Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006-6801

202-955-3000
FAX 202-955-5564
www.hklaw.com

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December 2, 2003

JILL G. COOPER, AICP
202-457-1835

Internet Address: jill.cooper@hklaw.com

VIA HAND DELIVERY
Members of the Board of Zoning Adjustment
District of Columbia Office of Zoning
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Board of Zoning Adjustment Case No. 17093
Prehearing Submission

Dear Members of the Board:

On behalf of the applicant, Paramount Baptist Church, enclosed please find twenty copies of the prehearing submission for the above-referenced application for variance relief.

Should you have any questions regarding this matter, please do not hesitate to contact me at (202) 457-1835.

Sincerely,

Jill G. Cooper

Jill G. Cooper, AICP
Land Use Planner

Enclosures

cc: Travis Parker, Office of Planning (Hand Delivery; w/enclosures)
Pastor Ishmael Shaw, Paramount Baptist Church (w/enclosures)
John W.G. Rosencrans, Dimensional Dynamics (w/enclosures)
Norman M. Glasgow, Jr., Esq., Holland & Knight LLP (w/out enclosures)
Steven E. Sher, Holland & Knight LLP (w/out enclosures)

BZA
Case No. 17093
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO. 17093
EXHIBIT NO. 25

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Paramount Baptist Church

BZA Application No. 17093

Public Hearing: December 16, 2003

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Paramount Baptist Church

BZA Application No. 17093
Public Hearing: December 16, 2003
ANC 8E

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Paramount Baptist Church (the "Applicant") in support of the application to the Board of Zoning Adjustment for variance relief from §§ 402.4 and 2101.1 of the Zoning Regulations. The variance relief is requested in order to construct a three-story addition to the existing church at premises 3924 and 3910 4th Street, S.E. and 434-436 Condon Terrace, S.E. (Square 6154, Lots 57, 58, 65, 68, 806 and 828).

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment has jurisdiction to grant the requested variance relief pursuant to §3103.2 of the Zoning Regulations. The authority of the Board to grant variances is set forth in §3103 of the Regulations. Section 3103.2 provides,

> [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, 2001 Ed., §§6-641.01 to 6-651.02 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 plan as embodied in the Zoning Regulations and Map.

III.
EXHIBITS IN SUPPORT OF THE APPLICATION

Before proceeding with the discussion of the merits of this application, the following additional materials are submitted:

Exhibit A:	A portion of the Sanborn Atlas showing the Subject Property highlighted in yellow.
Exhibit B:	A portion of the Zoning Map showing the Subject Square highlighted in yellow, with zoning designation of R-5-A.
Exhibit C:	Photographs of the Property.
Exhibit D:	Outline of testimony of Representative of Paramount Baptist Church, Applicant.
Exhibit E:	Outline of Testimony of John W.G. Rosecrans, AIA, Dimensional Dynamics Architects and Planners, Inc.
Exhibit F:	Outline of Testimony of Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.
Exhibit G:	Letter of support from Advisory Neighborhood Commission 8E dated September 16, 2003.

IV.
BACKGROUND

A. Site and Vicinity Characteristics

1) The Subject Property:

The Applicant is the owner of Lots 57, 58, 65, 68, 806 and 828 in Square 6154 (the "Property"). Square 6154 is triangular in shape, bounded by Xenia Street on the west, Condon Terrace on the east, and 4th Street on the south. The 4th Street side of the Property is improved with an existing church building known as 3924 4th Street, a parking lot and a small vacant building known as 3910 4th Street. The Condon Terrace side of the Property is improved with a small vacant building having the address of 434-436 Condon Terrace. The remainder of the Condon Terrace side of the Property is unimproved. The Property is located within an R-5-A District.

2) Vicinity:

The areas surrounding the Property are largely residential. The remainder of Square 6154 is developed with multi-family residential units. The area to the west of the Property is developed with mixed single-family and multi-family residential buildings. The area to the east of the Property is improved with the Washington Highlands Community School and playing fields as well as single and multi-family residences. To the north of the Property are Oxon Run and one-family semi-detached dwellings along Xenia Street and Valley Avenue. To the south of the Property is additional residential development, including the Highland Dwellings public housing project.

B. Description of Proposed Construction

The Applicant proposes to demolish the two vacant buildings, renovate the existing church building and construct a three-story addition with a basement/cellar in order to provide more seating space and better facilities for the church and its programs. The project will include 47 surface parking spaces and two garage parking spaces on the subject Property and 16 parking spaces on a lot across 4th Street at the corner of Valley Avenue (Square 6153, lot 72).

A church is a use permitted as a matter-of-right in a R-5-A District. In order to accomplish the proposed expansion, the Applicant seeks variance relief from §§ 402.4 and 2101.1 of the Zoning Regulations, relating to floor area ratio and parking, respectively.

V.
THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF FROM THE ZONING REGULATIONS

As set forth below, the Applicant satisfies the three-pronged test for variance relief as established in §3103.2. Variance relief is therefore appropriate in the present case.

A. The Property is Affected by an Exceptional Or Extraordinary Situation or Condition

The Subject Property is affected by a number of exceptional situations and conditions relevant to the requested variance relief. The Property is comprised of two parts, one fronting on 4th Street and one fronting on Condon Terrace. The 4th Street side is trapezoidal in shape and the Condon Terrace side is essentially rectangular. The two portions are connected by a very narrow slice of the Property. While there are other triangular shaped lots in the area created where the existing streets cut across the standard orthogonal street grid, there are no other properties with the same or similar configuration.

The Property is also affected by unusual topographic conditions. There is a substantial change in grade on the property, which slopes steeply down from south to north. The photographs submitted as Exhibit C show that change in grade. Several stories are part basement and part cellar because of the difference in grade around the perimeter of the building. This combination of space and other constraints inherent in the building and Property, as described above, work a practical difficulty upon the Applicant deserving of the requested variance relief. As found by the District of Columbia Court of Appeals in *Clerics of St. Viotor, Inc. v. District of Columbia Board of Zoning Adjustment*, "[i]t makes no practical difference whether the inability to use property in accordance with zoning regulations stems from topographical conditions of the land itself or from the existence of a structure on the land," (320 A.2d 291, at 294).

The non-profit and public service status of the Applicant is likewise relevant and proper for the Board's consideration in evaluating the exceptional nature of the Property. As has been held by the District of Columbia Court of Appeals in *Monaco v. District of Columbia Board of Zoning Adjustment*, the BZA does not err in considering the needs of a public service organization as possible other extraordinary and exceptional situation or condition of a particular piece of property. (407 A.2d 1091, at 1099).

B. The Strict Application of the Zoning Regulations Would Result in a Practical Difficulty

In order to obtain an area variance, an owner must prove peculiar and exceptional practical difficulties caused by compliance with the applicable regulation. Furthermore, these difficulties must be related to a property's exceptional circumstances and not to general conditions in the neighborhood. The Applicant needs to improve and expand the existing church to better serve

its members. The addition will cause the building to exceed the permitted FAR by approximately 1,000 square feet. A variance of less than 2% is therefore required.

A church having a seating capacity of approximately 900 seats in the main sanctuary is required to provide 90 parking spaces (at the rate of one space for each ten seats). The church is providing 49 spaces on site and 16 spaces across the street (pursuant to §2116.3), for a total of 65 parking spaces. A variance of 28% is therefore required.

The program requirements of the church to carry out its mission for its members and the community require the facilities shown on the proposed plans. The church has already condensed the size of its building to reduce the need for the variances and any further reductions would make the building inadequate for the purposes it is to serve.

The shape and topographic conditions directly affect the relief required. The shape and topography of the site requires retaining walls and ramps to go from one side of the site to the other and the number of parking spaces which can be achieved in the area available is therefore reduced. The triangular shape of the property across 4th Street creates inefficiencies in the layout and also limits the number of spaces which can be provided. If the properties were flat and rectangular, it is likely that all of the required parking could be provided.

For these reasons, the Applicant meets its burden of compliance with the practical difficulty prong of the variance test and is deserving of relief from the Board.

C. Variance Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan.

The relief requested can be granted by the Board without detriment to the Public Good or impairment to the Zone Plan.

1. Public Good:

The grant of relief in the present application will work no harm upon the general public. No light or air will be lost by any property owner, nor will any other property owner suffer a diminution in the value of its property as a result of the grant of relief. By contrast, the grant of relief in this case will facilitate the enhancement of an important public community use and further enhance the increasing vibrancy of the surrounding neighborhood.

2. Zone Plan:

The grant of variance relief in the present case will likewise not impair the District's zone plan. The building will be within the height and percentage of lot occupancy requirements for the R-5-A District, so the volume of space to be provided will be no more than what the Zoning Regulations allow. The FAR variance is minimal - less than 2% - and the additional floor space would be imperceptible in terms of bulk and impact.

The church has a sanctuary which accommodated approximately 400 seats at time the Zoning Regulations were changed to require parking for churches. The increase in the seating capacity would only require 50 spaces, all of which are being provided on the same lot as the church and the lot across the street.

For all the above reasons, variance relief from §§ 402.4 and 2101.1 of the Regulations can be granted without detriment to the public good or without substantial impairment to the Zone Plan.

VI.
WITNESSES

A. Representative of Paramount Baptist Church, Applicant.

B. John W.G. Rosecrans, AIA, Dimensional Dynamics Architects and Planners, Inc.

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

VII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Applicant therefore requests that the Board grant the application.

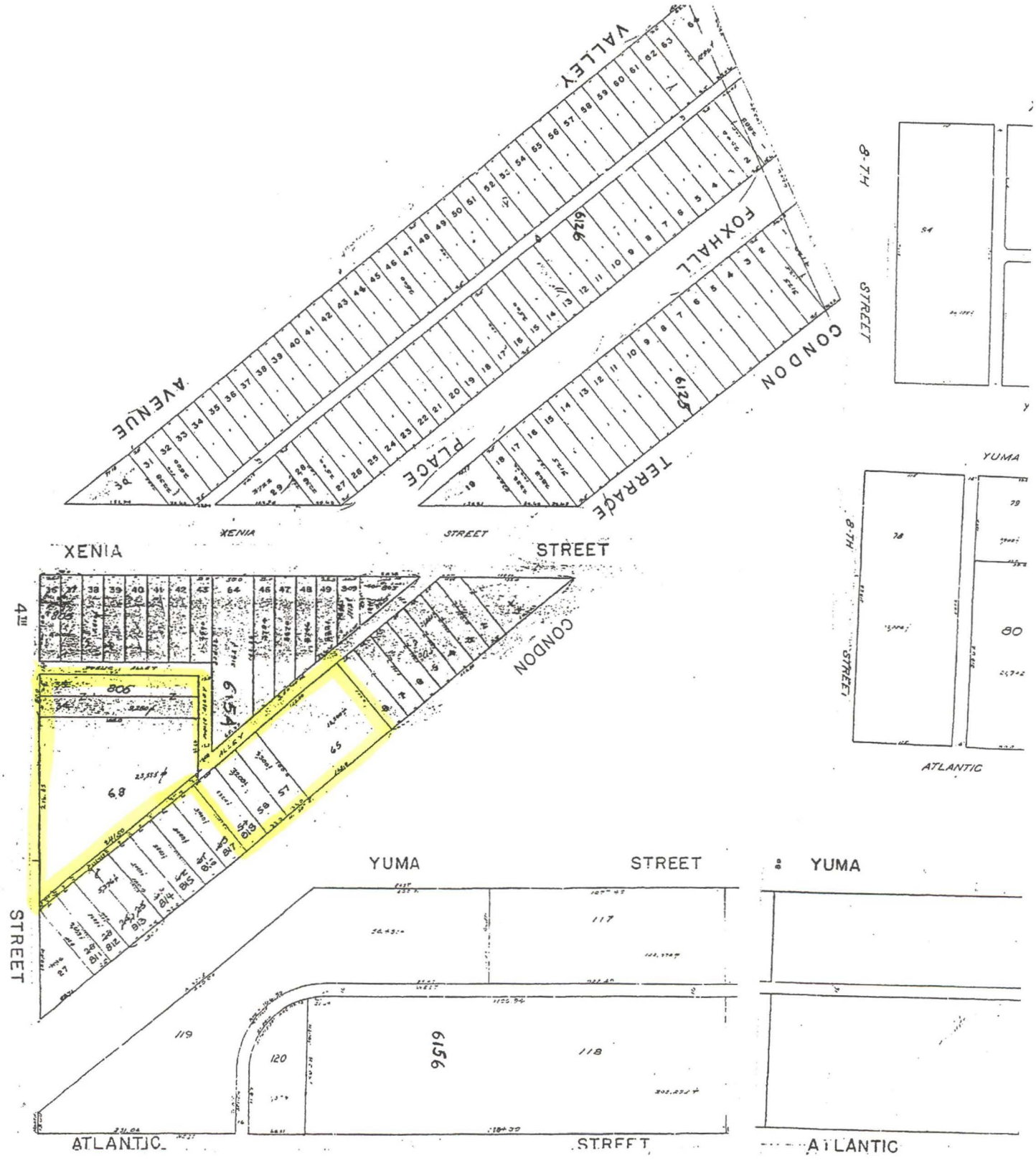
Respectfully submitted,

HOLLAND & KNIGHT, LLP

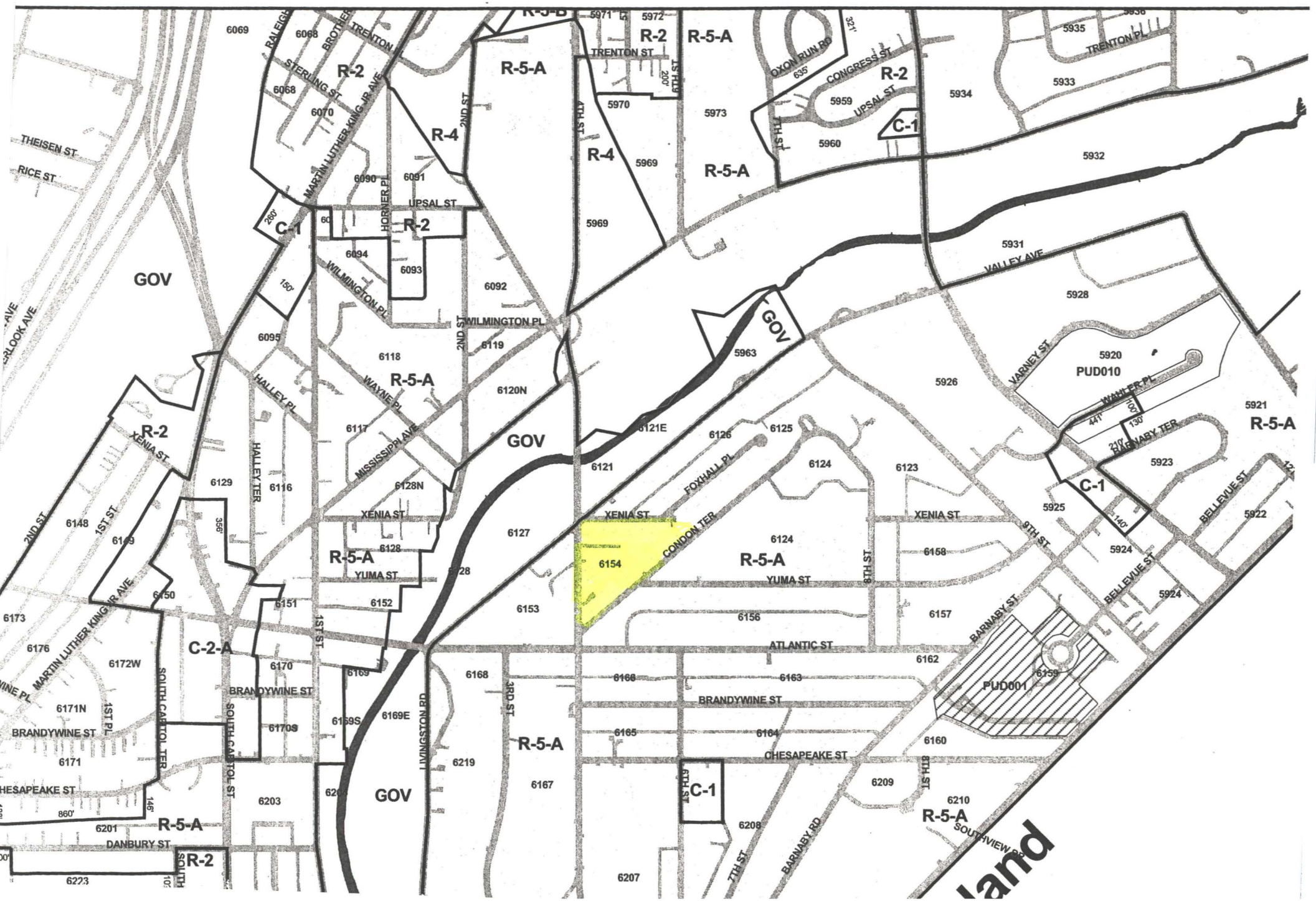
By _____
Norman M. Glasgow, Jr.

2099 Pennsylvania Avenue, NW,
Suite 100
Washington, D.C. 20006
(202) 955-3000

A


VALLEY
AVENUE
FOXHALL
PLACE
CONDON
TERRACE
6126
6125
XENIA
STREET
8TH
STREET
YUMA
ATLANTIC
4TH
STREET
6154
6156
805
68
65
57
58
59
817
118
119
120
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118
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78

B


R-2
R-5-A
R-4
C-1
C-2-A
GOV
PUD010
PUD001
TRENTON ST
UPSAL ST
WILMINGTON PL
XENIA ST
YUMA ST
ATLANTIC ST
BRANDYWINE ST
CHESAPEAKE ST
DANBURY ST
VALLEY AVE
TRENTON PL
CONGRESS ST
OXON RUN RD
THEISEN ST
RICE ST
HORNER PL
WILMINGTON PL
WAYNE PL
MISSISSIPPI AVE
HALLEY PL
HALLEY TER
FOXHALL PL
CONDON TER
VARNEY ST
WALKER PL
BARNABY TER
BARNABY ST
BELLEVUE ST
SOUTH CAPITOL TER
SOUTH CAPITOL ST
MARTIN LUTHER KING JR AVE
1ST ST
2ND ST
3RD ST
4TH ST
5TH ST
6TH ST
7TH ST
8TH ST
9TH ST
BRENTWOOD

C


ARON McCOMBS
TIONAL BUILDING
3924
PARAMOUNT BAPTIST CHURCH





D

OUTLINE OF TESTIMONY
REPRESENTATIVE OF APPLICANT
PARAMOUNT BAPTIST CHURCH

I. INTRODUCTION

II. HISTORY OF PARAMOUNT BAPTIST CHURCH AT SITE

III. OVERVIEW OF PARAMOUNT'S COMMUNITY MINISTRY AND PROGRAMS

IV. DISCUSSION OF EXISTING CONDITIONS AND LIMITATIONS

V. DESCRIPTION AND IMPORTANCE OF PROPOSED ADDITION

VI. VARIANCE RELIEF IS NEEDED

VII. CONCLUSION

E

OUTLINE OF TESTIMONY
JOHN W.G. ROSECRANS, AIA
DIMENSIONAL DYNAMICS ARCHITECTS AND PLANNERS, INC.

I. INTRODUCTION AND PROFESSIONAL QUALIFICATIONS

II. SITE AND LOCATION DESCRIPTION

- **A. OVERVIEW OF SITE, VICINITY AND LAND USE/ZONING**
- **B. SITE PLANNING – SIZE, LOT CONFIGURATION, TOPOGRAPHY**

III. PROJECT DESIGN

- **A. DESIGN CONSIDERATIONS**
- **B. REVIEW OF MASS AND HEIGHT OF BUILDING**
- **C. FLOOR PLANS**

IV. ZONING RELIEF IS NEEDED

V. CONCLUSION

F

Law Offices
HOLLAND & KNIGHT LLP

2099 Pennsylvania Avenue, N.W.
Suite 100
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Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17093
3924 4th Street, S.E.

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

December 16, 2003

I. Site location and description

A. Location

1. East side of 4th Street, between Valley Avenue and Condon Terrace, S.E., extending around to the north side of Condon Terrace east of 4th Street

2. Project site consists of lots 57, 58, 65, 68, 806 and 818 in Square 6154

3. Site located in the Oxon Run/Washington Highlands area

B. Size

1. Total site area is approximately 57,229 square feet

2. Through lot with frontage of approximately 267 feet on 4th Street and 221 feet on Condon Terrace

3. Frontage on a fifteen foot wide unimproved public alley on the north and east sides

4. Lot is irregularly shaped, comprised of a trapezoid and a rectangle joined at one corner

C. Existing site conditions:

1. 4th Street side

a. Three to four story church and educational building complex

b. Existing parking area

c. Vacant building at 3910 4th Street

2. Condon Terrace side

a. Existing parking area

b. Vacant building at 434-436 Condon Terrace

II. Description of surrounding area

A. Washington Highlands/Oxon Run area

B. Area contains mix of predominantly residential building types, detached and semidetached single family dwellings and low-rise apartments

C. Remainder of Square 6154

1. To the north: apartment buildings, detached and semi-detached single family dwellings fronting on Xenia Street

2. To the east: apartment building on Condon Terrace

3. To the south: apartment buildings and single family dwellings fronting on Condon Terrace

D. Uses to the south:

1. Highland Dwellings public housing project

2. Larger area is residential, predominantly multi-family dwellings

E. Uses to the east:

1. Washington Highlands Community School & playing fields

2. Larger area is residential, with both single and multi-family dwellings, including parts of the Highland Dwellings

F. Uses to the north:

1. One-family semi-detached dwellings along Xenia Street and Valley Avenue

2. Oxon Run

G. Uses to the west: mixed single-family and multifamily residential buildings

III. Existing zoning: R-5-A

A. Uses (§§350 - 361)

1. Single-family detached, semi-detached and row dwellings, flats and multiple dwellings permitted as a matter-of-right

2. New residential development, other than detached and semi-detached dwellings, permitted as a special exception

3. Church permitted as a matter-of-right

B. Height - maximum of 3 stories, 40 feet (§400.1)

C. Minimum lot width and area (§401.3): as prescribed by the Board

D. Maximum floor area ratio (§402.4): 0.9

E. Maximum percentage of lot occupancy (§403.2):

1. Churches and public schools: 60%

2. All other structures: 40%

F. Rear yard - minimum depth of 20 feet (§404.1)

G. Side yard (§405):

1. Not required

2. If provided, minimum of 3 inches per foot of height, not less than 8 feet

H. Parking for a church (§2101.1): one space for each ten seats of occupancy capacity in the main sanctuary

IV. Proposed development

A. Use: church

B. Gross floor area: approximately 52,544 square feet (0.92 FAR)

C. Height: 3 stories, 60 feet (new construction)

D. Parking: 63 off-street outdoor spaces at grade at the rear of the building and in a separate lot across 4th Street and two spaces in a garage with access from 4th Street

V. Relief required

A. Variance from the FAR requirements (§402.4)

1. Maximum permitted: 0.9 (51,506 square feet of gross floor area)

2. Proposed: 0.92 (approximately 52,544 square feet of gross floor area)

3. Variance: 0.02 (approximately 1,038 square feet)

B. Variance from the parking requirements

1. Minimum required: 90 spaces

2. Proposed: 65

3. Variance: 25 spaces

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. Lot is unusual configuration, two portions connected by a narrow slice

2. Additional parking area across 4th Street is also triangular in shape

3. Substantial change in grade from southeast to northwest

B. Practical difficulty

1. Change in grade causes space which would otherwise be below grade to be charged against FAR

2. Building is at minimum size necessary to serve the needs of the owner

3. Any further parking would have to be above or below grade and would be extraordinarily expensive and inefficient

C. No detriment to the public good

1. FAR variance is minimal (0.02 FAR)

2. Building bulk is not increased within the permitted height, lot occupancy and yard requirements

3. Parking requirement for increase in seating capacity is being met with 65 spaces

VIII. Conclusions

A. Site is subject to combination of exceptional and extraordinary conditions, because of the shape and topography

B. Strict application of Regulations would prevent Church from expanding to meet its operational and program needs

C. The variances can be granted without substantial detriment to any surrounding properties

D. The application should be granted

1403768_v1

G

ADVISORY NEIGHBORHOOD COMMISSION 8E
Congress Heights Station
Post Office Box 7050
Washington, DC 20032
(202) 562-7951
September 16, 2003

District of Columbia
ANC 8E

Sandra "S.S." Seegars, Chairperson (8E02)

C. Kenneth Johnson, Vice Chairperson and Secretary (8E06)

Adopted September 16, 2003

2003 OCT -6 PM 12:25
D.C. ZONING

ADVISORY NEIGHBORHOOD COMMISSION 8E

RESOLUTION 2003-11

Construction of Paramount Baptist Church

Whereas, Advisory Neighborhood Commission 8E has the authority to give recommendations for approval or disapproval to the Board of Zoning to persons requesting permits/licenses from the Board of Zoning; and

Whereas, Paramount Baptist Church is requesting a permit/licenses to build a new church; and

Whereas, Paramount Baptist Church is located at 3924 Fourth St., SE, within the boundaries of 8E; and

Whereas, the members of Paramount Baptist Church plan to build a new church and renovate the existing church; and

Whereas, within this new church will be a room to accommodate community meetings.

Therefore, be it resolved, that, Paramount Baptist Church has the support of Advisory Neighborhood Commission 8E, for the erection of a new church building at 4th Street/ Condon Terrace South East.

Officers/Commissioners:
Sandra "S.S." Seegars, Chairperson - SMD 8E02
C. Kenneth Johnson, Vice Chairperson and Secretary - SMD 8E06
Sandra "SV" Williams, Treasurer - SMD 8E07
Melvin Sims, Commissioner - SMD 8E04
Leon Swain Jr., Commissioner - SMD 8E05
Christopher Hawthorne, Commissioner - SMD 8E03