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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17063
450 H Street, N.W.

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

October 14, 2003

I. Site location and description

A. Location

1. South side of H Street between 4th and 5th Streets, N.W.

2. Project site consists of lot 103 in Square 518

3. Site located in the Judiciary Square area of Downtown

B. Size

1. Total site area is approximately 3,834 square feet

2. Rectangular site with frontage of 54 feet on H Street

3. No access from any other street or alley

C. Existing site condition: improved with building constructed in 1984, with a certificate of occupancy for office use since 2001 and occupied since 2002

Case No. 17063
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO. 17063
EXHIBIT NO. 28

II. Description of surrounding area

A. Judiciary Square/Mount Vernon Square area of Downtown

B. Area contains mix of uses and building types

C. Remainder of Square 518

1. Offices of the General Accounting Office to the east along H Street

2. St, Mary's Church located at the southeast corner of the intersection of 5th and H Streets

D. Uses to the south:

1. National Building Museum in the block bounded by 4th, 5th, F and G Streets

2. Operations center for the Washington Metropolitan Area Transit Authority in the block bounded by 5th, 6th, F and G Streets

E. Uses to the east:

1. New high-rise apartment building under construction on the south side of H Street between 3rd and 4th Street

2. Fraternal Order of Police lodge building at 715 4th Street

3. Best Western Hotel at 724 3rd Street

F. Uses to the west:

1. Red Roof Inn hotel at the southwest corner of the intersection of 5th and H Streets

2. New high-rise apartment building on the west side of 5th Street between G and H Streets

3. Vacant property at 777 6th Street to be developed as an office building

4. Gallery Place retail, office and residential project under construction on the south side of H Street between 6th and 7th Streets

G. Uses to the north:

1. H Street

2. Four small townhouse type structures used as offices at the northeast corner of the intersection of 5th and H Streets

3. Judiciary House apartments for senior citizens

4. New high-rise apartment buildings under construction at 400 and 450 Massachusetts Avenue

III. Existing zoning: DD/C-2-C

A. Uses (§§720 – 734)

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

2. Hotel

3. Residential use permitted as a carry-over from the Special Purpose and Residential Districts

B. Height - maximum of 90 feet (§770.1)

C. Density - maximum of 6.0 FAR, with nonresidential uses limited to 2.0 FAR (§771.2)

D. Rear yard – 15 feet (§774.11)

E. Side yard - not required (§775.5)

F. Parking (§2101.1) for office use: minimum of one space for each 1,800 square feet of gross floor area in excess of 2,000 square feet

G. Downtown Development (DD) Overlay District

1. Applies to new buildings and alterations or additions to existing buildings involving more than 100 percent of assessed value of building in any twelve month period

2. Height is maximum permitted under the Act of 1910 (110 feet for subject site)

3. Housing Priority Area B

a. No maximum FAR for residential uses

b. Minimum of 4.5 FAR required to be devoted to residential use (3.5 FAR available for commercial)

IV. Zoning history

A. Property was zoned SP in 1958

B. Redesignated SP-2 in 1978

C. Included in the Hotel-Residential (HR) Incentive District in 1981

D. Rezoned to DD/C-2-C in 1991

E. BZA approvals

1. Order No. 14002, dated October 13, 1983

a. Approved

(1) Special exception for office use

(2) Special exception to waive rear yard

(3) Variance from the number and size of parking spaces

b. Denied variance from the FAR requirements

c. Required that floors five through ten be configured for apartments

2. Order No. 16380, dated September 16, 1998, approved

a. Variance from the Downtown Development District requirement to provide residential use

b. Variance from the parking requirements

c. Lapsed when no permit application was filed

F. Certificates of occupancy and building permits issued for office use in 2001 and 2002

V. Proposed development

A. Use: continued use for office space

B. Maximum gross floor area of approximately 31,865 square feet (8.26 FAR); no change from the existing

C. Height: ten stories, maximum of 110 feet; no change from existing

D. Eight parking spaces, stacked and not meeting the dimensional requirements, on one level with access from a ramp from H Street on the GAO property; no change from existing

VI. Variance relief required

A. Parking

1. Minimum required: 17

2. Proposed: 8 (existing)

3. Variance: 9

B. Loading

1. Minimum required: one thirty foot deep berth and one service delivery loading space

2. Proposed: none

3. Variance: one thirty foot deep berth and one service delivery loading space

VII. 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.

VIII. Compliance with the variance standards

A. Exceptional or extraordinary situation or condition

1. Small site (only 3,834 square feet)

2. Existing improvements occupy 100 percent of the lot

3. Building sat vacant for over 15 years after it was built

4. History of zoning changes and approvals

a. When built, no loading required for mix of uses

b. Changes in zoning

c. Approval of permits for office use

B. Practical difficulty

1. No reasonable physical configuration under which loading or additional parking can be provided

2. Would require displacement of substantial portion of existing tenants

C. No detriment to the public good

1. Building has been occupied since 2002 without any apparent adverse effects

2. Variance is for only nine parking spaces, when there are more than 1,200 public off-street parking spaces in nine surface lots and below grade garages within two blocks

3. Availability of public transportation (Metrorail and Metrobus)

4. Applicant agrees to the request of the Office of Planning to limit loading during peak hours

IX. Conclusions

A. Subject property is affected by exceptional conditions, because of the size of the site, the existing building and the history of zoning and building approvals

B. Strict application of the Regulations would require the Applicant to displace tenants out of more than half of the building

C. Existing operations have proven to have no adverse effect

D. The application should be granted