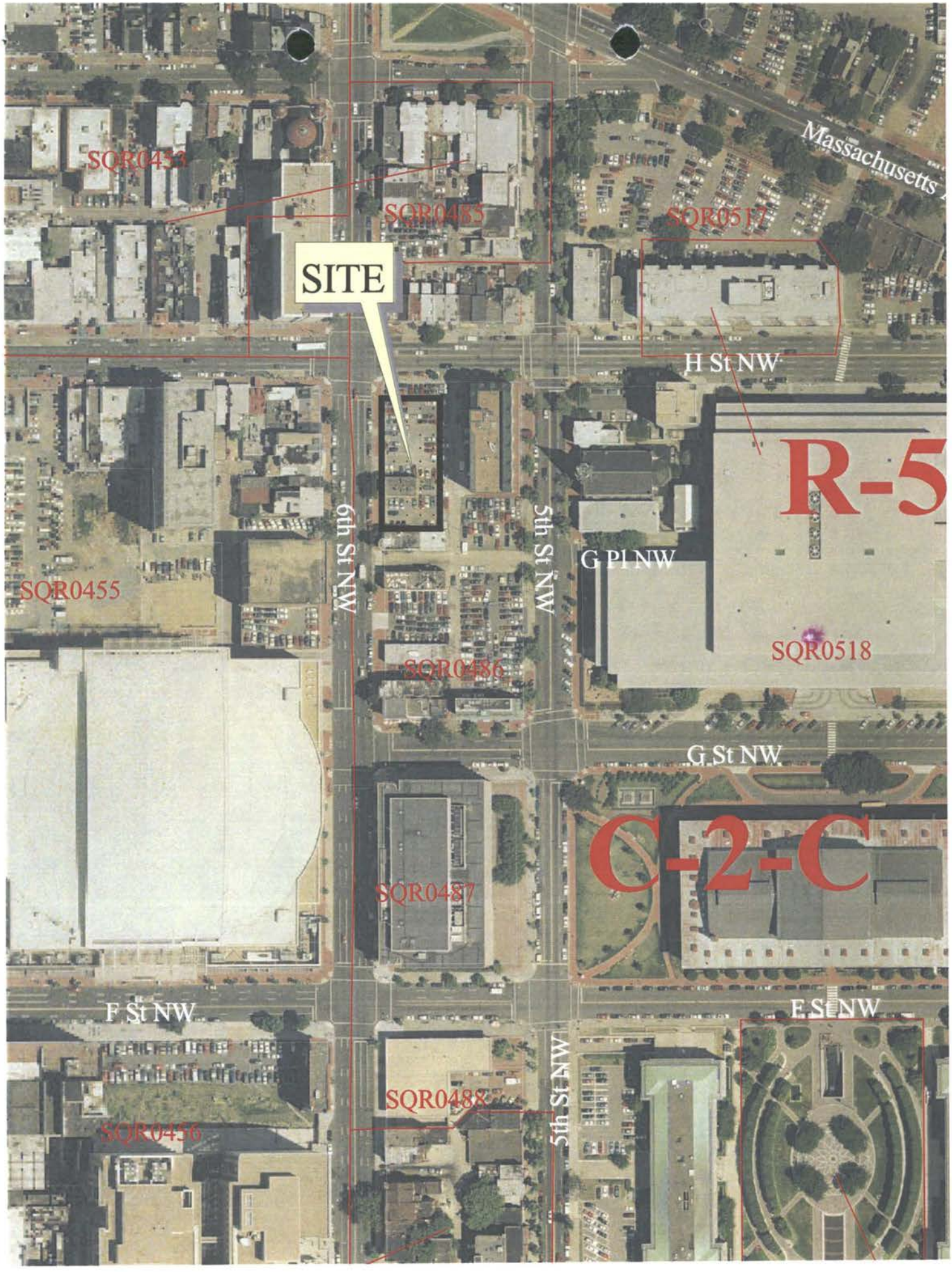
SUMMARY & RECOMMENDATION

Residential use in this area is required by the Zoning Regulations under the DD overlay zone and is further encouraged by the Downtown Plan Element of the Comprehensive Plan and Downtown Action Agenda. Based on the need to encourage and support the strategy for housing in the Chinatown area and the fact that the proposed reduction in residential recreational space and retail uses will not cause any harm to the public good, it is the view of the Office of Planning that flexibility is appropriate in order to achieve this goal through the granting of the variances requested. As demonstrated above, approval of there variances will not cause any "substantial detriment to the public good" and "will not substantially impair the intent, purpose, and integrity" of the Zoning Regulations or Map. Therefore, the Office of Planning recommends that the Board of Zoning Adjustment approve the variances requested.

ATTACHMENT:

1. Site Location
2. Zoning Commission Order 943 (Revised)
3. Roof Plan

AA/mbr


SQR0453
SQR0485
SQR0517
SITE
Massachusetts
H St NW
R-5
6th St NW
5th St NW
G Pl NW
SQR0455
SQR0518
SQR0486
G St NW
C-2-C
SQR0487
F St NW
E St NW
5th St NW
SQR0488
SQR0456

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
ORDER NO. 943 (REVISED)
Z.C. Case No. 00-30TA (Part I)
(Text Amendment – 11 DCMR)
(Downtown Development Overlay District – Residential and Mixed Use Development, Housing Amendments)
July 26, 2001

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code, 2001 Ed. § 6-641.01 (formerly codified at D.C. Code § 5-413 (1994 Repl.))), and having held a public hearing as required by § 3 of the Act (D.C. Code, 2001 Ed. § 6-641.03 (formerly codified at D.C. Code § 5-415 (1994 Repl. Supp. 1999)) and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to 11 DCMR §§ 3025.3 and 3028.1, hereby gives notice of the adoption of the following amendments to § 1706 of the Zoning Regulations, Title 11 DCMR, pertaining to residential and mixed use development in the Downtown Development (DD) Overlay District. The Commission took final action to adopt the amendments at a public meeting held on July 26, 2001.

New section 1706.7(b), which relieves properties in the DD/C-2-C, DD/C-3-C, and DD/C-4 Overlay Districts that are devoted entirely to residential use or to a combination of residential use and preferred retail, service, arts, and arts-related uses of the applicable floor area ratio (FAR) limitations, provided the increased gross floor area is devoted entirely to residential use, is adopted as an interim final rule. The Commission will be publishing a Notice of Proposed Rulemaking to amend § 1706.7(b) to extend the relief from FAR limitations to all lots in these overlay districts, provided the increase in gross floor area is devoted entirely to residential use and the project otherwise complies with the requirements of § 1706.7(b).

The Commission initiated this case in response to recommendations from the D.C. Office of Planning (OP), which were in turn derived from the recommendations of the Mayor's Downtown Housing Task Force and the Downtown Action Plan process, the results of which are described in the "Downtown Action Agenda," a report published by OP in November 2000.

The amendments will, first, reduce the residential recreation space requirement in the C-2-C and C-3-C Districts within the DD Overlay District from fifteen percent (15%) and ten percent (10%)

ZONING COMMISSION

ATTACHMENT 2

respectively to five percent (5%) of the gross floor area devoted to residential use, provided the gross floor area made available through this reduction is used exclusively for residential use.

Second, except for historic landmarks and specified properties within the Downtown Historic District, the amendments will relieve development projects in the DD/C-2-C, DD/C-3-C, and DD/C-4 Overlay Districts that are devoted entirely to residential use or a combination of residential and preferred retail and service and arts and arts-related uses of the applicable maximum FAR restrictions, provided the increased gross floor area is used only for housing on-site. Height and lot occupancy restrictions and yard requirements will remain applicable. Moreover, the increased FAR may not be used to meet minimum housing requirements, generate transferable development rights, or transfer residential density off-site through combined lot development.

A Notice of Public Hearing containing the proposed amendments and setting a hearing date for January 29, 2001, was published in the *D.C. Register* on December 8, 2000, at 47 DCR 9669. At the January 29, 2001, public hearing, the hearing was continued to February 5, 2001, at OP's request to permit stakeholders additional time to review OP's hearing report. On February 5, 2001, the public hearing was again continued to February 12, 2001.

OP submitted several reports in support of the amendments, dated October 6, 2000; January 25, 2001; March 8, 2001; April 13, 2001; and July 20, 2001. As recognized by OP, the development of a "Living Downtown" is a major theme of the Comprehensive Plan. Re-establishing a residential community in the heart of the District of Columbia is a key component of the "Living Downtown" concept. 10 DCMR §§ 104, 900.3. According to the Comprehensive Plan, there are approximately 1,800 residential units in the Downtown at this time. 10 DCMR § 900.7. To achieve a vital Downtown that will sustain a mixture of uses, § 900.7 of the Comprehensive Plan sets a general target of 5,400 residential units. The Comprehensive Plan contains additional provisions to encourage the development and improvement of downtown housing. *See* 10 DCMR §§ 903, 940.2(b), 1103.4, and 1104.1(o).

To accomplish these policies, OP recommends reducing the residential recreation space requirement. OP advanced several reasons in support of its recommendation. First, the recreation space requirements for the C-2-C and C-3-C Districts within the DD Overlay District are unduly burdensome. For example, the bonus density provided for the housing priority areas in the DD/C-2-C (8.5 FAR pursuant to 11 DCMR § 1706.7) is equivalent to the base density of the C-4 District (8.5 FAR pursuant to 11 DCMR § 771.2); however, the recreation space requirement in 11 DCMR § 773.3 for the C-2-C District, fifteen percent (15%) of the gross floor area devoted to residential use, is three times as high as the requirement for the C-4 District, five percent (5%) of the gross floor area devoted to residential use. As a result, much of the bonus density would have to be used to meet the recreation space requirement. Second, there are numerous public recreational activities available Downtown, along with many other cultural, entertainment, recreational, and retail and service uses. Third, the vibrancy of the Downtown, as well as the residents' "eyes on the street" which increases security, would be diminished if the

residents primarily use private recreation space on the inside of buildings or on top floor observation decks. Fourth, in the DD Overlay District, with lot coverage requirements reducing potential floor area, the required recreation space, even with the use of available rooftop space, adds up to more than one entire floor. This substantially reduces the number of dwelling units that could otherwise be built on a site. Finally, with high land costs in the Downtown, the provision of ground level open space is prohibitively expensive. In addition, ground level recreation space could reduce the ability to provide ground level retail, which is important for street vitality.

OP also recommends relieving property used for residential development in the commercial zones within the DD Overlay District, the DD/C-2-C, DD/C-3-C, and DD/C-4 Districts, of FAR limitations. FAR limitations are a common zoning tool used for controlling density. However, unlike height, lot occupancy, and building setback limitations that can be uniformly applied to any type of development, FAR limitations have different impacts depending on the proposed use. Height, lot occupancy, and building setbacks create a fixed zoning envelope, but the number of floors that can fit within that envelope varies depending on floor height. Office development requires a higher floor height than residential development. Thus, by lifting FAR restrictions for residential development, the number of dwelling units that can be built within the same zoning envelope could be increased. As a result of the floor height differences between office and residential uses, building code requirements for light and air, and zoning requirements for residential recreation space and restricted lot occupancy, residential development has less bulk than comparably restricted commercial development. Some effort to relieve this disparity was built into the DD Overlay District regulations in 11 DCMR § 1706.7 by allowing a 0.5 FAR bonus for housing development. According to the Downtown Housing Task Force, however, this bonus has not effectively compensated for the financial disparity between office and residential profitability. Depending on the shape of the lot and building design, the lifting of FAR restrictions on residential development will allow for additional dwelling units. This not only makes residential development more attractive; but also, by increasing the number of units per building, fixed operational costs per unit will decrease. Increasing the number of dwelling units will also help the District of Columbia reach its housing targets.

While maximum FAR restrictions primarily represent a limit on density, other zoning regulations also operate to prevent and limit adverse effects associated with increased density. The maximum height, maximum percentage of lot occupancy, minimum residential recreation space, and minimum yard and court requirements will thus play an important role in preventing any adverse effects on the public resulting from the increased density permitted by this rulemaking.

The downtown development community, housing advocates, and community organizations submitted written and oral comments in response to the Notice of Public Hearing. The affected Advisory Neighborhood Commissions, ANC 2-C and ANC 2-F, did not submit reports. In general, the entities providing comments supported the proposed amendments. Several entities supported eliminating the residential recreation space requirement, leaving market forces to determine the nature and extent of any recreation space. Peter Schwartz and 1234 Massachusetts Avenue LLC requested the Commission to relieve properties in the DD/R-5-E Overlay District devoted entirely to residential use of FAR restrictions.

Following the February 12, 2001, hearing, the Commission took proposed action pursuant to 11 DCMR § 3027.2 at its regular monthly meeting on April 16, 2001, to approve the proposed amendments with respect to the reduction of the residential recreation space requirements and the removal of the FAR limitations. The Commission determined that it was premature to tie the recreation space reduction in the area north of Massachusetts Avenue to an open space trust fund, as recommended by OP, since the fund has not yet been established, or to extend the reduction to all zone districts in which there is a recreational space requirement. In light of OP's recommendation that the provision of extra density in the DD/R-5-E Overlay District should be in exchange for public benefits, the Commission believes that extending such relief to DD/R-5-E zoned properties would warrant further study. During the public hearing, a few entities stated that they believed the maximum amount of transferable development rights that may be generated by new residential development should include the 0.5 FAR density bonus provided in § 1706.7. The Commission does not agree that the additional 0.5 FAR should be eligible to earn transferable development rights, since the additional 0.5 FAR already constitutes a bonus or development incentive. Finally, the Notice of Public Hearing had included proposed amendments to § 1708, relating to combined lot development. To allow further OP review and report, the Commission deferred action on this portion of the rulemaking.

A Notice of Proposed Rulemaking relating to the reduction of the residential recreation space requirement and removal of the FAR limitation was published in the *D.C. Register* on May 11, 2001, at 48 DCR 4260, for a 30-day notice and comment period.

The Commission received written comments in support of the proposed rulemaking from the law firm of Holland & Knight LLP. JPI, a contract purchaser of property within the DD Overlay District, supported eliminating the FAR restrictions for residential projects in the DD Overlay District, but recommended that FAR increases above current levels should only be allowed with the purchase of transferable development rights from sending lots in the DD Overlay District.

The application was referred to the National Capital Planning Commission (NCPC) under the terms of § 492 of the District of Columbia Charter. NCPC, by delegated action of its Executive Director dated July 11, 2001, indicated that the proposed text amendment to remove FAR restrictions from residential projects would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital and would not adversely affect the federal interest. The delegated action report, however, did not address the proposed text amendment to reduce the

residential recreation space in the DD/C-2-C and DD/C-3-C Overlay Districts, pending further study. A follow-up letter from NCPC, dated July 16, 2001, indicated that should the Zoning Commission decide to proceed with the proposed amendments, NCPC would work with OP to ensure that a sufficient amount of residential recreation space is provided by means other than maintaining a higher zoning requirement on individual properties.

The Commission reviewed this case at public meetings on July 16 and 26, 2001. With respect to the comments received from JPI, the Commission believes that such an additional requirement would be unduly burdensome and would frustrate the purpose of this rulemaking, which is to provide an incentive for increased Downtown housing.

At its July 16, 2001, meeting, the Commission determined that the introductory language in § 1706.7(b) that limits FAR relief to properties devoted entirely to residential uses or a combination of residential and preferred uses should be amended to include residential and commercial mixed-use projects. The introductory language in § 1706.7(b) would be revised to read "Except for historic landmarks and properties listed in § 1706.4 in the Downtown Historic District, the maximum FAR limitations in §§ 1706.4, 1706.5, and 1706.6 shall not apply to any lot; provided:". The Commission therefore determined to issue a second Notice of Proposed Rulemaking containing the revision.

In order to permit residential projects that meet the more restrictive requirements of § 1706.7(b) as originally proposed to proceed, the Commission reconsidered its decision at its July 26, 2001, public meeting. The Commission determined to adopt the rulemaking as proposed as a final rulemaking and to subsequently publish a Notice of Proposed Rulemaking to amend the introductory language in § 1706.7(b). Several changes have been made to the language as proposed in the May 11, 2001, Notice of Proposed Rulemaking to improve its clarity; however, no substantive changes to the proposed rulemaking were made. The Office of the Corporation Counsel has determined that this rulemaking meets its standards of legal sufficiency.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interest of the District of Columbia, consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to § 1706 of the Zoning Regulations, Title 11 DCMR. Deleted text is shown in strike-through lettering and added text is shown bolded and underlined:

Chapter 17, Downtown Development Overlay District, Section 1706, is amended to read as follows:

1706.3 Each lot in the Housing Priority Area shall provide on-site or account for off-site by combined lot development residential use and development as provided in this

section; provided further, that a building or combined lot development that provides new residential uses on-site shall ~~earn~~ **generate** bonus density or transferable development rights as follows:

(a) Residential development north of Massachusetts Avenue shall ~~earn~~ **generate** one (1) square foot of bonus density or transferable development rights for each square foot of residential use developed;

(b) Residential development south of Massachusetts Avenue shall ~~earn~~ **generate** two (2) square feet of bonus density or transferable development rights for each square foot of residential use developed; and

(c) Residential development that qualifies as affordable dwelling units as defined in ~~Subsection~~ § 1799.1 ~~of this chapter~~ shall ~~earn~~ **generate** two (2) square feet of bonus density or transferable development rights for each square foot of affordable housing developed.

(d) The bonus density provided by § 1706.7 shall not be used to generate transferable development rights.

1706.4 In the DD/C-2-C Overlay District, the following residential and mixed-use provisions apply:

(a) The maximum FAR shall be 8.0 as a matter of right, which FAR may be devoted to all residential use or include commercial or residential uses as provided in this subsection;

(b) Each lot shall provide on-site or account for off-site in a combined development no less than 4.5 FAR of residential use;

(c) On a lot that is south of Massachusetts Avenue, up to 1.8 FAR of this residential requirement may be met by constructing or by financially assisting affordable housing as defined in this chapter and as governed further by this section;

(d) On a lot that is north of Massachusetts Avenue, up to 1.35 FAR of this residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section; ~~and~~

(e) If such affordable housing is provided off-site, commercial or residential FAR may be substituted on-site or in a combined lot development by the

same amount of gross floor area as the affordable housing up to the maximum limit of 1.8 FAR south of Massachusetts Avenue or 1.35 FAR north of Massachusetts Avenue; **and**

(f) The residential recreation space required in § 773.1 shall be reduced to five percent (5 %) of the gross floor area devoted to residential use, provided the gross floor area made available by this paragraph shall be devoted entirely to residential use.

1706.5 In the DD/C-3-C Overlay District, the following residential and mixed-use provisions apply:

(a) The maximum FAR shall be 9.5 as a matter of right, which FAR may be devoted to all residential use or may include commercial or residential uses as provided in this subsection;

(b) Each lot shall provide on-site or account for off-site in a combined lot development no less than 3.5 FAR of residential use;

(c) On a lot that is south of Massachusetts Avenue, up to 1.4 FAR of the residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section;

(d) On a lot that is north of Massachusetts Avenue, up to 1.05 FAR of the residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section; ~~and~~

(e) If affordable housing is provided off-site pursuant to paragraph (c) or (d) of this subsection, commercial or residential FAR may be substituted on-site, or in a combined lot development, by the same amount of gross floor area as the affordable housing, up to the maximum limit of 1.4 FAR south of Massachusetts Avenue or 1.05 **FAR** north of Massachusetts Avenue; **and**

(f) The residential recreation space required in § 773.1 shall be reduced to five percent (5 %) of the gross floor area devoted to residential use, provided the gross floor area made available by this paragraph shall be devoted entirely to residential use.

1706.6 In the DD/C-4 Overlay District, the following residential and mixed-use provisions apply:

(a) The maximum FAR shall be 10.0 as a matter of right, which FAR may be devoted to all residential use or include commercial or residential uses as provided in this subsection;

(b) Each building shall provide on-site or account for off-site in a combined lot development no less than 2.0 FAR of residential use;

(c) Up to 0.8 FAR of this residential development may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section; and

(d) If such affordable housing is provided off-site, commercial or residential FAR may be substituted on-site or in a combined lot development by the same amount of gross floor area as the affordable housing up to a maximum limit of 0.8 FAR.

1706.7 **To assist the development of residential and preferred uses, the following density bonuses may be used:**

(a) The maximum ~~permitted~~ gross floor area **permitted under §§ 1706.4, 1706.5, and 1706.6** may be increased by 0.5 FAR up to a maximum of 8.5 FAR in the DD/C-2-C Overlay District, 10.0 FAR in the DD/C-3-C Overlay District, and 10.5 FAR in the DD/C-4 Overlay District; provided **the increase in gross floor area is achieved by**:

~~(a)~~ (1) ~~The increase in gross floor area may be achieved by receiving~~ **Receiving** transferable development rights as provided in § 1709, which gross floor area may be devoted to any permitted use on the receiving ~~site~~ **lot**;

~~(b)~~ (2) ~~The increased gross floor area may be entirely devoted~~ **Devoting the increased gross floor area entirely** to residential use; ~~and~~

~~(c)~~ (3) ~~The increase may be earned by constructing~~ **Constructing** or assisting affordable housing as defined in this chapter and as further governed by this section~~,~~; or

(4) ~~by earning~~ **Earning** retail bonus density as provided in § 1706.16.

(b) **Except for historic landmarks and properties listed in § 1707.4 in the Downtown Historic District, the maximum FAR limitations in §§ 1706.4, 1706.5, and 1706.6 shall not apply to any lot that is devoted entirely to residential use or to a combination of residential use and the retail, service, arts, and arts-related uses listed in §§ 1710.1 and 1711.1; provided:**

(1) **The increase in gross floor area shall be devoted entirely to residential use on-site;**

(2) **The increase in gross floor area shall not be used to meet the minimum residential requirements of §§ 1706.4, 1706.5, or 1706.6;**

(3) **The maximum residential FAR that may be accepted through combined lot development is listed in the following table:**

Zone of the Lot Receiving Housing	Allowable Combined Lot Transfer
DD/C-2-C	3.5 FAR
DD/C-3-C	6.0 FAR
DD/C-4	8.0 FAR

(4) **The relief from maximum FAR limitations provided by this paragraph does not alter or modify the obligation to comply with all applicable Zoning Regulations affecting the lot, nor does it alter or modify an applicant's burden of proof when seeking zoning relief.**

Vote of the Zoning Commission taken at its public meeting on April 16, 2001, to adopt the proposed rulemaking to reduce the residential recreation space requirement in the DD/C-2-C and DD/C-3-C Districts: 5 – 0 – 0 (Carol J. Mitten, Herbert M. Franklin, Anthony J. Hood, Kwasi Holman (by absentee vote), and John G. Parsons, to approve).

Vote of the Zoning Commission taken at its public meeting on April 16, 2001, to adopt the proposed rulemaking to relieve residential projects in the DD/C-2-C, DD/C-3-C, and DD/C-4 Districts of density restrictions: 4 – 1 – 0 (John G. Parsons, Herbert M. Franklin, Anthony J. Hood, and Kwasi Holman (by absentee vote), to approve; Carol J. Mitten, opposed).

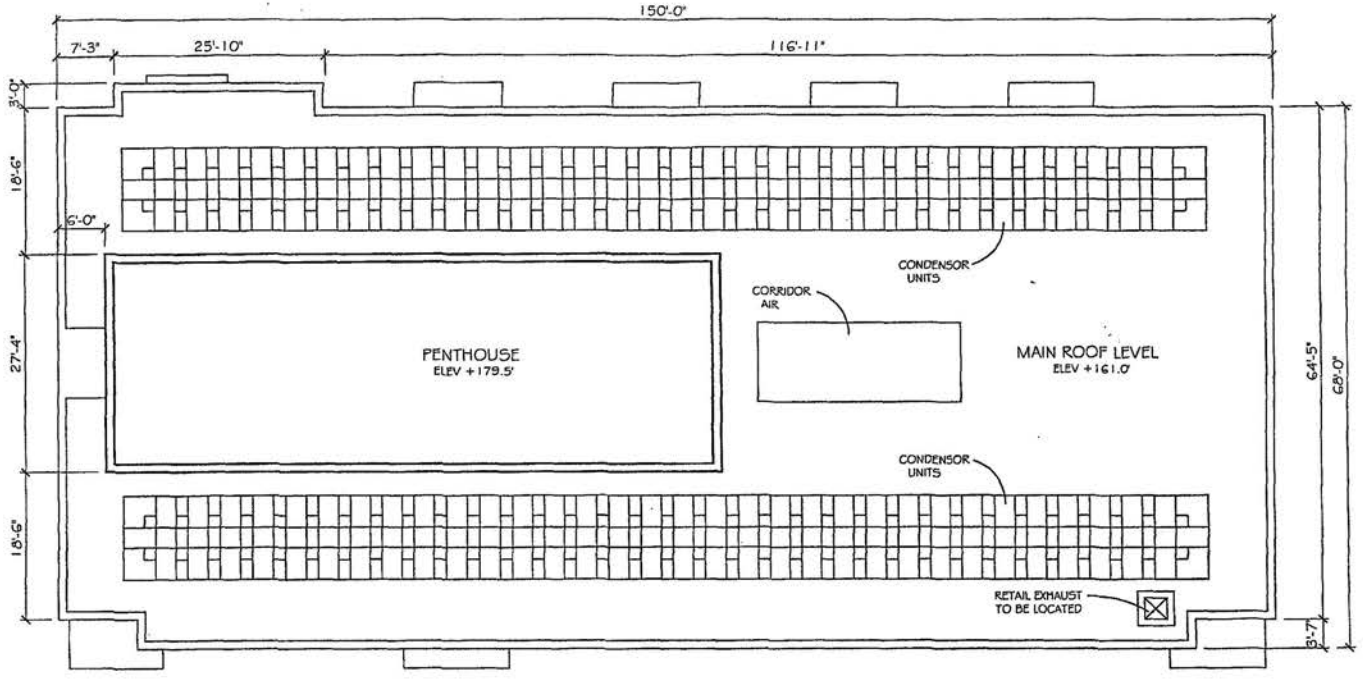
This order was adopted by the Zoning Commission at its special public meeting on July 26, 2001, by a vote of **3-0-2** (Carol J. Mitten, John G. Parsons, Anthony J. Hood, to **ADOPT** Z.C. Order No. 943; Herbert M. Franklin, not present, not voting; Kwasi Holman, not present, not voting, and no longer a member of the Commission).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in the *D.C. Register*; that is, on AUG 17 2001.

CAROL J. MITEN
CHAIRMAN
Zoning Commission

JERRILY R. KRESS, FAIA
DIRECTOR
Office of Zoning

ATTACHMENT 3



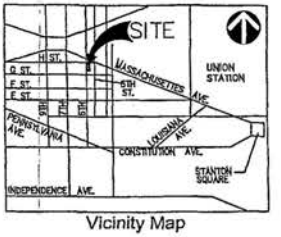
Roof Plan

SKG Architects & Planners, LLC

GALLERY II
Apartments
WASHINGTON D.C

Avalon Bay Communities, Inc

A5



Vicinity Map

6TH STREET NW
(100' WIDE PUBLIC RIGHT-OF-WAY)

PROPOSED JBG ASSEMBLAGE

EXISTING 3 STORY

GALLERY II
6TH STREET SITE

PARKING LOT
BILL LEE, OWNER

G PLACE NW

G STREET NW
(90' WIDE PUBLIC RIGHT-OF-WAY)

PUBLIC ALLEY 16.75' WIDE

H STREET NW
(90' WIDE PUBLIC RIGHT-OF-WAY)

LOT 880

GALLERY PHASE I
770 5TH STREET

RED ROOF INN

5TH STREET NW
(80' WIDE PUBLIC RIGHT-OF-WAY)

SKG Architects & Planners, LLC

GALLERY II

Apartments

WASHINGTON D.C

Avalon Bay Communities, Inc

A0