GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

D.C. OFFICE OF ZONING
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MEMORANDUM

DATE: June 27, 2003

TO: District of Columbia Board of Zoning Adjustment

THROUGH: Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 17033
Washington Drama Society, Inc. d/b/a Arena Stage
1101 6th Street, SW
Square 472 Lots 123 and 126

Summary

The applicant, Washington Drama Society, Inc. (Arena Stage), seeks modification of variance case #16933, which permitted the following variances:

1. A variance from the height requirement under Section 930;
2. A variance from the floor area ratio (FAR) requirement of Section 931;
3. A variance from the lot occupancy requirement under Section 932; and,
4. A variance from the rear yard requirement under Section 933.

The applicant proposes to increase the height of the new theater ("The Cradle") to improve the livability of the apartments above the theater. The originally approval project included construction of The Cradle, preservation of two existing theaters and demolition and reconstruction of accessory spaces such as offices, workshops, storage, and other spaces incidental to theater productions. The complex of three theatres will be enclosed in a glass superstructure to protect the existing structures from traffic noise and to create a dramatic interior space.

BZA
Case No. 17033
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17033
EXHIBIT NO. 26

- As indicated in the original report (Attachment 1), the Office of Planning believes this is an exceptional situation due to the zoning history of the property, the historical landmark status of the structures on-site and the distinctive requirements of theaters, which bring public benefits of culture and economic development.
- Based on the analysis of the Office of Planning, the zoning regulations cause peculiar and exceptional practical difficulties in development of the property for its continued use as a theatre and preservation of its landmark structures.
- Based on the analysis of the Office of Planning, the proposed design would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The proposed modification is in the same spirit of the previous analysis and meets the same tests as outlined above.

Recommended Action:
The Office of Planning recommends approval of the application.

Background

The subject property received a variance from the building height, floor area ratio, lot occupancy and rear yard requirements under BZA application No. 16933. The Board found that the applicant had met the burden of proof and noted that Advisory Neighborhood Commission 2D and the Office of Planning recommended approval of the application (See Attachment 2). Regarding the exceptional situation the Board found the following:

- The lot was an unusual shape and size.
- The context of the site was unique with the theater's role in revitalizing the waterfront, its development under an urban renewal plan without zoning and the resulting later need to "fit" a zoning designation on the existing development.
- The historic theaters on the site create an extraordinary condition of the site and the need to preserve them along with previous and continuing need to use the site for a theater is also an exceptional situation.

The Board further found that these exceptional and extraordinary conditions led to practical difficulties including the following:

- The theater needs to expand and upgrade its facilities to continue to be viable.
- The existing historic theaters need acoustical protection from airplane and traffic noise that could not be practically provided without damaging the integrity of the historic structures.
- The design solution to encase the historic theaters in a glass box is an exceptional solution that requires the variance relief requested, especially in terms of height, where clearance is needed for the new roof from the existing 45' tall historic theater and structural bracing to the big roof for sheer, thus eliminating the need to create any other major structural components in the center of the project that would interfere with the historic theaters.

Finally, the Board concluded that there would be no substantial detriment to the integrity of the zone plan or map. The project is a key component in the revitalization plan for the Southwest Waterfront and was developed in concert with planning for the area.

Project Description

The applicant's proposed modification is a result of further refinement and engineering of the project. First, due to structural requirements the roof had to be "thickened" requiring a slight increase in the roof height at the center of the structure. In the original design the cantilevered roof was at a height of 65'. The new plans propose a suspension cable system to support the main roof that will be 56.5 feet at the edges and 71.77 feet at the highest point.



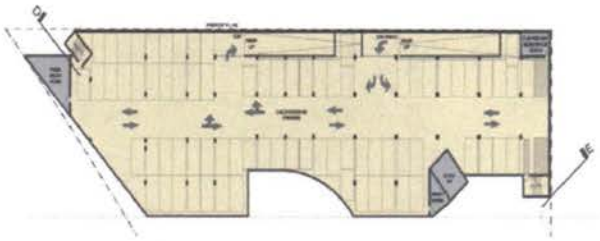
Also, the additional height in the Cradle, necessary for the structural support of the roof, was being used to provide residential space for traveling performers, support staff and their families. In re-evaluating this space the applicant found that the apartment spaces as originally designed were too small and would not meet their needs. The design change adds an average of 15% more area per residential unit. All of the small one-bedroom units were increased in size from approximately 425 square feet to a minimum of 500 square feet.



The redesign of this space in the Cradle resulted in a structure approximately 5 feet taller than the original design, but the upper portion of the new design is set back further from 6th Street and contains approximately the same volume. Additionally, the top of the Cradle ceiling increased approximately 15' to accommodate the expanded residential

space. Since the height of the building is measured to the ceiling this increased the height of the building from 75' as approved in the original application to 89'-9".

In addition, the revised project will provide an additional level of parking, which increases the total number of parking spaces provided to 125-145, from the 70-90 spaces approved in the original project. The proposal does not require any modification to the previously granted variances from FAR, lot occupancy or rear yard requirements.





Comprehensive Plan and Zoning

The proposed modification does not require additional analysis of the Comprehensive Plan or the zoning regulations. The following table summarizes the modified zoning relief requested:

Area Req.	Existing	Required/Allowed	Proposed	Variance	Code Ref.
Height	45'	40'	89.75'	49.75'(124.4%)	§930
FAR	0.9	2.0	2.5	0.5 (25%)	§§931 and 2521.1
Lot Occupancy	36%	80%	99%	19%	§932
Rear yard		12'	8'	4' (33%)	§933
Side yard	None	None	None	None	§934
Parking	70+	See Note	70-90	None	§2100
Loading	0	2	2	None	§2200

Note: §2100.5 exempts historic landmarks from additional parking requirements.

Analysis

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Arena Stage
BZA Case No. 17033
June 27, 2003

Extraordinary or Exceptional Situation
In accordance with §3103.2, which gives the Board the authority to grant a variance if, by reason of exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.

The previous analysis of this test is still valid.

Practical Difficulty
The practical difficulties are the same as the original application. The proposed modification provides better living space for visiting artists and decreases the visual bulk of the Cradle Theater. Additional space was also required in the theater to accommodate acoustic reflectors and theater equipment. In the acoustical engineering design, it was determined that a structural separation was necessary between the apartments and the theater. This required that the structural support for the apartments span the theater and resulted in the need for additional structural depth and therefore more height .

Substantial Detriment
In addition to the above tests, §3103.2 further requires that the relief requested could be granted, provided that it will not be a substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan. The application continues to meet this test



As indicated in OP's original report, the design solution proposed reflects a creative and thoughtful urban design that is not a detriment to the public good or the intent of the zoning regulations. The continuation of the theater use by Arena Stage on the site contributes to the cultural opportunities in the city and continues the theater's role as an

anchor to the southwest waterfront area.

Controlling the height of buildings is essentially intended to limit density, protect the character of a zone, and ensure adequate light and air. The proposed development is not a detriment to these three goals. In regards to density this project is not significantly changing the intensity of the existing use and most of the height of the structure is required to protect the existing historic landmark structures. The height is not required to increase the floor space of the structure beyond what is permitted by the previous variance. With respect to the character of the area, existing zoning height limits and buildings to the north and east are higher than the proposed structure. In addition, the contextual impact of the structure as been reviewed and approved by the Commission of Fine Arts and the Mayor's Agent. In the case of light and air, the proposed enclosure is very transparent and the impact of the new theater is minimal because of its location on the lot and its curved shape that recedes the structure from the property lines. The proposed administration and service wing to the rear is approximately 40-45 feet high.

ANC's and Community Groups

The applicant has presented the application to ANC 6D, which voted to support the project modification. The Commission of Fine Arts supports the revised project.

Recommendation

The Office of Planning recommends approval of BZA application 17033 requesting a modification to the previously approved variance granted under BZA Order #16933 to the height requirement under Section 930.

ATTACHMENTS:

1. OP Report for Application 16933
2. BZA Order

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

DATE: October 24, 2002

TO: District of Columbia Board of Zoning Adjustment

THROUGH: Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 16933
Washington Drama Society, Inc. d/b/a Arena Stage
1101 6th Street, SW
Square 472 Lots 123 and 126

Summary

The applicant, Washington Drama Society, Inc. (Arena Stage), seeks approval of

1. A variance from the height requirement under Section 930;
2. A variance from the floor area ratio (FAR) requirement of Section 931;
3. A variance from the lot occupancy requirement under Section 932; and,
4. A variance from the rear yard requirement under Section 933.

The applicant proposes construction of a new theatre, preservation of two existing theaters and demolition and reconstruction of accessory spaces such as offices, workshops, storage, and other spaces incidental to theater productions. The complex of three theatres will be enclosed in a glass superstructure to protect the existing structures from traffic noise and to create a dramatic interior space.

- The Office of Planning believes this is an exceptional situation due to the zoning history of the property, the historical landmark status of the structures on site and the distinctive requirements of theaters which bring public benefits of culture and economic development.
- Based on the analysis of the Office of Planning, the zoning

regulations cause peculiar and exceptional practical difficulties in development of the property for its continued use as a theatre.

- Based on the analysis of the Office of Planning, the proposed design would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Recommended Action:
The Office of Planning recommends approval of the application.

Background

The subject property is located at 1101 6th Street, SW (Square 472, Lot 126) and bounded by Maine Avenue, SW to the southwest, 6th Street, SW to the east, and bounded by a single property to the north (See Attachment 1). A portion of the property is separted from Maine Avenue by a 20' strip of land paralleling the avenue that belongs to the National Park Service. The subject property is in a W-1 District. The site, currently occupied by the Arena Stage, contains the Fichandler Theater, the Kreeger Theater, the Old Vat Room (a cabaret theater), and an administrative and service section, which connects the two main theaters and contains the Old Vat Room on a lower level. The rear portion of the lot is occupied by a parking lot that serves the theater complex (See Attachment 2). The Arena Stage received historic designation in 1980 as a pioneer in the American Regional Theater movement, as one of the City's unique cultural institutions, and as an innovatively designed building complex. The building received a number of architectural awards and was a key component of the Southwest Urban Renewal Plan. The theater sits across the street from the Southwest waterfront in an area that is seeing redevelopment and revitalization. The Office of Planning has recently completed an extensive planning process for the Southwest waterfront and developed the Southwest Waterfront Plan as part of the City's Anacostia Waterfront Initiative. The Arena Stage is envisioned as a major contributor to a new culture center along the waterfront. The site is in an area with a mix of densities and uses.

Project Description

The applicant proposes to demolish the administrative and service portions of the structure, along with the Old Vat Room and replace these with new construction including a new theater (The Cradle). The new theater will be architecturally distinctive and will complement the existing historic theaters. The theaters will be connected by a new lobby structure that integrates a large water feature filled with fountains. The existing parking will be moved underground and the entire complex will be encased in a glass enclosure. The glass enclosure allows the passerby to enjoy the beauty and presence of the three theaters and see the activity of the people and fountains within. Most importantly, the enclosure provides a sound barrier to protect the existing historic theaters from external noises that are currently disruptive to performances. The water feature

introduces a link to the waterfront and provides a thematic connection between the three theaters.

The project will provide parking for at least 70 cars with access off of 6th Street through the curb cut currently used to serve the existing parking lot. The proposed expansion will replace spaces that are currently too small and improve the functionality of the site. The redevelopment is necessary for the continued viability of the theater.

Comprehensive Plan

The Comprehensive Plan several goals relevant to this development:

801.1 The new preservation and historic features goal for the District is to preserve the important historic features of the District while permitting new development that is compatible with those features.

804.1(n) Foster broad community participation in the effort to protect and enhance historic properties in the National Capital and give maximum encouragement to organizations and individuals undertaking preservation by private means, particularly the financially disadvantaged;

805.1 Every effort should be made to provide for the continued, appropriate use of all historic properties. If the original use or a reasonable intensification of the original use is no longer feasible, appropriate adaptive uses consistent with applicable land use regulations should be encouraged.

805.15 The distinguishing original quality or character of historic properties should be protected. The removal or alteration of any historically valuable material or distinctive architectural features should be avoided when possible and kept to a minimum when required for continued use. The design of additions should be compatible with the height, scale, materials, color, texture, and character of the historic property.

1348.1(c) Revitalize and redevelop the Southwest waterfront along Maine Avenue as a major destination and service area for the currently 20 million visitors to the nation's capital city,

1367.3 To protect and enhance the character of the Southwest community, the Southwest Neighborhood Assembly commissioned the Urban Land Institute to study concepts that would improve the neighborhood, including the potential for redeveloping Waterside Mall and the Southwest waterfront. The Urban Land Institute met with residents and other stakeholders in 1998 and recommended the following improvements:

(c) More convenient, safe parking, for the retail centers as well as Arena Stage, and Southeastern University;

(l) A standard of architectural excellence for the one-half million square feet of new construction that will be built in the next few years; and

The proposed historic preservation solution and the significant streetscape and presence the new development will bring to the waterfront further these as well as many other goals of the Comprehensive Plan. The site is designated as the medium density residential category which includes multiple-unit housing and mid-rise apartment

buildings as the predominant uses and may also include, as appropriate uses, low and moderate density housing.

Zoning

The total area of the two lots is 84,619 square feet with a total lot width of 368.76 feet. The lot lies in the W-1 Zone. The W-1 Zone District's purpose is to encourage a diversity of compatible land uses at various densities, including combinations of residential, offices, retail, recreational, and other miscellaneous uses. The uses proposed for the site are permitted as a matter-of-right in the W-1. The development needs zoning relief from four area provisions.

Area Req.	Existing	Required/Allowed	Proposed	Variance	Code Ref.
Height	45'	40'	75'	35'(87.5%)	§930
FAR	0.9	2.0	2.5	0.5 (25%)	§§931 and 2521.1
Lot Occupancy	36%	80%	99%	19%	§932
Rear yard		12'	8'	4' (33%)	§933
Side yard	None	None	None	None	§934
Parking	70+	See Note	70-90	None	§2100
Loading	0	2	2	None	§2200

Note: §2100.5 exempts historic landmarks from additional parking requirements.

The Zoning Regulations, §3103, provide the Board three standards for granting a variance:

1. The site is unique because of its size, shape or topography or other extraordinary or exceptional situation or condition.
2. Strict application of the regulations results in peculiar and exceptional practical difficulties.
3. The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map

Site's Exceptional Situation

The first factor that contributes to the exceptional situation is the historic landmark status of the site. The site presents a preservation challenge, as it does not provide adequate and efficient space for the Drama Society's current operations. In addition, the Fichandler Theater is impacted by outside noise from auto and airplane traffic because it lacks a surrounding lobby or foyer area to buffer it from outside noise. The documentation presented in support of the designation expresses the importance of Arena Stage as a cultural institution as well as the architectural contributions of the building. Therefore, the preservation solution must not only preserve the significant architectural

elements of the building, but it must also retain the Arena Stage as a cultural institution. This situation is clearly exceptional.

The second factor that contributes to the exceptional situation is the distinctive use of the site. Theaters have specific programming needs that don't fit the typical zoning box of height and FAR. Acoustical requirements of the theater spaces and space in the ceiling to accommodate lighting and other production related mechanical equipment are necessary to bring the public benefits of culture and economic development of theater to the waterfront. As was the case in the 1950's urban renewal plan that used the Arena Stage as a focal point and catalyst of the Southwest Urban Renewal Area, the Arena Stage redevelopment is a focal point and catalyst for revitalization of the waterfront as envisioned in the recently released Southwest Waterfront Plan by the Office of Planning. The proposed redevelopment will create a new landmark and a reinvigorated source of activity for the waterfront.

Exceptional Practical Difficulties

The practical difficulties in redeveloping the site for Arena Stage's continuing use can be found in three areas:

1. The theater needs acoustical protection that must be provided without impairing the integrity of the significant historic elements of the structure;
2. The theater needs more space to continue and enhance its important contribution to the economic and cultural life of the Southwest waterfront;
3. Because of the historic landmark designation the applicant can't just demolish the whole thing and use the site more efficiently. Because it is surrounded by roads and development on all sides, expansion through the purchase of additional property is not an option. There is a need for Arena Stage to remain in the Southwest waterfront to continue anchoring revitalization efforts along the waterfront.

These result in the need to build higher, with more floor area, and on more of the lot.

The applicant wishes to (and should) creates a dramatic architectural statement that merits the demolition of the dysfunctional support spaces and create a new landmark along the waterfront to provide identity and sense of place. These difficulties are addressed by Bing Thom's bold design that wraps the existing structures in a glass façade and preserves views of the architecturally significant theaters. This solution provides the necessary acoustical protection as well as addressing preservation.

As part of solving the programmatic requirements of Arena Stage, Bing Thom has created a new theater that complements and completes the set of theaters. The theater is a sculptural architectural piece that provides residential apartments for visiting performers in its upper levels.

Public Good and Intent of Zoning

The nature of the proposed development cannot fit in the constraining envelope of zoning that exists on the site. The variances that are proposed, except for height, are essentially minor deviations from the strict interpretation of the code. The design solution proposed reflects a creative and thoughtful urban design that is not a detriment to the public good or the intent of the zoning regulations. The continuation of the theater use by Arena Stage on the site contributes to the cultural opportunities in the city and continues the theater's role as an anchor to the southwest waterfront area.

Height

Controlling the height of buildings is essentially intended to limit density, protect the character of a zone, and ensure adequate light and air. The proposed development is not a detriment to these three goals. In regards to density this project is not significantly changing the intensity of the existing use and most of the height of the structure is required to protect the existing historic landmark structures. The height is not required to increase the floor space of the structure beyond what is permitted in the zone (see discussion of FAR below). With respect to the character of the area, existing zoning height limits and buildings to the north and east are higher than the proposed structure. In addition, the contextual impact of the structure as been reviewed and approved by the Commission of Fine Arts and the Mayor's Agent. In the case of light and air, the proposed enclosure is very transparent and the impact of the new theater is minimal because of its location on the lot and its curved shape that recedes the structure from the property lines. The proposed administration and service wing to the rear is approximately 40-45 feet high.

FAR

The floor area ratio, which is a measure of density, is exaggerated by the glass enclosure. Programmatically, the use of the property is essentially the same, a three-stage theater with accessory uses and spaces supporting this function. The enclosing glass structure creates additional floor space that would functionally been outdoor space in the absence of the need for the enclosure. As noted above, the enclosure is necessary to acoustically screen the existing landmark theaters and is designed to maximize visibility of the theaters. The required variance from FAR of 0.5 (25%), in this context, is minor.

Lot Occupancy

The intent of the lot occupancy provision of the Waterfront District is to ensure residential uses have adequate light, air and open space. Since the lot occupancy requirement is only applicable to residential uses, the provision of a handful of apartments in the Cradle triggers this requirement. Realizing that some structures may be mixed use in the Waterfront district, the zoning regulations allow the lot occupancy to be calculated on a horizontal plane located at the lowest level where residential uses begin. Given the special purposes of the proposed housing and the vagaries of calculating lot occupancy, the variance, if granted, would not impair the intent of the zoning regulations.

Rear Yard

As with the lot occupancy, the rear yard requirements are only applicable to residential structures and rear yards are required only at the horizontal plane upon which the residential use begins. Additionally, the shape and size of the lot requires a substantial rear yard area. The proposed encroachment on the rear yard occurs only at the third floor level and has minimal impact on the rear yard. As addressed above, adequate light and air are still provided. Therefore, the variance will not impair the intent of the zoning regulations.

ANC's and Community Groups

The applicant has presented the application to ANC 2D. At its regularly scheduled meeting on October 21st, the ANC voted unanimously to support the project. The ANC 2D Chairman Andy Litsky indicated that concerns of the ANC included traffic, parking, and construction related impacts, but these concerns are more widespread and related to all of the development going on in the area not particularly to Arena Stage. Arena Stage is providing underground parking to replace the lost surface parking, providing adequate loading and is proposing little or no increase in the number of seats and would, in addition, not significantly impact peak hour traffic volumes given its hours of operation.

Recommendation

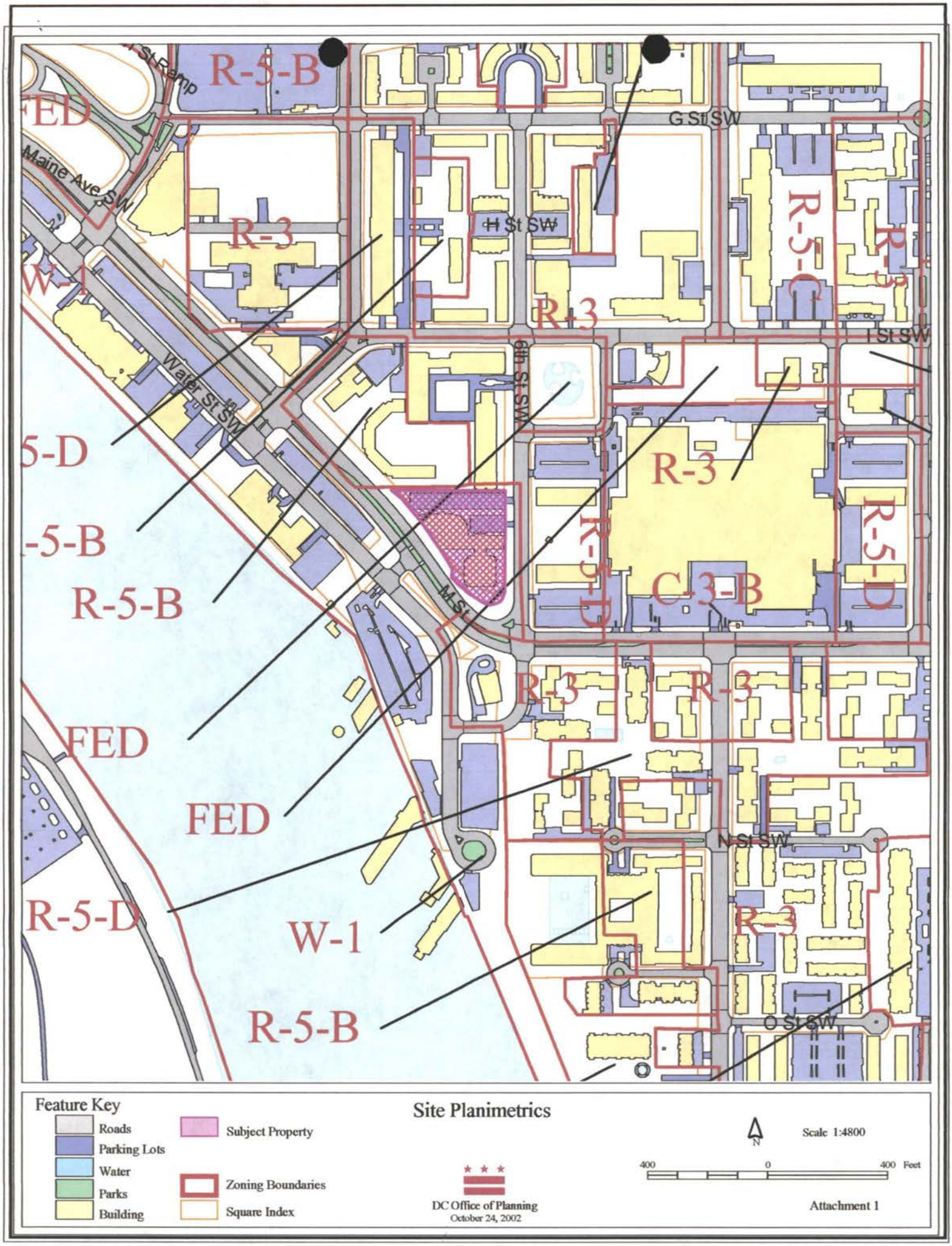
The Office of Planning recommends approval of BZA application 16933 requesting a the following variances:

1. A variance from the height requirement under Section 930;
2. A variance from the floor area ratio (FAR) requirement of Section 931;
3. A variance from the lot occupancy requirement under Section 932; and,
4. A variance from the rear yard requirement under Section 933.

The Arena Stage proposal will be a high quality development with exceptional positive impacts on the community.

ATTACHMENTS:

1. Location Map
2. Comprehensive Plan Map
3. Aerial Photograph



Feature Key

- Roads
- Parking Lots
- Water
- Parks
- Building
- Subject Property
- Zoning Boundaries
- Square Index

Site Planimetrics

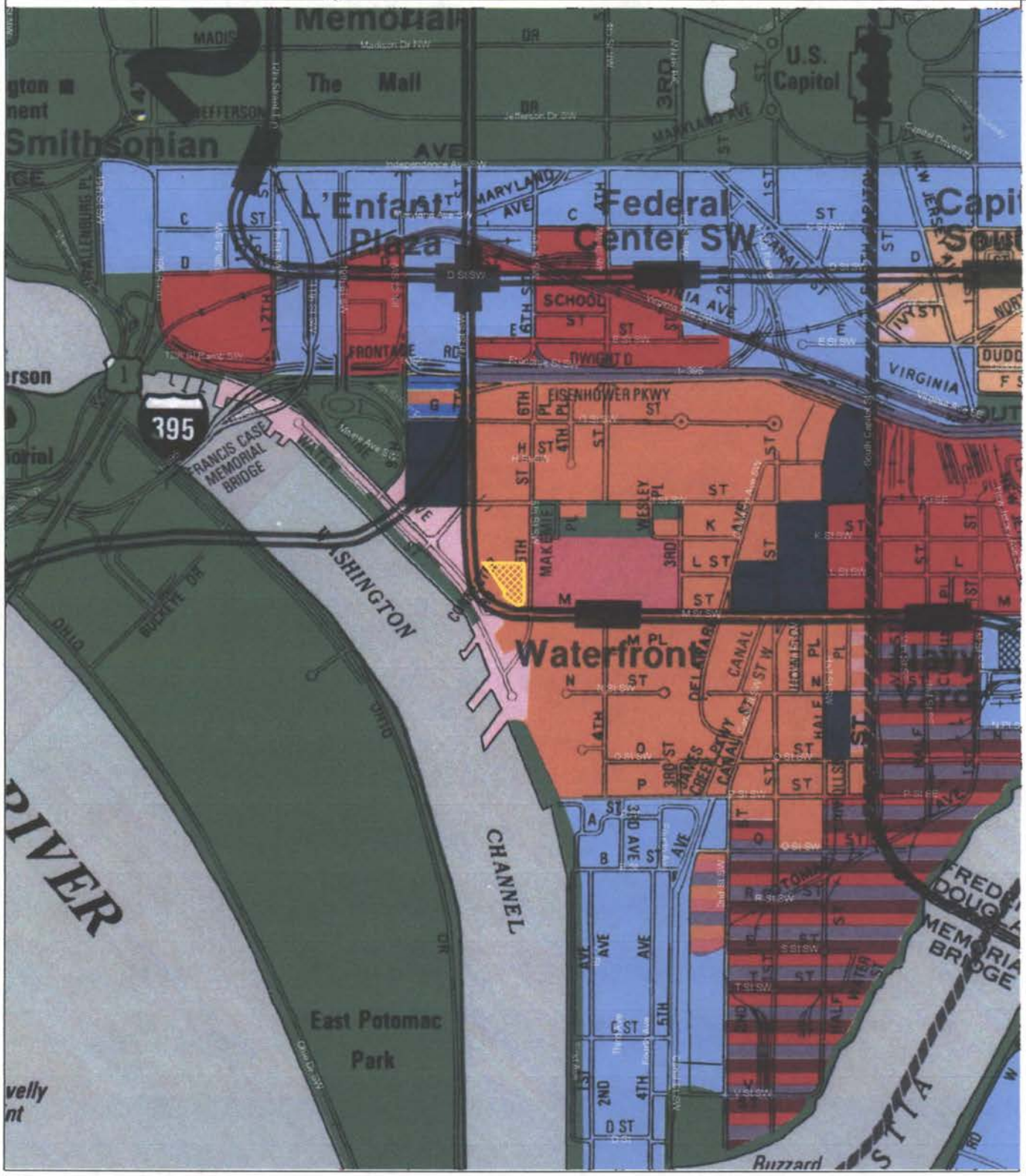
DC Office of Planning
October 24, 2002

N

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400 0 400 Feet

Attachment 1



Generalized Land Use Key

- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Water
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial Med-high Density
- Commercial High Density
- Federal
- Institutional
- Local Public
- Parks, Recreation and Open Space
- Production and Technical Employment

Comprehensive Plan Landuse

N

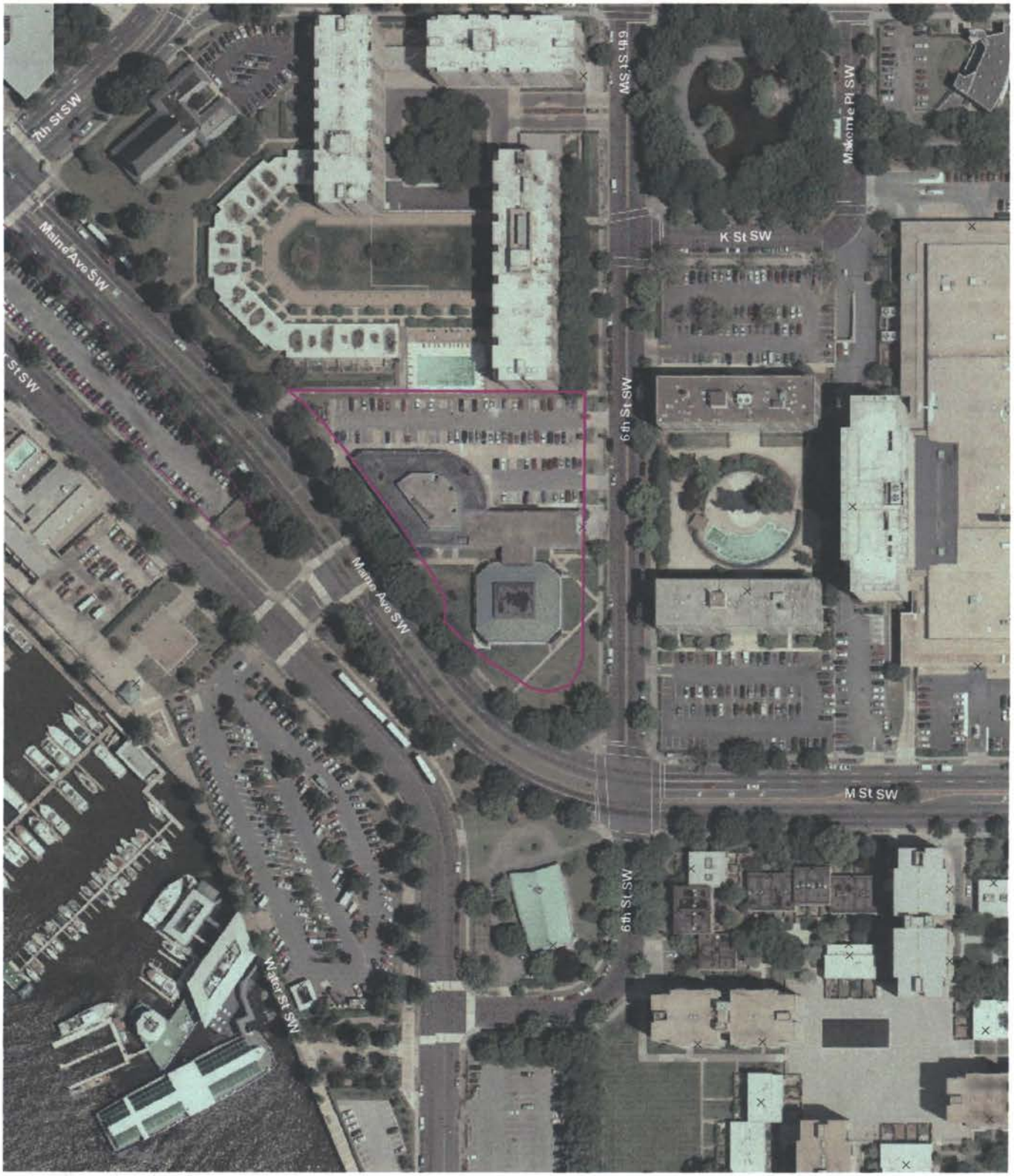
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DC Office of Planning
October 24, 2002

Attachment 4

Arena Stage
BZA Case No. 16933
October 24, 2002

Attachment 3 – Aerial Photograph



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16933-A of Washington Drama Society, Inc. dba The Arena Stage, pursuant to 11 DCMR § 3103.2, for a variance from height limitations under section 930, a variance from the floor area ratio requirements under section 931, a variance from the lot occupancy requirements under section 932, and a variance from the rear yard requirements under section 933, to allow the construction of an addition to an existing theater in the W-1 District at premises 1101 6th Street, S.W. (Square 472, Lots 123 and 126).

HEARING DATE: October 29, 2002
DECISION DATE: October 29, 2002 (Bench Decision)

CORRECTED SUMMARY ORDER

This order corrects Order No. 16933, which was issued without indicating the Board's decision to grant flexibility in the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts.

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2D. ANC 2D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 930, 931, 932, and 933, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, 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. It is therefore **ORDERED** that this application be **GRANTED** with the following provision:

1. The Applicant may modify the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts, provided that those changes do not increase any of the areas of relief granted by the Board of Zoning Adjustment.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **5-0-0** (Geoffrey H. Griffis, John G. Parsons, David A. Zaidain, Anne M. Renshaw, and Curtis L. Etherly to Approve)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY: Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: NOV - 7 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES

PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16933-A

As Director of the Office of Zoning, I hereby certify and attest that on NOV - 7 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr., Esq
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

Andy Litsky, Chairperson
Advisory Neighborhood Commission 2D
400 I Street, S.W.
Washington, D.C. 20024

Richard B. Westbrook, Commissioner 2D01
Advisory Neighborhood Commission 2D
505 H Street, S.W.
Washington, D.C. 20024

Jack Evans, City Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W.
Suite 106
Washington, D.C. 20004

Robert Kelly, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16933 of Washington Drama Society, Inc. dba The Arena Stage, pursuant to 11 DCMR § 3103.2, for a variance from height limitations under section 930, a variance from the floor area ratio requirements under section 931, a variance from the lot occupancy requirements under section 932, and a variance from the rear yard requirements under section 933, to allow the construction of an addition to an existing theater in the W-1 District at premises 1101 6th Street, S.W. (Square 472, Lots 123 and 126).

HEARING DATE: October 29, 2002
DECISION DATE: October 29, 2002 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2D. ANC 2D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 930, 931, 932, and 933, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, 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. It is therefore **ORDERED** that this application be **GRANTED.**

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **5-0-0** (Geoffrey H. Griffis, John G. Parsons, David A. Zaidain, Anne M. Renshaw, and Curtis L. Etherly to Approve)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY: **JERRILY R. KRESS, FAIA**
Director, Office of Zoning

FINAL DATE OF ORDER: OCT 30 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL

STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16933

As Director of the Office of Zoning, I hereby certify and attest that on OCT 3 0 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr., Esq
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Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16933-A of Washington Drama Society, Inc. dba The Arena Stage, pursuant to 11 DCMR § 3103.2, for a variance from height limitations under section 930, a variance from the floor area ratio requirements under section 931, a variance from the lot occupancy requirements under section 932, and a variance from the rear yard requirements under section 933, to allow the construction of an addition to an existing theater in the W-1 District at premises 1101 6th Street, S.W. (Square 472, Lots 123 and 126).

HEARING DATE: October 29, 2002
DECISION DATE: October 29, 2002 (Bench Decision)

CORRECTED SUMMARY ORDER

This order corrects Order No. 16933, which was issued without indicating the Board's decision to grant flexibility in the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts.

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2D. ANC 2D submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 930, 931, 932, and 933, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, 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. It is therefore **ORDERED** that this application be **GRANTED** with the following provision:

1. The Applicant may modify the design of the building as may be approved by the Historic Preservation Review Board and/or the Commission of Fine Arts, provided that those changes do not increase any of the areas of relief granted by the Board of Zoning Adjustment.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **5-0-0** (Geoffrey H. Griffis, John G. Parsons, David A. Zaidain, Anne M. Renshaw, and Curtis L. Etherly to Approve)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY: Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: NOV - 7 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES