GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: June 3, 2003

SUBJECT: BZA Application 17014 - Request filed by Robins, Kaplan, Miller & Ciresi L.L.P. for three **area variances** to increase the building height, increase the FAR and reduce the residential recreation space requirements for a mixed use building, proposed by EastBanc, Inc. for 2110 and 2150 M Street, N.W.

APPLICATION
Application of EastBanc, Inc. for:

Variance relief to:

1. **§ 770.1 pursuant to § 3103.2 of Title 11 DCMR** to permit an increase in the maximum building height from 90 feet to 110 feet;
2. **§ 771.2 pursuant to § 3103.2 if Title 11 DCMR** to permit an increase in the maximum permitted floor area ratio (FAR) for a mixed use building from 6.0 to 6.26; and
3. **§ 773.3 pursuant to § 3103.2 of Title 11 DCMR** to permit a decrease in the minimum residential recreation space required from 15 percent to 5 percent

for property located on the south side of M Street, N.W., the east side of 22nd Street and the northwest side of New Hampshire Avenue, 2110 M Street, Square 71, Lots 11, 19, 21, 23, 26-28, 801-806, 812, 816 and 817, and 2150 M Street, Square 71, Lot 34. The property is zoned C-2-C, high density commercial district.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of the request for variance relief to increase the maximum building height permitted; increase the maximum FAR permitted, and decrease the minimum residential recreation space required.

BZA
Case No. 17014
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO. 17014
EXHIBIT NO. 24

PROJECT DESCRIPTION

The proposal is for the construction of a nine-story, 110-foot high apartment building along the subject property's New Hampshire Avenue frontage. The building is proposed to include 110 dwelling units on Floors 2 through 9, with 11,700 square feet of retail and service space on the ground level. A three-level underground parking garage will accommodate 145 parking spaces, accessible from either New Hampshire Avenue or 22nd Street. A driveway entrance on New Hampshire Avenue will provide vehicular access to two loading berths and the trash area.

The residential lobby and the entrance to the parking garage will be located on the southeast side of the building, with the lobby facing 22nd Street and the ramp to the parking garage located along the New Hampshire Avenue frontage. Retail space will be located on the northwest side of the building. Two loading berths and the trash room will separate the two sides of the building.

At the southeast corner of 22nd and M is an existing gasoline station. The existing canopy and convenience store are to be removed and a new canopy is to be constructed over the pump islands in the shape of an irregular pentagon, resulting in an expanded covered area. The convenience store is to be relocated into the proposed building. Four retail parking spaces are to be provided underneath of the second floor of the building, adjacent to and directly accessible from the gasoline station.

A landscape area will buffer the west side of the residential lobby from the gasoline station and a second landscape area will buffer the east side of the residential lobby from the existing three-story office building to the southeast.

Residential recreation space is to be provided on the main roof of the building, on the roof of the penthouse and within the residential lobby.

SITE AND AREA DESCRIPTION

The portion of the subject property to be devoted to the proposed mixed use building consists of Lots 11, 19, 21, 23, 26-28, 801-806, 812, 816 and 817 of Square 71, in the North West quadrant of the District. Lot 34 of Square 71, adjacent to the northwest corner of the mixed use building site, will remain a gas station. The total site is 28,373 square feet in area. Lot 34, the lot improved with the gas station is 100 feet in width. The remainder of the site is 200 feet in width. No alleys are located within the square.

The existing Exxon gasoline station at the southeast corner of 22nd and M Street is improved with 8 multi-product dispensers under a canopy in the shape of two adjoining rectangles. A convenience store building is located southeast of the pump islands, opposite the intersection. A freestanding sign advertising the gas station is located at the corner. The remainder of the site is a surface parking lot with a freestanding sign located along the M Street frontage advertising the parking lot and a small shed for the parking attendant. The parking lot is screened along its 22nd Street frontage by evergreen plantings.

Adjacent to the subject property at the corner of 22nd Street and New Hampshire Avenue is a three-story row house that has been converted to office use within the C-2-C District. To the north, across M Street, is a 9-story hotel and an office building within the DC/CR District. To the

west, across 22nd Street, is a 10-story hotel within the C-2-C District and a 10-story apartment building within the R-5-E District. To the southeast, across New Hampshire Avenue, are 9- and 10-story hotels, 8- and 9-story apartment buildings and an 8-story office building within the R-5-E District.



View of subject property from New Hampshire Avenue at M Street

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 high density residential land use category *("High-rise apartment buildings are the predominant uses; may also include low, moderate, and medium density housing.")* and the medium density commercial land use category *("Shopping and service areas that generally offer a large concentration and variety of goods and services outside the Central Employment Area are the predominant uses. Most customers arrive by car, bus or subway.")*.

EXISTING ZONING

The subject property is zoned C-2-C, medium high density community business center.

C-2-C Community Business Center District

"The C-2-C district is designed to serve commercial and residential functions similar to the C-2-A District, but with higher density residential and mixed uses." (§720.9)

RELIEF REQUESTED:

Variance pursuant to § 770.1 of § 3103.2 of Title 11 DCMR to permit an increase in the maximum building height from 90 feet to 110 feet.

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)

The maximum building height permitted in the C-2-C District is 90 feet and the proposed building is 110 feet in height. There is no limitation on the number of stories permitted and the proposed building is nine stories in height. Although the nine-story building proposed has an FAR of less than the maximum permitted on the property, the footprint of the building cannot be expanded due to the existence of the gasoline station, over which the applicant has air rights.

The gasoline station also results in the need for the windows on the second floor to not begin before a height of 22 feet so as to not have residential units with views directly into the gasoline station and the fueling islands, but rather over the top of the canopy. The 22-foot ground floor height is greater than the applicant would have otherwise provided. In addition, the applicant's desire to build luxury units, and therefore create residential ceiling heights greater than eight feet, further increases the height of the building. Neither of these two height issues results in any additional FAR, and only affect the total height of the building. Therefore, the extraordinary or exceptional situation is the effect the existing gasoline station has on the development of the subject property and the effect that the provision of increased ceiling heights for luxury apartment units has on the total height of the building.

The height requested for the proposed building, 110 feet, is less than that permitted by the Height Act because of the width of New Hampshire Avenue. New Hampshire Avenue has a width of 120 feet, and on streets over 65 feet in width the Height Act permits a building height equal to the width of the street plus 20 feet, up to a maximum of 130 feet. Therefore, the proposed building height is 20 feet less than that permitted by the Height Act, but more than that permitted by the zoning.

Variance pursuant to § 771.2 of § 3103.2 if Title 11 DCMR to permit an increase in the maximum permitted floor area ratio (FAR) for a mixed use building from 6.0 to 6.26.

The site is improved with a gas station that the applicant does not own, but does have rights to the air space above. In order to block views of the existing pump islands from the residential units in the proposed building, a new and larger canopy is proposed over those pump islands. No portion of the proposed building will extend over the pump islands. However, the area underneath of the canopy contributes toward the total FAR of the site, increasing it by 0.76. The proposed building has an FAR of 5.50 and when combined with the canopy results in an FAR of 6.26. Therefore, the extraordinary or exceptional situation in this case is that a portion of the site is developed as a gasoline station that the applicant does not control and is to remain. The applicant's attempt to block views of it from the windows of the residential units, in addition to sheltering patrons from the weather, increases the FAR of the total site to 6.26, even though the FAR of the proposed building is only 5.50, which is less than the maximum permitted.

C-2-C DISTRICT	APARTMENT HOUSE OR OTHER RESIDENTIAL USE	OTHER PERMITTED USE	MAXIMUM PERMITTED	RESDENTIAL RECREATION SPACE (PERCENT)	BUILDING HEIGHT (FEET)
Permitted/Required	6.0 FAR	2.0 FAR	6.0 FAR	15	90
Proposed	6.25 FAR	1.35 FAR	4.39 FAR	5	110

Variance pursuant to § 773.3 of § 3103.2 of Title 11 DCMR to permit a decrease in the minimum residential recreation space required from 15 percent to 5 percent.

The subject application proposes residential recreation space of 7,800 square feet, or 5% of what is required. Eighty percent of this space is outdoors, whereas only 50 percent of the residential recreation space is required to be outdoors. Private outdoor recreation is provided for each unit in the form of a balcony, decreasing the potential demand on the residential recreation space.

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for variance relief of §§ 770.1, 771.2 and 773.3 in "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-2-C and the mixture of uses are permitted as matter-of- right uses for the C-2-C District. The project will fully comply with all other zoning requirements, including parking, loading and lot occupancy. The unusual situation in this case is the shape of the lot, which is further constrained by the existing gasoline station. The unusual shape of the lot then translates into a building cannot easily accommodate larger common spaces for use as residential recreation space. In addition to each unit having its own private recreation space in the form of a balcony, the neighborhood contains many public and private recreational opportunities in the form of an exercise club in the building across 22nd Street, small nearby passive urban parks, and Rock Creek Park only three blocks to the west.

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 and demand and to provide incentives for the types of housing needed at desired locations;" ((1304.1(a))

"The District government shall encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land-use policies and objectives;" ((1305.1(a))

"To conserve and enhance existing residential neighborhoods in Ward 2;" (1326.1(a))

COMMUNITY COMMENTS

The Chair of **ANC 2A** has informed the Office of Planning that the ANC endorsed the project at their meeting of May 21, 2003.

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 variance meets 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. **§ 770.1 pursuant to § 3103.2 of Title 11 DCMR** to permit an increase in the maximum building height from 90 feet to 110 feet;
2. **§ 771.2 pursuant to § 3103.2 if Title 11 DCMR** to permit an increase in the maximum permitted floor area ratio (FAR) for a mixed use building from 6.0 to 6.26; and
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as submitted by the applicant.

AA/sjm$_{AICP}$



Feature Key

Zoning Boundaries

Square Index

Ortho-Photography was taken in 1999.

Board of Zoning Adjustment
Application No. 17014

DC Office of Planning
May 16, 2003

Scale 1:1496

25 0 25 50 75 100 Feet

Attachment 1