GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: March 18, 2003

SUBJECT: BZA Application 16999 - Request filed by Greenstein DeLorme & Luchs, P.C. for **six variances** to increase the maximum FAR, reduce the minimum width of two open courts, to reduce minimum width of a closed court, and to reduce the minimum area of a closed court, for a mixed use building, proposed by U.S. Property Development Corporation for 1410, 1502 and 1506 Church Street, N.W., 1401, 1510 and 1520 14th Street, N.W. and 1413 P Street, N.W.

APPLICATION
Application of U.S Development Corporation for:

Variance relief to:

1. **§772 of 11 DCMR** to permit an increase in the maximum lot occupancy from 75 percent to 87.3 percent;
2. **§773 of 11 DCMR** to permit a decrease in the minimum residential recreation space from 15 percent to 2.3 percent;
3. **§776 of 11 DCMR** to permit a decrease in the minimum width of an open court in the north portion of the building from 20 feet to 15 feet;
4. **§776 of 11 DCMR** to permit a decrease in the minimum width of an open court in the south portion of the building from 20 feet to 6 feet;
5. **§776 of 11 DCMR** to permit a decrease in the minimum width of a closed court in the south portion of the building from 15 feet to 10 feet; and
6. **§776 of 11 DCMR** to permit a decrease in the minimum area of the same closed court from 350 square feet to 100 square feet

for a mixed use building for property located on the west side of 14th Street, N.W., the south side of Church Street and the north side of P Street, Square 209, Lots 1, 34, 57-59, part of Lot 2 and the remainder of Lots 35-37, and part of a public alley closed by Act 14-608. The property is zoned C-3-A/ARTS, medium bulk major business and employment center commercial district, and uptown arts – mixed use overlay district.

BZA
Case No. 16999
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO. 16999
EXHIBIT NO. 23

SUMMARY RECOMMENDATION

The Office of Planning recommends approval of the requests for variance relief to increase the maximum lot occupancy from 75 percent to 87.3 percent; to decrease the residential recreation space from 15 percent to 2.3 percent; to decrease the minimum width of an open court in the northern portion of the building from 20 feet to 15 feet; to decrease the minimum width of an open court inn the south portion of the building from 20 feet to 6 feet; to decrease the minimum width of a closed court in the south portion of the building from 15 feet to 10 feet; and to decrease the minimum area of the same closed court from 350 square feet to 100 square feet, as submitted by the applicant.

PROJECT DESCRIPTION

The three historic buildings on-site are to be retained and new construction is to take place behind, above and around the existing buildings. The building is divided into north and south portions, with a common parking garage running between the two buildings. The two buildings will be connected underground only, with a covered walkway between the two at ground level. The building additions will be stepped back from the front, resulting in many small rooftop levels. The parking garage will connect between the two portions of the building under a closed portion of the public alley. Although this portion of the alley is closed, the applicant has indicated that because of easements it will continue to function as an alley.

North Portion: On the northern portion of the property the application proposes 77 apartment units and 5,020 square feet of retail space within the two automobile showroom buildings and within a six-story plus penthouse building addition to be constructed to the rear of existing buildings, including the addition of two stories above the existing buildings set back from the 14th Street frontage. The ground level is to consist of retail space, a utility room, trash room, parking and a residential lobby. The upper levels are to be devoted to residential use.

South Portion: On the southern portion of the site the application proposes 18 apartment units and 6,270 square feet of retail space within the three-story historic building (Peltz Building) and within the proposed six-story building plus penthouse addition to the rear. Three floors will be added to the top of the existing building, set back from the 14th Street frontage. A three-story building addition is to be constructed to the north of the Peltz Building, and a four-story building addition is to be constructed to the south of the Peltz Building, at the corner of 14th and P Street. The ground level is to consist of retail space, a multi-purpose room, a service area and a residential lobby. In addition, the front part of the Peltz Building is proposed as office space on the first, second and third floors. The remainder of the upper floors is to be devoted to residential use. All residential units in the south portion of the building will have access to private recreation space.

Parking Garage: A three-level parking garage, including two underground levels and consisting of 65 parking spaces, is to be constructed to the rear of the property, with vehicular access from Church Street. A small portion of this garage will be located within the rear of the ground level of 1510-20 14th Street building to be utilized as stall parking to allow for a double loaded aisle at the garage entrance, and for ramps to be constructed underneath the rear of the building leading down to the lower levels of the garage. The underground portion of the parking garage will continue into the southern portion of the site, underneath of the closed portion of the alley

connecting the two portions of the site, the new building addition and the rear of the Peltz Building.

SITE AND AREA DESCRIPTION

The property consists of Square 209, Lots 1, 34, 57-59, part of Lot 2 and the remainder of Lots 35-37, and part of a public alley closed by Act 14-608, in the North West quadrant of the District. It is 22,715 square feet in area and in the shape of a "C", with the open part of the "C" facing 14th Street. The subject property has 140 feet of frontage along Church Street, 122 feet of frontage along P Street and 165 feet of frontage along 14th Street. Of the 165 feet of frontage along 14th Street, 90 feet is located on the northern portion and the remaining 75 feet is along the southern portion. The site is improved with three historic buildings. On the northern half are two three-story automobile showroom buildings constructed 1928. On the southern portion is a three-story commercial building constructed in 1897. The remainder of the subject property is vacant.

The surrounding area is a mixture of residential, commercial and automobile oriented uses. To the north of the subject property, across Church Street, is a building being converted to condominium apartments. To the south, across P Street, are three-story buildings with ground level retail, constructed in the 1880's. To the east, across 14th Street, are commercial buildings, including The Studio Theatre. To the west, fronting on Church Street, is a seven-story apartment building under construction known as Saxon Court. Also to the west, but fronting on P Street, is a two-story commercial building used a nightclub, followed by a seven-story apartment building under construction and known as The Hudson. Within the center of the "C" is a three-story building constructed in 1890 that includes a pawnshop, and a 10-foot wide public alley that extends back the length of this building only, before becoming private. All surrounding properties are located within C-3-A/ARTS District.

The area has been identified on the Generalized Land Use Map as mixed use, which is described as *"[a] combination of land use categories are depicted in areas where a variety of uses are to be encouraged. Mixed use areas include existing commercial areas and areas proposed for significant land use changes."* The mixed use designation for this location consists of a combination of the moderate density residential land use category *("Row houses and garden apartments are the predominant uses; may also include low density housing")* and the low density commercial land use category *("Shopping and service areas that are generally low in scale, character and activity and that provide a limited range of retail goods and services are the predominant uses")*.

The subject property is located within the Greater 14th Street Historic District.

EXISTING ZONING

The subject property is zoned C-3-A, medium bulk major business and employment center, and ARTS, Uptown Arts – Mixed Use Overlay District.

C-3-A Major Business and Employment Centers

"The C-3-A District is designed to accommodate major business and employment centers supplementary to the Central Business (C-4) District." (§740.1)

ARTS Overlay District
"The purposes of the ARTS Overlay District are to:

(a) Encourage a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be as generally required by the Comprehensive Plan;
(b) Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses;
(c) Provide for an increased presence and integration of the arts and related cultural and arts-related support uses;
(d) Expand the area's housing supply in a variety of rent and price ranges;
(e) Expand business and job opportunities, and encourage development of residential and commercial buildings;
(f) Strengthen the design character and identity of the area by means of physical design standards;
(g) Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and
(h) *Foster eighteen (18) hour activity and increased public safety."* (§1900.2)

This proposal consists of a mixture of new and the adaptive reuse of historic buildings. It will also consist of a combination of ground level retail and residential uses, allowing for a more active environment for a greater portion of the day than if just one use was provided. The residential units proposed are to be a variety of sizes and price. Vehicular and pedestrian movement has been separated to the extent possible, with the only entrance into the garage from Church Street, and loading from the alley. The Historic Preservation Review Board has approved the design of the building.

RELIEF REQUESTED:
Section 3103- Variances, empowers the Board of Zoning Adjustment to grant variances subject to the following:

> *"[w]here, 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, the strict application of any regulation adopted under D.C. Code Ann. §§5-413 to 5-432 (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; 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 of the plan as embodied in the Zoning Regulations and Map."*(§3103.2)

Uniqueness of Property

The subject property is unique for several reasons. It is in the shape of the letter 'C', with the open part of the 'C' facing 14th Street. It is also improved with three historic buildings that cannot be removed, with the resulting necessity to building behind, around and over these buildings in a manner sensitive to their historic nature. In addition, a narrow portion of the property 22 feet and 4 inches in width connects the two halves of the site. It is underneath this portion of the site, which is a closed alley, which provides the only way to connect the two portions of the underground parking garage.

Variance pursuant to §772– Percentage of Lot Occupancy (C)

Section 772 sets forth the maximum lot occupancy permitted within the C-3-A District as 75 percent. The application proposes a lot occupancy of 87.3 percent. This request results from the relationship of the historic improvements to the site, which cannot be removed, to the vacant portions of the site on which new construction may take place. The Historic Preservation Review Board, in its attempts to preserve the effects of the existing facades along 14th Street, has requested that the massing of the new construction be pushed back from 14th Street. The result of this design request is that the buildings are pushed back on the lots, increasing lot occupancy.

The application also proposes the provision of 65 off-street parking spaces within a ground level and underground garage. The applicant has indicated that the addition of an underground parking garage beneath existing historic structures is difficult to provide, although the application does propose the addition of a portion of some underground parking spaces beneath the rear portion of the Peltz Building. In addition, the applicant's desire to provide double loaded parking along the drive aisle at the entrance to the garage from Church Street in order to make more efficient use of the space, requires that the building be set back all the way to rear of the property. Despite this, only compact parking spaces can be provided in that section of the garage. The garage also extends all of the way to the rear of the southern portion of the site, so as to limit the amount of parking to be constructed beneath the historic Peltz Building.

Adding further to the design constraints of the site is the fact that the garage narrows between the two buildings to a width of only 22 feet, 4 inches underneath the closed alley, and the existence of the building at 1508 14th Street, around which this proposal must be designed and creating the center of the "C". Therefore, the extraordinary or exceptional situation is the unusual shape of the property that results in the hardship in this case.

Variance pursuant to §773 – Residential Recreation Space (C)

Section 773 sets forth the minimum residential recreation space required within the C-3-A District as 15 percent. The application proposes a residential recreation space of 2.3 percent, or 1,880 square feet, which is less than the requirement. However, many of the units, especially the larger units, are provided with private recreation space, and all of the units within the south portion of the building are designed with private recreation space. The applicant has indicated that this has been made possible due to the manner in which the height of the buildings are stepped back from 14th Street as a result of the request by the Historic Preservation Review Board, resulting in a series of smaller rooftop areas than might otherwise be created.

The total of the private recreation space is 17 percent of the gross floor area devoted to residential use. The applicant has indicated that the only units that are not provided private recreation space

are only those that front on portions of the building that cannot be altered for the provision of an outdoor balcony, such as those along the historic building façade of the northern portion of the building. Assuming that the demands on the residential recreation space are balanced by to the amount of private recreation space provided, the residential recreation space then necessary is lessened. The percentage of residential recreation space provided per total square footage of the units for which private recreation space is not provided is 17.9 percent, more than the minimum 15 percent required. Therefore, the extraordinary or exceptional situation is that the majority of the units are designed with private open space, which is made possible as a result of the building's varying rooftop design, and this variance can therefore be granted without substantial detriment to the public good.

Variances pursuant to §776- Courts (C)
Section 776 sets forth the minimum width of open courts as 20 feet, the minimum width of a closed court as 15 feet and the minimum area of a closed court as 350 square feet.

Open Court – North Portion
The application proposes an open court on the northern portion of the building at a width of 15 feet, less than the minimum 20 feet required. The width required is a function of the building height. The 15-foot measurement is a result of balconies that extend out from the building. If the width of the court is measured from the building face, it increases from 15 to 18 feet, only 2 feet less than the minimum required. Increasing the width of the court width to 20 feet will only serve to reduce the interior square footage of the dwelling units, as the court would then occupy approximately 26 percent of the building's width. Even without the balconies, the court would still occupy 22 percent of the building width. The location of the balconies on the upper levels is an extraordinary or exception situation, as balconies do not have the bulk that is associated with a building wall. Additionally, the amount of the building width required for the provision of this court is an extraordinary situation. Therefore, the extraordinary or exceptional situation is this case is the width of the building in relation to the height of the building.

Open Court – South Portion
The application proposes an open court on the southern portion of the building at a width of 6 feet, less than the minimum 20 feet required. The width of this court, when not including balconies extending out from the building wall, is 12 feet. If the width of the court were expanded to 20 as required, the width of the court would be approximately one-third the width of the building. If the balconies were not included, the width of this court would encompass 27 percent of the width of the building. It is the width of the building in relation to the height of the building that is the extraordinary or exceptional situation in this case.

Closed Court – South Portion
The application also proposes a closed court on the southern portion of the building. It is to be 10 feet wide and 100 square feet in area. The unusual situation in this case is that the court is not meant to serve as a traditional closed court for purposes of providing light and air, but rather for a loading space adjacent to the loading dock into the building. Access to this loading area will be via the existing 10-foot wide alley, consistent with the width of the proposed closed court. The south portion of the building has no windows that open directly onto this court, thereby eliminating the need for the provision of a larger and wider court. Therefore, the extraordinary or

exceptional situation in this case is that this open court does not function as a means of providing light and air into any part of the building.

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for variance relief of §§771, 773 and 776 and "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." (§3103.2) The property is zoned C-3-A/ARTS and the mixture of uses are permitted as matter-of- right uses. The project will fully comply with all other zoning requirements, including parking, FAR and building height.

COMPREHENSIVE PLAN
This proposal will contribute toward achieving the following Ward 2 objectives:

> *"Stimulate production of new and rehabilitated housing to meet all levels of need..."* (§1304.1(a))
>
> *"To preserve and reuse historic landmarks and buildings in historic areas in Ward 2;"* (§1319.1(b))
>
> *"To preserve and protect existing buildings...in historic areas in Ward 2."* (§1319.1(d))
>
> *"To create new residential neighborhoods;"* (§1326.1(b))

COMMUNITY COMMENTS
The applicant has informed the Office of Planning that **ANC 2F** unanimously supported this application at their meeting on March 5, 2003.

AGENCY COMMENTS
The Historic Preservation Review Board reviewed and recommended approval of the design concept for the northern portion of the building, and delegated final approval to staff at their meeting of September 26, 2002. The Board reviewed and recommended approval of the design of the southern portion of the building on July 25, 2002.

RECOMMENDATIONS
The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the standards for variance relief. The Office of Planning concludes that the variances meet the required tests and 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."

The Office of Planning recommends approval of the following:

Variance relief to:

1. **§772 of 11 DCMR** to permit an increase in the maximum lot occupancy from 75 percent to 87.3 percent;
2. **§773 of 11 DCMR** to permit a decrease in the minimum residential recreation space from 15 percent to 2.3 percent;
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