GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman

DATE: May 16, 2003

SUBJECT: **OP Supplemental Report** -BZA Case No. 17012
Jemal's Benjo LLC -Variance Request

Supplemental Report addressing the variance to Section 771, Floor Area Ratio, for the total non-residential FAR.

SUMMARY RECOMMENDATION

The Office of Planning maintains its recommendation that the Board approve a reduced variance for the non-residential FAR that limits the **non-residential FAR to the basement, first and second floors only.** This represents a variance of approximately 8,200 square feet or 1.00 additional FAR, a 100% increase above the matter-of-right limits.

OP considered the economic feasibility claim from the pre-hearing statement but did not consider it to be a valid justification for the change in residential to non-residential use on the third floor for the following reasons:

- The statements made to support this claim were anecdotal; the attempt to suggest comparables included only broad statements regarding other projects by the same developer
- No market comparables have been provided
- Exhibit K does not break out in any detail what costs are standard construction costs from the preservation related contingencies, what costs are per square foot for residential versus non-residential or how the costs were calculated
- No detailed square footage figures by floor, by use, or by cost have been provided.

BZA Case No. 17012 Exhibit No. 48

The pre-hearing statement, on page 6 states that "[F]or the Project, these exceptional preservation-related contingencies add more than $1,650,000 to the Applicant's development cost."

OP has recommended variances that increase the FAR by 48% (9,850 sq. ft. based on the pre-hearing statement) or 55% based on the figures provided by the expert witness.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17012
EXHIBIT NO. 48

Based on the additional FAR supported by OP, and the value figures supplied by the expert witness in the tables submitted at the May 20, 2003 hearing, OP estimates that the variances supported create an increased annual value of over $300,000.

	Total FAR	Non-residential FAR max	Residential FAR
Matter-of-Right	2.5	1.5	Up to 2.5
Proposed	3.7	2.87	.9
OP Supported	3.7	2.07	1.63
Estimated OP Supported VALUE per year	301,992*	$248,778	$53,214

*Retail= 1/3 of non-residential FAR increase x $35/sf = [(2.07-1)/3](8206)(35)= $102,438
Office= 2/3 of non-residential FAR increase x $25/sf = 146,340
Residential ($1.75/month= $21 per year) = 5th floor (now usable due to height variance) and reduced recreation space = (2,283 + 251)($21) = 53,214

Additional Information

OP has attempted to consider the economic feasibility issues claimed by the applicant including the supplemental testimony at the hearing. No written testimony was provided by the expert witness so OP has tried to work with the tables submitted by the expert witness in combination with the pre-hearing statement. OP found the information inconclusive and inconsistent with the submitted pre-hearing statement.

Supplemental Report Focus

The focus of this supplemental report is only the *USE* of the 3,090 square feet on the third floor. OP has previously recommended the variance for total FAR.

Based on the data provided there is a $4 per square foot difference between the residential ($1.75/month x 12 months= $21) and office value ($25).

Based on OP's experience with the Mt Vernon area, OP believes the residential figure is low and may be closer to 2.00 per square foot. Also, based on our knowledge of the market, the office rent may be high. However, no real market data has been provided for the Board or OP to analyze.

OP notes the following lack of documented evidence in the record:

- No documentation regarding the comparable construction claimed as 140-180 per square foot (page 14 of the pre-hearing)

- no real market comparables have been provided; the statements continue to appear anecdotal
- No detailed cost figures have been provided to document the construction costs per square foot of residential and commercial portions of this project to substantiate the statement that one costs more than the other or to assess the costs against the $4 value difference
- No detailed square footage figures by floor and by use have been provided
- Exhibit K does not break out in any detail what costs are standard construction costs from the preservation related premiums, what costs are per square foot residential versus non-residential; how the costs were calculated.

Inconsistencies:
OP also could not assess the feasibility claims due to the following inconsistencies:

- Residential square foot area suggested by the applicant as 3950 in the Alternate Plan includes the entire service core and lobby, the commercial office restrooms, both stair wells and the elevator core; Based on the square footage of the actual residential units as shown on the Alternate page A 1.3, there is only 3,106 square feet of apartment uses. Even allowing for the sharing of the lobby (but not including the office restrooms), the residential figure could only be estimated at 3,598 square feet.
- Pre- hearing Statement, page 6 states "For the Project, these exceptional preservation-related contingencies add more than $1,650,000 to the Applicant's development cost."
- Expert Witness stated a "$2.8M premium" over normal historic preservation expense..." but has provided no documentation
- BSA Table 1 specifies a general $20/sf NNN figure for matter-right commercial but BSA Tables 2 and Alternate D specify a $ 35/sf for retail and $25/sf for office
- BSA Table 2 and Alternate D work with a total square footage of 31,842 (3.88 FAR) but the pre-hearing statement cites only 30,400 square feet (3.7 FAR) (page 12); the 1,400 square feet difference is important because the economic claim is being calculated per square foot and OP cannot track the extent of the variances.
- The financial summary tables presented at the hearing compare the applicant's split-floor alternative to by-right figures and the applicant's original proposal, but not to the OP recommendation

OP cannot conclude that use of the third floor as residential (as anticipated by the Comprehensive Plan Generalized Land Use map and the zoning district) presents an exceptional practical difficulty.

OP RECOMMENDATION

The Office of Planning continues to recommend approval of area variances for this project that will the total FAR to increase to 3.7, the height to increase to 53', the reduction in recreation space and the full encroachment into the rear yard.

The Office of Planning however is very concerned about the precedent of recommending a variance on the basis of economic feasibility when there is no detailed and consistent information, no market-based comparables been provided to accurately determine the situation and no documentation is provided as to how the applicant concludes that the preservation expenses are extraordinary, and whether they are $1.6M as stated in the prehearing statement or $2.8M as stated by Mr. Bolan.

OP recommends that the Board approve a variance for the non-residential FAR that limits the **non-residential FAR to the basement, first and second floors only.**