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

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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16892
920-942 F Street, N.W.

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

July 9, 2002

I. Site location and description

A. Southeast corner of the intersection of 10th and F Streets, N.W.

B. Essentially rectangular site with slightly different depths on the east and west ends

C. Frontage of approximately 238 feet on F Street and approximately 144 feet on 10th Street

D. Includes a portion of a dead-end stub alley proposed to be closed

E. Land area of approximately 37,156 square feet

F. Improved with:

1. Facades of four buildings, three, four and eight stories, including the Atlantic Building, an individually designated historic landmark (920-922-924-926-930 F Street)

2. Six story Lane Bryant building, non-contributing to the Downtown Historic District (932-936 F Street)

3. Three and four story buildings which contribute to the Downtown Historic District (938-940-942 F Street)

BZA
Case No. 16892
Exhibit No. 44
Board of Zoning Adjustment
District of Columbia
CASE NO.16892
EXHIBIT NO.44

II. Description of surrounding area

A. Part of Downtown area, within the retail core

B. Within the Downtown Historic District and the Pennsylvania Avenue National Historic Site

C. To the east

1. Seven story (approximately eighty-five feet) National Union Life Insurance building rehabilitated for use by the American Immigration Lawyers Association

2. Proposed residential building with ground floor retail at 910-916 F Street

3. Nine story (approximately 110 feet) Riggs Bank Building at the southwest corner of 9th and F Streets, now converted to a Courtyard by Marriott Hotel of 188 rooms

4. National Portrait Gallery/National Museum of American Art on the north side of F Street between 7th and 9th Streets

5. Commercial buildings under redevelopment including the Atlas/LeDroit Buildings on the south side of F Street between 8th and 9th Streets

6. Parking lot on the north side of E Street between 8th and 9th Streets

D. To the north

1. F Street

2. Lansburgh Furniture Company building at the northwest corner of 9th and F Streets, with a new office addition

3. Two and three story commercial buildings on the north side of F Street between Lansburgh Furniture Company and 10th Street

4. Proposed development of Carroll Square (office, arts and retail)

5. St. Patrick's Church

6. Woodward & Lothrop Department Store building in the square bounded by 10th, 11th, F and G Streets

E. To the west

1. 10th Street

2. Commercial buildings of varying height and density

3. New high-rise office building at 555 11th Street

F. To the south

1. Ford's Theater on the east side of l0th Street between E and F Streets

2. Thirty foot wide public alley

3. Ten story (110 feet) office building at 901 E Street (northwest corner of the intersection of 9th and E Streets)

4. Other commercial buildings on the north side of E Street of one to five stories, proposed for redevelopment as residential use

5. Ten story office building at 999 E Street (containing the Hard Rock Cafe on the ground floor)

III. Existing zoning: DD/C-4

A. Uses

1. Office, retail, service, hotel and residential permitted as a matter-of-right

2. In the SHOP subarea of the DD, within the Downtown Arts District

a) All of the leasable space on the ground floor, not less than 0.5 FAR, must be devoted to retail and service uses

b) At least fifty percent of the space must be devoted to arts uses (from §1711)

B. Height

1. Maximum permitted under the Act of 1910 (§1701.7)

2. Since F Street is 100 feet wide, maximum permitted is 120 feet

C. Density

1. Permits a maximum of 8.5 FAR

2. Historic Preservation subarea of DD limits on-site FAR to 6.0 (§1707.4(e))

D. Rear yard - not required (§1707.6)

E. Side yard - not required (§775.4)

F. Parking - not required (§2100.5)

G. Loading - not required (§2200.5)

H. Access to required parking and loading not permitted from F or 10th Streets (§1701.4)

IV. Proposed development

A. Office building, with ground floor and cellar retail/arts uses and 6,000 square feet devoted to residential uses

B. Retain and incorporate the facades (all that remains) of 920, 922-924, 926 and 930 F Street, and demolish 932-936 F Street (determined by the Historic Preservation Review Board not to be a contributing building to the Downtown Historic District) and retain and incorporate the existing buildings at 938, 940 and 942 F Street

C. Gross floor area of approximately 288,000 square feet (8.2 FAR)

D. Maximum of ten stories, approximately 120 feet in height

E. A total of approximately 180 – 200 parking spaces provided

V. Relief required

A. Variance from the FAR requirement (§1707.4)

1. Permitted: 6.0 FAR

2. Proposed: 8.2 FAR

B. Variance from the prohibition on access to required parking and loading (§1701.4)

1. Prohibition applies only to *required* parking and loading

2. Per §§2100.5 and 2200.5, no parking or loading is required for this project because the Atlantic Building is a historic landmark and the construction is deemed to be an addition to a landmark and to other contributing buildings (see also §2117.8)

3. If Board determines that the prohibition applies, then relief is needed, as follows:

a) Prohibited: F and 10th Streets

b) Proposed: 10th Street

C. Variance from the residential recreation space requirements (§773)

1. Required: 300 square feet, fifty percent outdoors

2. Proposed: 300 square feet, to be either indoors on the subject property or to be included in the residential development at 910-916 F Street, east of the alley in the same square

D. Special exception for roof structure setback (§411.11)

1. Required: 15.5 feet

2. Provided: 0 feet

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. Exceptional or extraordinary situation or condition

1. Change in grade of thirteen to fourteen feet from street level measuring point to alley at the rear

2. Impact of the location of one landmark and six contributing buildings on site plan

a) Presence at northeast corner of the site of facades of one landmark and three contributing buildings, requiring stabilization and restoration

b) Complete retention of three contributing buildings at the corner of 10th and F Streets

3. Requirement to salvage material and use artifacts in new construction

4. Absence of any appropriate outdoor recreation area

a) Building covers 100 percent of the lot

b) Roof areas are inaccessible to residential units and are of insufficient dimensions

5. Inability to gain parking and loading access from any street not restricted by the Area-Wide Design Standards (§1701) and limitations in using the fifteen foot wide alley from F Street

a) Comprehensive Plan puts special emphasis on preserving F and G Streets as the primary pedestrian oriented retail streets within Downtown (see, for example, 10 DCMR 902.2(e)) and 10 DCMR 925.2(f))

b) Historic facades mean that the alley cannot be widened

B. Practical difficulty

1. Costs related to historic preservation activities

2. Inability to spread the density across properties not limited by §1707.4

3. Lack of any available outdoor area for use as residential recreation space

4. Loss of revenues from inability to use prominent corner location

5. Loss of revenues from inclusion of residential floor space

C. No detriment to the public good

1. Providing retail/arts and residential, consistent with goals for Downtown

2. Total of preferred uses is more than double the minimum required

3. Height and bulk are consistent with existing and approved development on surrounding properties

4. Using location of existing curb cut which now services approximately the same number of parking spaces

5. Prohibition on access applies only to required parking and loading

a) Subject property has no requirement for parking or loading

b) DDOT, which has primary authority over the location of access from public streets, has recommended approval

VIII. 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.

IX. Compliance with the special exception standards for roof structure

A. Size of building lot, specifically tenth floor

1. Lot contains 35,288 square feet but, because of setbacks, top floor contains only approximately 18,000

2. Building is designed with core setback a substantial distance from the street

3. Relief required because of preservation induced setbacks at the front and need to accommodate standard roof functions at the rear

B. Unduly restrictive and unreasonable

1. Would need to relocate elevators more toward center of site, reducing functionality of floor plans

2. Moving elevators to front would not comply with the setbacks on the street side

C. Impact on light and air of other buildings

1. Roof structures are setback approximately fifty feet from F Street and more than sixty-one feet from 10th Street

2. Buildings to the south are separated by an alley

3. Wing of building adjacent to Ford's Theater is substantially lower in height

X. Conclusions

A. Subject property is affected by exceptional conditions, because of the change in grade, the constraints imposed by the contributing facades and buildings, and the requirements of the Zoning Regulations

B. Strict application of the Regulations, limiting development to 6.0 FAR, would cause a practical difficulty for the owner by preventing reasonable development of the site with a feasible mixed use package

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

D. The special exception can be granted without impairing the intent and purpose of the Regulations

E. Project also requires further approval from the Historic Preservation Review Board and the Mayor's Agent

F. The application should be granted as expeditiously as possible with flexibility as previously granted by the Board in cases where HPRB must approve the final design:

1. "The applicant may modify the design of the building subject to approval under D.C. Law 2-144, provided that those changes do not increase any of the areas of relief granted by the Board."

2. "The applicant may reduce the height of all or part of the roof structure, where possible, and with the approval of the Historic Preservation Review Board."