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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17012
1301-1309 9th Street, N.W.

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

May 20, 2003

I. Site location and description

A. Location

1. Northeast corner of 9th and N Streets, N.W.

2. Project site consists of lots 62, 63, 800, 801, 803 and 804 in Square 399

3. Site located in the Shaw area

B. Size

1. Total site area is approximately 8,206 square feet

2. Frontage of approximately 87 feet on 9th Street and approximately 94 feet on N Street

3. Site is bordered by ten foot wide public alley on the east.

4. Lot is rectangle

Case No. 17012
Exhibit No. 32

C. Existing site condition:

1. West side of site is improved with five buildings

a. Constructed at different times

Board of Zoning Adjustment
District of Columbia
CASE NO. 17012
EXHIBIT NO. 32

b. Floor levels do not align

c. 1307 9th Street is two stories, all others are three stories

d. All are vacant and unoccupied and are in deteriorated or very deteriorated condition

2. East side adjacent to the alley is vacant

II. Description of surrounding area

A. Shaw area

B. Area contains mix of residential and commercial uses and building types, with new Washington Convention Center directly across N Street to the south

C. Remainder of Square 399

1. To the north:

a. Gasoline service station

b. Two and three story buildings used as offices

c. Scripture Cathedral church and parking area

d. Two and three story residential buildings along 8th Street

2. To the east: parking lot

D. Use to the south: new Washington Convention Center

E. Uses to the east:

1. Immaculate Conception Church and School and surface parking areas

2. Immaculate Conception Apartments (ten stories, ninety feet)

F. Uses to the west:

1. Miscellaneous two and three story buildings on the west side of 9th Street devoted to commercial and residential uses

2. Further to the west, single and multi-family residential buildings

G. Uses to the north: O Street market and Giant Food supermarket

III. Existing zoning: C-2-A

A. Uses (§§721 – 734)

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

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

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

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

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

E. Rear yard –15 feet (§774.1)

F. Side yard - not required (§775.5)

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

H. Parking (§2101.1)

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

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

3. For office use: 1 space for each 600 square feet of gross floor area and cellar floor area in excess of 2,000 square feet

4. None required for addition to contributing building in historic district (§2100.5)

IV. Proposed development

A. Uses:

1. Retail/service uses on the first floor
2. Office uses on the second and third floor
3. Apartment house of six units on the fourth and fifth floors

B. Gross floor area:

1. Total of approximately 30,791 square feet (3.75 FAR)
2. Retail/service: 6,935 square feet (0.85 FAR)
3. Office: 16,609 square feet (2.02 FAR)
4. Total commercial: 23,544 square feet (2.87 FAR)
5. Residential: 7,247 square feet (0.88 FAR)

C. Height: 5 stories, 52 feet, 10 3/4 inches

D. Parking: none provided

V. Variance relief required

A. Height (§770.1)

1. Maximum permitted: 50 feet
2. Proposed: 52 feet, 10 3/4 inches
3. Variance: 2 feet, 10 3/4 inches

B. Floor area ratio (§771.2)

1. Maximum permitted: 2.5
2. Proposed: 3.75
3. Variance: 1.25

C. Rear yard (§774.1):

1. Minimum required: 15 feet

2. Proposed: 0

3. Variance: 15 feet

D. Residential recreation space (§773)

1. Minimum required: 1,449 square feet

2. Proposed: 1,1144 square feet

3. Variance: 305 square 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. Existence of five separate buildings which contribute to the character of the historic district

2. Buildings have different floor levels and exterior designs (built at different times)

3. Extremely dilapidated condition of existing buildings

4. Distance between rear of buildings to be retained and rear lot line is 35 to 40 feet, leaving a small area on which addition can be constructed

5. Requirement to set back top floor for design considerations

6. First floor height of ±12.5 feet

B. Practical difficulty

1. Given height of existing three stories, to get five floors within 50 feet would allow only 7.5 feet in height for each of two new floors

2. Building core to serve upper floors must be located at the rear, to avoid disrupting interior floor plates

3. Moving building core fifteen feet further to west disrupts the floor plate on all floors, most severely on the upper two floors

4. Building renovation cannot be sustained by building limited to 2.5 FAR

5. Maximum roof area has been provided for recreation space; requiring additional space will eat into already small residential floor space (only six units)

C. No detriment to the public good

1. Additional height is the minimum necessary to add two floors for residential use

2. Height will not be visible from most locations because of setbacks

3. Mixed use project is allowed under C-2-A

4. HPRB has approved the design and appearance

5. Are other buildings to the north, including the large church at the corner of 9th and O Streets, which abut the alley line

6. A private roof terrace adjacent to two units provides additional open space on the roof

VIII. Conclusions

A. Subject property is affected by exceptional conditions, because of the size of the site, the presence of five contributing buildings which are not internally consistent and the condition of the existing buildings

B. Strict application of the Regulations would prevent restoration and reuse of the buildings, because there is insufficient density to carry the extraordinary costs required for development of this property

C. The variances can be granted without substantial detriment to any surrounding properties because of design and setbacks

D. The application should be granted