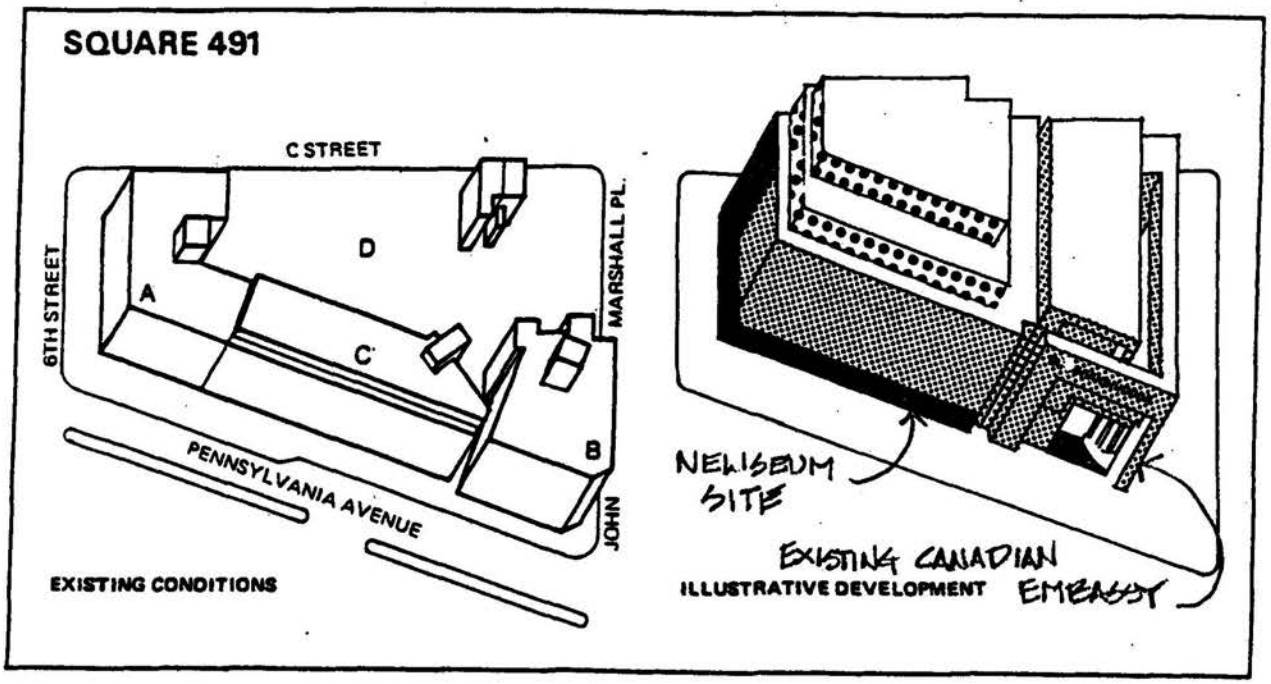
E

Board of Zoning Adjustment
District of Columbia
CASE NO. 17122
EXHIBIT NO. 26A2

PENNSYLVANIA AVENUE PLAN
DEVELOPMENT PLAN FOR SQ. 491 (1989)



SQUARE 491

Existing Conditions: This block contains three sizable buildings occupied by governmental and institutional uses, a substantial amount of vacant land and two small 19th century row houses that have no particular architectural merit. The western end of the block is occupied by the six-story District of Columbia Employment Security Building (A), which was erected in the early 1960's. The eastern end is occupied by an older six-story building (B), which is occupied by government offices, the District motor pool, and the USO. In between these buildings is another six-story structure (C) that is also used for District Government offices. Most of the vacant land is used for official District government parking (D).

Proposed Development: (Amended December 6, 1989.) Under the plan, the District of Columbia Employment Security Building on the western portion of the square would be replaced with a new building. Potential uses on the block would be a new hotel, office space, residential space, and ground floor retail space.

(Amended December 6, 1989.) Special attention will be directed to relating the design of the new building to the adjacent Canadian Embassy. Development of the new building shall respect and respond to the adjacent Canadian Embassy building, especially to the plane of the Embassy's Pennsylvania Avenue facade and its strong horizontal building lines at 80 and 95 feet. The maximum height of the building would be restricted to 110 feet; in

addition, a mechanical penthouse would be permitted to extend 18.5 feet above the maximum height of the building. The Pennsylvania Avenue facade of the new building shall maintain the same plane as the Pennsylvania Avenue facade of the Canadian Embassy; however, when the proposed design is presented, if the Board of Directors determines that there are sufficient design benefits, then a portion of the new building may extend into the area between the new building line and the Pennsylvania Avenue property line, provided such extension maintains an appropriate distance from the Canadian Embassy. The new building may extend to the C Street property line provided that an appropriate transition is made back to the plane of the C Street facade of the Canadian Embassy. Once development is complete, the block would contain 648,500 square feet of office space and 30,000 square feet of retail space (with up to 400 hotel rooms and/or residential space being permitted uses) totalling approximately 678,500 square feet above grade.

Amendments to the Pennsylvania Avenue Plan
For Square 491

1. Amendments to Section III of the November, 1990, Plan, the Block by Block Description of Development Plan:

Existing Conditions: This block contains three sizable buildings occupied by governmental and institutional uses, a substantial amount of vacant land and two small 19th century row houses that have no particular architectural merit. The western end of the block is occupied by the six-story District of Columbia Employment Security Building (A), which was erected in the early 1960's. The eastern end is occupied by an older six-story building (B), which is occupied by government offices, the District motor pool, and the USO. In between these buildings is another six-story structure (C) that is also used for District Government offices. Most of the vacant land is used for official District government parking (D).

Changed Conditions: The Canadian Embassy has been constructed on the eastern end of the block. The District of Columbia Employment Security Building has been demolished and the western end of the block is unimproved and used as a parking lot on an interim basis.

Proposed Development: (Amended December 6, 1989.) Under the plan, a new building will be built on the now vacant western portion of the square. Uses on the block would be office space for the Canadian Embassy, the Newseum, with associated retail space, offices for the Freedom Forum and a residential apartment component on the C Street side of the block.

Special attention will be directed to relating to the design of the new building to the adjacent Canadian Embassy. Development of the new building shall respect and respond to the adjacent Canadian Embassy building, especially to the plane of the Embassy's Pennsylvania Avenue façade and its strong horizontal building lines at 80 and 95 feet. The Pennsylvania Avenue façade of the new building may extend into the setback area established by the Canadian Embassy to the property line at the street. The new building must provide an appropriate transition from the wider setback to the normal sidewalk width in public space. The building may include a terrace facing Pennsylvania Avenue at a height of approximately 80 feet. The building, including shade structures or trellises

with open sides above the terrace, shall not exceed 95 feet in height for a depth of 50 feet from the Pennsylvania Avenue property line, except for roof structures which shall not exceed 105 feet. The roof structures on this roof shall not occupy more than ten percent of the roof area. The building shall not exceed 110 feet in height for a depth of between 50 feet and 100 feet from the Pennsylvania Avenue property line, except for roof structures which shall not exceed 115 feet. The roof structures on this roof shall not occupy more than ten percent of the roof area. The building shall not exceed a height of 140 feet for a depth of between 100 feet and 170 feet, except for roof structures which shall be permitted to extend 5 feet above the maximum height of the building. The roof structures on the highest roof shall not occupy more than twenty percent of the roof area. The portion of the building that extends for a depth of more than 170 feet from the Pennsylvania Avenue property line shall not exceed 127 feet, except for roof structures which shall not exceed 137 feet. The new building may extend to the C Street property line provided that an appropriate transition is made back to the plan of the C Street façade of the Canadian Embassy. Once development is complete, above ground the block would contain approximately 215,000 square feet of office space and accessory uses, 235,000 square feet of museum use including 30,000 square feet of retail space and 145,000 square feet of residential space totaling approximately 595,000 square feet above grade.

2. Amendments to the Square Guidelines, revised September 23, 1993:

C. SPECIFIC URBAN DESIGN AND PLANNING GUIDELINES

4. Uses

Square 491 shall be devoted to office use, including chanceries and international agencies, with ground floor retail, museum and residential uses.

Parcel B shall contain approximately 410,000 gross square feet above grade. The ground floor shall be primarily devoted to museum and retail uses that will encourage lively activities at the street level. Uses that generate a low level of activity or engage in business for a limited period of time during the day are discouraged along Pennsylvania Avenue. The museum and retail spaces on the ground level fronting on Pennsylvania Avenue shall be directly accessible from the Avenue.

...

5. Building Restriction Line and Sidewalk Setback

Building restriction lines are established as follows:

- Along the Pennsylvania Avenue and C Street frontages, the building restriction line shall be the property line.

- In accordance with the Building Code, architectural articulations, minor architectural embellishments, and canopies at ground level may project into the air space beyond the building restriction lines.

6. Build-to Line

Build-to lines are established at the following locations:

- Along Pennsylvania Avenue, with the design of the street wall taking into account the need to transition from the setback along the Canadian Embassy to the street wall established by 601 Pennsylvania Avenue to the west.

- Along the entire length of C Street, provided that an arcade of approximately seven feet may be provided on the first floor.

- Along the entire length of the east property line of Parcel B, next to the Canadian Embassy from the ground level to the 80-foot height level. Above 80 feet, new construction must be setback a minimum of 25 feet to articulate the strong horizontal line created by the Canadian Embassy at this height. Above 80 feet, the C Street residential wing shall be set back a minimum of 15 feet next to the Canadian Embassy.

The treatment of the building and site at the ground level will firmly delineate the 6th Street building line through streetscape features along the building line and in the open courts created by the entrances. The treatment of the building line at grade and the architectural character of the entrances and open courts shall be lively and encourage pedestrian activity, and be well integrated with the design of the building.

Establishment of a build-to line does not imply a corresponding required height of development, except where a build-to height is specified. Variations in the street façade above the ground level to articulate the scale of development, to establish a rhythm along the façade, or to allow for rooftop amenities, are encouraged as long as the sense of a continuous spatial enclosure is maintained.

7. Height of Development

...

For Parcel B, the building may include a terrace facing Pennsylvania Avenue at a height of approximately 80 feet. The building, including shade structures or trellises with open sides above the terrace, shall not exceed 95 feet in height for a depth of 50 feet from the Pennsylvania Avenue property line, except for roof structures which shall not exceed

105 feet. The roof structures on this roof shall not occupy more than ten percent of the roof area. The building shall not exceed 110 feet in height for a depth of between 50 feet and 100 feet from the Pennsylvania Avenue property line, except for roof structures which shall not exceed 115 feet. The roof structures on this roof shall not occupy more than ten percent of the roof area. The building shall not exceed a height of 140 feet for a depth of between 100 feet and 170 feet, except for roof structures which shall be permitted to extend 5 feet above the maximum height of the building. The roof structures on the highest roof shall not occupy more than twenty percent of the roof area. The portion of the building that extends for a depth of more than 170 feet from the Pennsylvania Avenue property line shall not exceed 127 feet, except for roof structures which shall not exceed 137 feet. New development exceeding the 80-foot height of the Canadian Embassy must be designed with great sensitivity.

8. Build-to Height

...

Parcel B is subject to a build-to height along the Pennsylvania Avenue property line of approximately 80 feet that is consistent with the lower cornice line of the Canadian Embassy, which is approximately 80 feet high.

9. Roof Structures

...

All permanent roof structures shall be set back a distance equal to their respective heights from the edges of the roofs that front on all streets.

10. Pedestrian Features

Weather protection is to be considered along Pennsylvania Avenue and the side streets.

13. Off-street loading

Each development is permitted a single access for off-street loading. Any loading berth that abuts any sidewalk shall be designed so as to minimize adverse visual impacts on the street. The hours when the bay doors of the loading dock will be open shall be limited. Trucks may not park on the sidewalk but must pull directly into the loading berths inside the bays.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Square Guidelines

Square 491

Richard A. Hauser, Chairman
Revised September 22, 1993
(Originally issued July 23, 1980)

SQUARE GUIDELINES: SQUARE 491

Along with The Pennsylvania Avenue Plan--1974 and its amendments, the General Guidelines, and other adopted policies, programs, regulations, and guidelines, these Square Guidelines will control development on Square 491 and form the basis for the PADC Board of Directors to grant preliminary approval to development proposals and for the Chairman to grant final approval to development proposals, as outlined in the Development Policies and Procedures.

CONTENTS:

A. Introduction

B. Planning and Urban Design Objectives

C. Specific Urban Design and Planning Guidelines

1. Coordinated Planning Area
2. Development Parcels
3. Comprehensive Planning and Design
4. Uses
5. Building Restriction Line and Sidewalk Setback
6. Build-to Line
7. Height of Development
8. Build-to-Height
9. Roof Structures
10. Pedestrian Features
11. Subsurface Restrictions
12. Curb Cuts
13. Off-Street Loading
14. Special Design Requirements

SQUARE GUIDELINES: SQUARE 491

A. INTRODUCTION

Square 491 is bounded by John Marshall Park, Pennsylvania Avenue, C Street, and 6th Street. It is one of the squares on the eastern boundary of the Pennsylvania Quarter neighborhood, which is becoming a new residential community in the heart of Washington's downtown. The establishment of this residential community is one of the important objectives of the Plan. Square 491 has two parcels, A and B. Parcel A, the eastern half of the square is occupied by the Canadian Embassy, built in accordance with the PADC Square Guidelines. Parcel B currently has a District of Columbia four-story office building slated for demolition.

B. PLANNING AND URBAN DESIGN OBJECTIVES

Square 491 occupies a critical location i
intersection of Pennsylvania Avenue and Constitution Avenue. It is also located adjacent to an important L'Enfant Plan vista along the axis of John Marshall Place, now known as John Marshall Park. New development on this square must be designed with great care and creativity to respect and enhance the qualities of the physical setting created by the confluence of these two streets and John Marshall Park.

Along the axis of Pennsylvania Avenue, Square 491 is the first block along the processional route from the Capitol to the White House to establish the diagonal building line on the north side of the Avenue. Therefore, new development on the square must maintain the continuity of the Avenue facade and be compatible in scale with the buildings on Pennsylvania Avenue.

Because of the large open area at the intersection of Pennsylvania and Constitution Avenues, development on Square 491 will also be highly visible from Constitution Avenue. The design of new development should recognize the importance of the vistas along both Constitution and Pennsylvania Avenues.

The new development on Square 491 must be designed so that it provides a gradual transition in scale and character from the monumental buildings and spaces of the Mall and the John Marshall Park axis to the smaller-scaled residential and commercial areas of the Historic Preservation Zone, beginning immediately to the west on Squares 459 and 460, in the Pennsylvania Quarter neighborhood. Development on Square 491 should include active uses that are adjacent to the sidewalk setback area in order to encourage pedestrian movement between the National Gallery and the retail and arts uses in the Pennsylvania Quarter neighborhood. Retail uses should provide

services to residents, tourists, and office workers alike, and should also be planned with consideration given to the proximity of Square 491 to the National Gallery and the emerging arts community along 7th Street.

The new building on Parcel B should respect and respond to the adjacent Canadian Embassy, especially to the plane of the Embassy's Pennsylvania Avenue facade and its horizontal building lines.

C. SPECIFIC URBAN DESIGN AND PLANNING GUIDELINES

1. Coordinated Planning Area

The coordinated planning area is comprised of Square 491 and adjacent sidewalk areas.

2. Development Parcels

Square 491 shall be developed as no more that two development parcels as follows:

- Parcel A - That portion of Square 491 east of a north-south line established 289 feet east of the 6th Street right-of-way line, but not including the Pennsylvania Avenue and John Marshall Park setbacks. (Land owned by the Canadian Government, as shown in Diagram 1.)
- Parcel B: The remainder of Square 491 west of Parcel A.

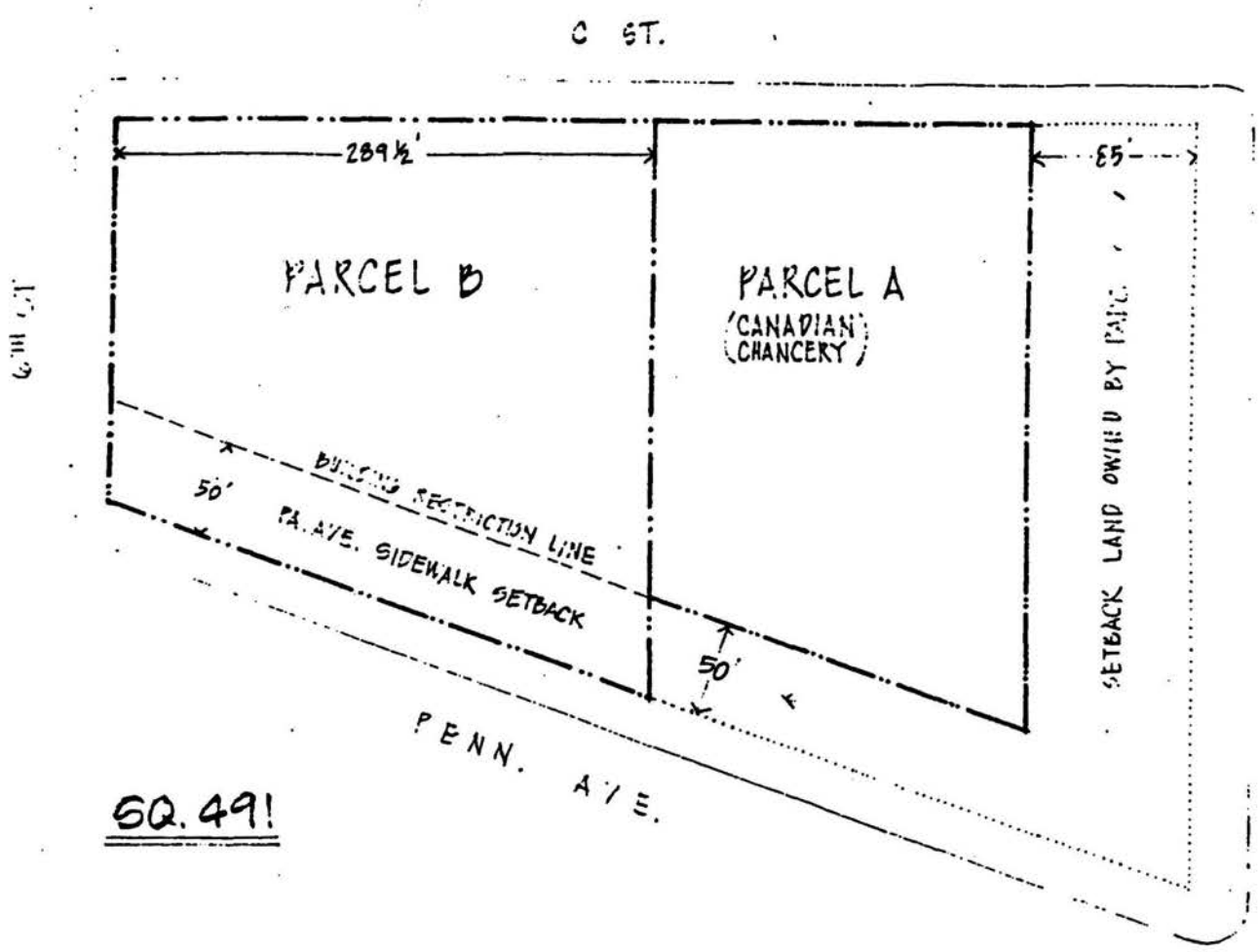
3. Comprehensive Planning and Design

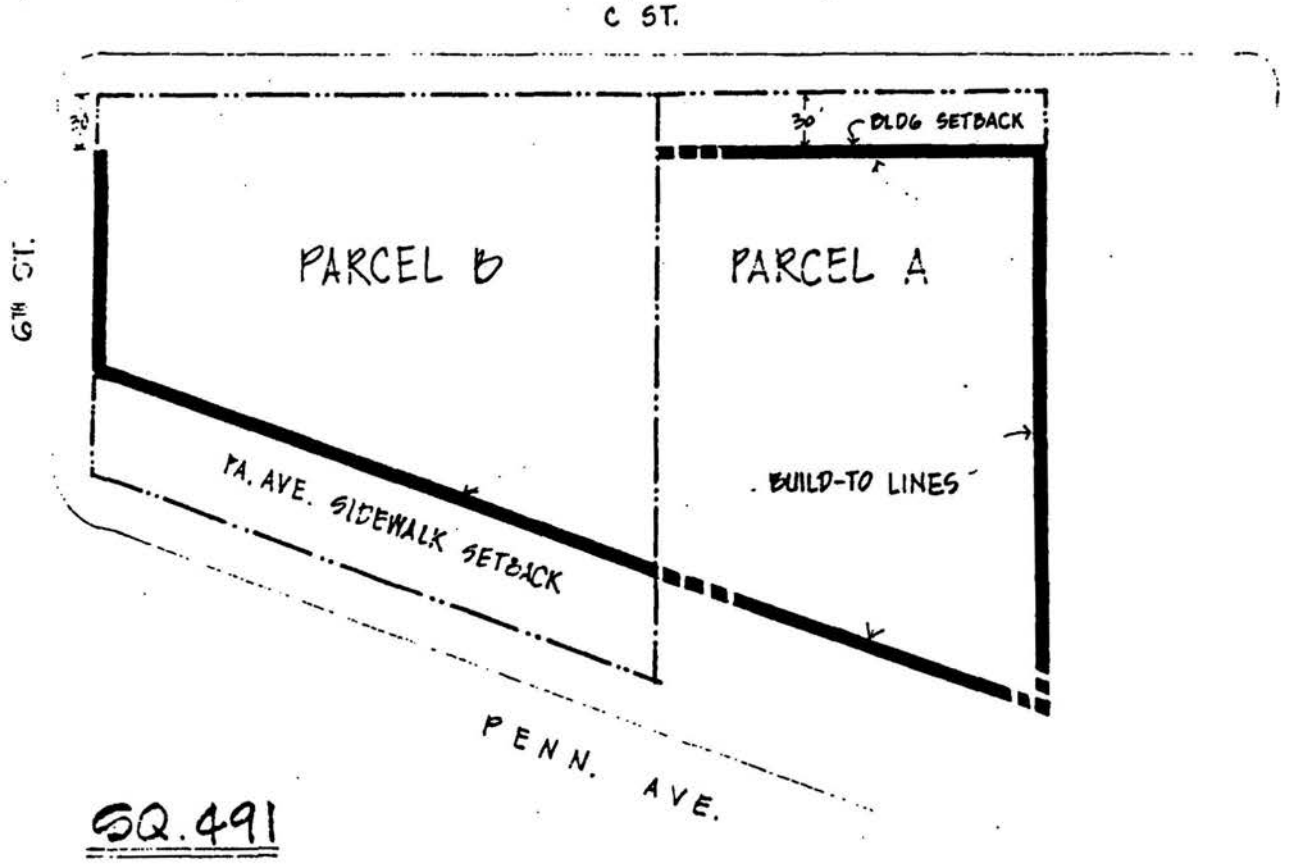
Development on Square 491 shall be coordinated with the Corporation's overall treatment of John Marshall Park and Pennsylvania Avenue, and shall take into account existing buildings as well as developments anticipated by The Plan on the surrounding squares.

4. Uses

Square 491 shall be primarily devoted to office use, including chanceries and international agencies, with ground floor retail; hotel and residential uses are also permitted.

Parcel B shall contain approximately 450,000-477,000 gross square feet above grade within the Allowable Building Zone and Pennsylvania Avenue setback areas as described in Sections 5 through 8. The ground floor shall be primarily


C ST.
289½'
65'
PARCEL B
PARCEL A
(CANADIAN CHANCERY)
BUILDING RESTRICTION LINE
50'
PA. AVE. SIDEWALK SETBACK
50'
SETBACK LAND OWNED BY PARC
PENN. AVE.
SQ. 491


C ST.
30'
30'
BLDG SETBACK
PARCEL B
PARCEL A
BUILD-TO LINES
PA. AVE. SIDEWALK SETBACK
PENN. AVE.
SQ. 491

devoted to retail, entertainment, restaurant, and institutional uses that will encourage lively activities at the street level. Uses that generate a low level of activity or engage in business for a limited period of time during the day are discouraged along Pennsylvania Avenue. Retail spaces on the ground level fronting on Pennsylvania Avenue shall be directly accessible from the Avenue.

Off-street, below-grade parking, adequate to serve all uses is required to service the entire square. In determining the amount of parking provided, developers shall consider the following factors:

a. The Corporation's Environmental Impact Assessment recommends several mitigating measures to ensure an adequate parking supply. The Corporation will review each development project to determine the potential to provide additional levels of off-street parking. Developers are encouraged to institute measures to ensure maximum utilization of parking facilities, including joint use arrangements and special rates for car pools and van pools.

b. The parking policy described in the Plan and the General Guidelines establishes the maximum amount of parking allowed in the area as a whole. The policy is designed to maintain acceptable air quality, to encourage use of Metrorail, and to support the economic viability of development projects.

c. Limitations on on-street parking in the downtown area will make it more difficult than in established residential areas for residents to find on-street parking.

d. The area is well served by Metrorail, with the stations located at Archives/Navy Memorial and Gallery Place/Chinatown. Vehicular access is not permitted from 6th Street and Pennsylvania Avenue. A single access for off-street parking is permitted for each development.

5. Building Restriction Line and Sidewalk Setback

Building restriction lines are established as follows:

. Along the entire Pennsylvania Avenue frontage, a building restriction line is established 50 feet north of the Avenue right-of-way line, measured perpendicular to the right-of-way line. If the Board of Directors determines that there are sufficient design benefits, then a portion of the new building may extend into the area between the new building line and the Pennsylvania Avenue property

line, provided that an appropriate transition is made back to the plane of the facade of the Canadian Embassy.

- Along the C Street frontage of Parcel B, a building restriction line is established 30 feet south of the right-of-way line, except for the transition area where the building shall be designed to relate to the entrance to the District Court Building on the north side of C Street.

- Architectural articulations, minor architectural embellishments, and canopies at ground level may project into the air space beyond the building restriction lines.

6. Build-to Line

Build-to lines are established at the following locations:

- Along the entire length of the Pennsylvania Avenue.

- Along the entire length of the C Street building restriction line, except on Parcel B for the transition area defined by the entrance to the District Court Building on the north side of C Street.

- Along the 6th Street right-of-way line between the Pennsylvania Avenue building restriction line and a point 30 feet south of the C Street right-of-way line.

- Along the entire length of the east property line of Parcel B, next to the Canadian Embassy from the ground level to the 80-foot height level. Above 80 feet, new construction must be setback a minimum of 55 feet to articulate the strong horizontal line created by the Canadian Embassy at this height.

Establishment of a build-to line does not imply a corresponding required height of development, except where a build-to height is specified. Variations in the street facade above the ground level to articulate the scale of development, to establish a rhythm along the facade, or to allow for rooftop amenities, are encouraged as long as the sense of a continuous spatial enclosure is maintained.

7. Height of Development

For Parcel A, the maximum height of development shall be the upper cornice line of the U.S. District Courthouse, which is approximately 90 feet.

For Parcel B, the maximum height of development shall be the maximum permitted under D.C. Zoning Regulations, but no

greater than 110 feet measured from the Pennsylvania Avenue curb. However, new development exceeding the 80-foot height of the Canadian Embassy must be designed with great sensitivity.

Unoccupiable attic space created by mechanical rooms, sloped roofs, elevator penthouses, or fire stairs would be permitted to extend 18.5 feet above the maximum height of the building within the prescribed setback zone.

8. Build-to Height

For Parcel A, along the entire length of the Pennsylvania Avenue and John Marshall Park build-to lines, development is subject to a build-to height equal to the lower cornice line of the U.S. District Courthouse, which is approximately 65 feet.

For Parcel B, along the entire length of Pennsylvania Avenue and the build-to lines, development is subject to a build-to height that is the lower cornice line of the Canadian Embassy, which is approximately 80 feet high.

9. Roof Structures

Wherever possible, roof structures should be located so that they are not visible form the street. All roof structures should be attractively designed as integral parts of the overall building composition. The designer should treat roof structures as positive elements in terms of the building massing and architectural expression, rather than attempting to meet only the minimum requirements specified in the D.C. Zoning Regulations. Roof structures should maintain the same quality of materials, design interest, and architectural detail as other parts of the building facade.

All permanent roof structures shall be set back twice their respective heights from the edges of the roof that fronts on all streets.

Roof structures shall comply with the District of Columbia Zoning Regulations.

10. Pedestrian Features

Weather protection is to be considered along Pennsylvania Avenue and the side streets. If a proposal includes a major encroachment into the Pennsylvania Avenue setback, a pedestrian arcade may be considered at ground level.

Sidewalks on 6th and C Streets shall be consistent with the Corporation's Side Street Improvements Program.

11. Subsurface Restrictions

Vaults are permitted under public rights-of-way. Vault locations and configurations shall be consistent with the Corporation's Public Improvements Program, Side Street Program, and other applicable plans and programs.

Vaults may extend up to 12 feet from the lot line, but not within 20 feet of the Pennsylvania Avenue curb or 10 feet of the other curbs. Vaults between the Pennsylvania Avenue building restriction line and the Pennsylvania Avenue curb must be at least seven feet below the sidewalk.

Electrical transformer vaults are prohibited within the Pennsylvania Avenue sidewalk, sidewalk setback, and John Marshall Park setback areas. Where possible, all connections to water, gas, electric, telephone, and sewer lines shall be from C Street or 6th Street.

12. Curb Cuts

Curb cuts are permitted only on C Street. The number of curb cuts shall be limited to the minimum as prescribed in the District of Columbia Zoning Regulations.

13. Off-Street Loading

Each development is permitted a single access for off-street loading. No loading berth shall abut any sidewalk.

14. Special Design Requirements

As stated under the Planning and Urban Design Objectives above, the development on Parcel B will play a very important role in defining space at the confluence of Pennsylvania Avenue and Constitution Avenue.

The architect of any development team is expected to work closely with the staff of the Corporation during the design phase of the project. Although all elements of the design for the building exterior and the interior public spaces will be subject to the Corporation's review, the following elements are considered especially important:

. The building footprint and massing;

- The facades along Pennsylvania Avenue and John Marshall Park, particularly with regard to cornices, edges, entrances, and other features of the street level frontages;

- The building configuration at the corner of Pennsylvania Avenue and 6th Street, which will provide a visual anchor and architectural transition from the Canadian Embassy to the building at 601 Pennsylvania Avenue;

- The facades along 6th and C Streets;

- The treatment of any exposed walls along the lot line separating Parcels A and B;

- The transition from a lower height on Parcel A to any proposed higher heights on Parcel B;

- The portion of any proposed development above 80 feet;

- The pedestrian environment created at the ground level by the arrangement of uses and the physical setting along John Marshall Park and all streets, particularly Pennsylvania Avenue;

- The relationship to and coordination with public improvements along Pennsylvania Avenue and John Marshall Park;

- The retail plan;

- The coordination of office, retail, and service uses;

- Awnings, canopies, or other means of weather protection;

- Any interior court or atrium provided;

- Structures and planting incidental to rooftop use;

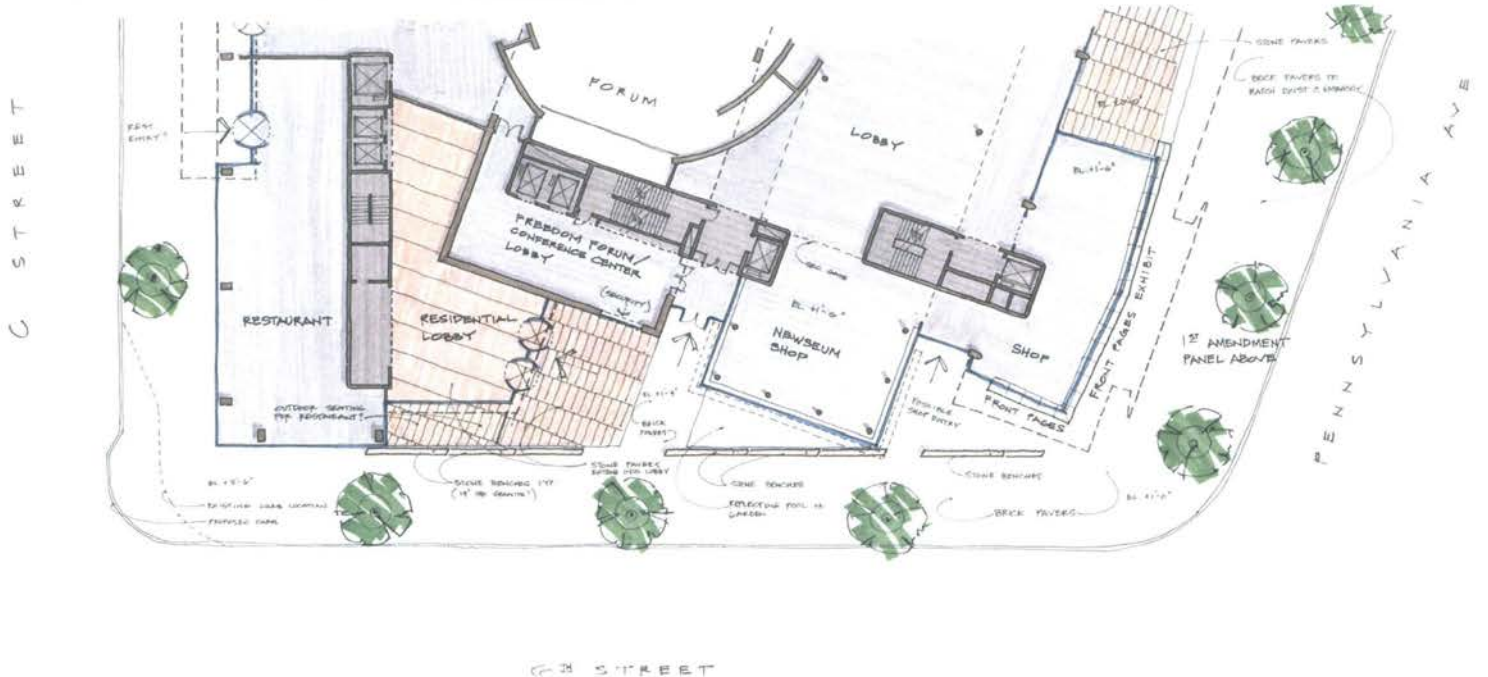
- Location of rooftop mechanical equipment areas; and

- Access to off-street parking and loading.

F

6th Street

Ground Floor Partial Plan



6th Street

Street Level View



The Building



NEWSEUM

POLSHEK PARTNERSHIP ARCHITECTS

The Building



NEWSEUM

POLSHEK PARTNERSHIP ARCHITECTS


CONGRESS SHALL MAKE NO LAW
RESPECTING AN ESTABLISHMENT
OF RELIGION, OR PROHIBITING
THE FREE EXERCISE THEREOF; OR
ABRIDGING THE FREEDOM OF
SPEECH, OR OF THE PRESS; OR
THE RIGHT OF THE PEOPLE
PEACEABLY TO ASSEMBLE, AND
TO PETITION THE GOVERNMENT
FOR A REDRESS OF GRIEVANCES.
NEWSEUM



G

Government of the District of Columbia
Advisory Neighborhood Commission 6C

February 13, 2004

Ms. Jerrily R. Kress, Director
Board of Zoning Adjustment
One Judiciary Square
Suite 210 South
441 Fourth Street N.W.
Washington, D.C. 20001

Re: Application No. 17122, hearing date March 9, 2004

Dear Ms. Kress:

The following resolution was approved at the February 11, 2004, ANC 6C full-commission monthly meeting.

Whereas, the Newseum's Application No. 17122 requests relief from the BZA to permit the construction of a mixed-use project on lots 826 and 831 in Square 491, consisting of the Newseum and supporting accessory use, other independent retail uses on the first floor, offices for the Freedom Forum, an apartment house of approximately 126 units and associated off-street parking and loading; and

Whereas, to construct the building as proposed, the Applicant requires a special exception under Section 411.11 of the Zoning Regulations to have multiple roof structures, roof structures with walls of unequal height and roof structures which do not meet some of the setback requirements; and

Whereas, to construct the building as proposed, the Applicant requires variances from the requirement regarding minimum width of open courts, the requirement that seventy-five percent of the street wall of the building be built to within four feet of the property line and the prohibition against arcades in the Downtown Development District;

Whereas, the Applicant has demonstrated that it met the requirements for the granting of the special exception and three variances; and

Whereas, the ANC has determined that the Newseum project as designed is an exciting project and that strict compliance with the Zoning Regulations would require significant alterations to the design and would not be beneficial; and

Whereas, the design as proposed has received conceptual approval from the Commission of Fine Arts and is consistent with the revised guidelines and requirements of the Pennsylvania Avenue Plan; and

Whereas, the Newseum project will have substantial benefits for the city as a whole and for the neighborhood in which it is located, which is part of the area included in ANC 6C; and

Whereas, the ANC heard no opposition to the application before the BZA from persons present at its meetings; and

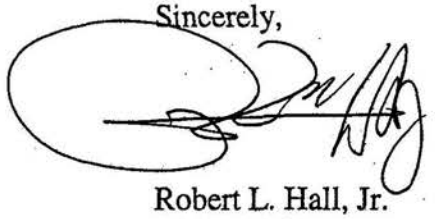
Whereas, ANC 6C, at its meeting held on February 11, 2004, with seven members present and five members constituting a quorum, voted unanimously to accept the recommendation of the Committee;

Now, therefore, for the reasons set forth above, be it resolved that ANC 6C does hereby advise the D.C. Board of Zoning Adjustment that it supports BZA Case No. 17122, allowing for the construction of the Newseum project, which requires:

- A special exception from the roof structure requirements (§411);
- A variance from the width of court requirements (§776.1);
- A variance from the arcade requirements of the Downtown Development District (§1701.2); and
- A variance from the street wall requirements of the Downtown Development District (§1701.3).

Please contact Commissioner Charles Docter, chairman of our ANC 6C Zoning and Planning Committee, if you need more information. He can be reached at docter@erols.com.

Sincerely,



Robert L. Hall, Jr.
ANC 6C Chairman

H

THE FREEDOM FORUM
NEWSEUM APPLICATION

OUTLINE OF TESTIMONY OF
PETER PRICHARD, THE FREEDOM FORUM

I. Introduction

- A. The Newseum
- B. Selection of Site

II. Development Goals

- A. Newseum museum, including accessory retail, assembly and office uses
- B. Other ground floor retail
- C. Offices for the Freedom Forum
- D. Apartment house – 126 units

III. Community Involvement

- A. Initial Contact and Continuing Dialog with Community
- B. Grant to District for Affordable Housing
- C. Support from Various Agencies
  1. ANC
  2. NCPC
  3. HPRB

IV. Conclusion

I

THE FREEDOM FORUM
NEWSEUM APPLICATION

OUTLINE OF TESTIMONY OF
JOSEPH FLEISCHER, POLSHEK PARTNERSHIP ARCHITECTS

I. Introduction

II. Project Description

B. Design goals

C. Design Constraints

1. Shape of Site
2. Pennsylvania Avenue Plan
3. Uses within of facility
4. Surrounding monumental buildings

D. Description of Project Design

III. Conclusion

J

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*Holland & Knight LLC
**Representative Office

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17122
555 Pennsylvania Avenue, N.W.

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

March 9, 2004

I. Site location and description

A. Location

1. Northeast corner of the intersection of Pennsylvania Avenue and 6th Streets, N.W., with frontage on C Street as well

2. Project site consists of lots 826 and 831 in Square 491

3. Site located in the Penn Quarter area of Downtown

B. Size

1. Total site area is approximately 72,678 square feet

2. Trapezoidal shaped site with frontage of approximately 300 feet on Pennsylvania Avenue, 200 feet on 6th Street and 290 feet on C Street

C. Existing site condition: used as temporary surface parking lot pursuant to BZA Order No. 16870

II. Description of surrounding area

A. Penn Quarter area of Downtown across from and in the vicinity of the Mall (see attached aerial photo)

B. Area contains mix of uses and building types, including government, institutional and predominantly high-rise private buildings devoted to office, retail and residential use

C. Remainder of Square 491 to the east: Canadian Embassy at 501 Pennsylvania Avenue

D. Uses to the south:

1. Mellon Fountain (National Park Service land)

2. National Gallery of Art at 600 Constitution Avenue

3. National Mall

E. Uses to the east:

1. John Marshall Park

2. U.S. District Courthouse at 301 Constitution Avenue

3. Municipal Center at 300 Indiana Avenue

F. Uses to the west:

1. Office building with ground floor retail at 601 Pennsylvania Avenue (north side of Pennsylvania Avenue west of 6th Street)

2. The Pennsylvania apartment house at 601 Pennsylvania Avenue (south side of Indiana Avenue west of 6th Street)

3. Penn Quarter area of downtown

G. Uses to the north:

1. H. Carl Moultrie I Courthouse at 500 Indiana Avenue

2. Judiciary Square area

III. Existing zoning: DD/C-4

A. Uses (§§750 – 756)

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

2. Museum

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

B. Height – maximum of 130 feet (§770.4)

C. Density – maximum of 10.0 FAR (§771.2)

D. Percentage of lot occupancy – maximum of 100% (§772.1)

E. Residential recreation space – minimum of 5% of the gross floor area devoted to residential use (§773.3)

F. Rear yard – minimum of 2½ inches per foot of height, but not less than 12 feet (§774.11)

G. Side yard - not required (§775.5)

H. Parking (§2101.1):

1. Office use: minimum of 1 space for each 1,800 square feet of gross floor area in excess of 2,000 square feet

2. Retail use: minimum of 1 space for each 3,000 square feet of gross floor area in excess of 30,000 square feet

3. Places of public assembly: none required

4. Apartment house use: minimum of 1 space for each 4 dwelling units

I. Loading (§2201.1):

1. Office use with less than 30,000 square feet of gross floor area: none required

2. Retail use with less than 8,000 square feet: none required

3. Apartment house with 50 or more dwelling units: 1 55 foot berth and 1 service/delivery loading space

4. Other uses (Newseum) with more than 100,000 square feet of gross floor area: 1 30 foot berth, 1 55 foot berth and 1 service/delivery loading space

J. 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 (§1700.5)

2. Height is maximum permitted under the Act of 1910 (160 feet for subject site) (§1701.7)

3. Housing Priority Area C

   a. No maximum FAR for residential uses (§1706.7(b))

   b. Minimum of 2.0 FAR required to be devoted to residential use (8.0 FAR available for commercial) (§1706.6)

   c. Additional 0.5 commercial FAR available through transferable development rights (§1706.7(a))

   d. Cannot use combined lot development (i.e., residential uses must be built on-site) (§1706.22)

4. Area-wide design standards

   a. Open arcades required to extend the full length of an entire block frontage (§1701.2)

   b. Not less than 75% of streetwall to a height of 15 feet must be within 4 feet of the property line abutting a street (§1701.3)

IV. Zoning history

A. Property was unzoned in 1958 as a Federal/District public building (the Department of Employment Services) but shown on the Zoning Map as C-3-B

B. Redesignated C-3-C in 1980

C. Rezoned to DD/C-4 in 1998 (Zoning Commission Case No. 97-14Z, Order No. 860, dated October 19, 1998, effective October 30, 1998)

V. Pennsylvania Avenue Plan

A. Site was under jurisdiction of the Pennsylvania Avenue Development Corporation (PADC)

B. When PADC was dissolved, responsibilities were transferred to and divided among the General Services Administration, National Park Service and National Capital Planning Commission (NCPC)

C. Zoning Regulations (§2518) requires approval and certification from PADC that construction is consistent with implementation of the Pennsylvania Avenue Plan

D. NCPC now has the responsibility to determine compliance with the Plan

E. Original Plan did not contemplate a museum on the subject property

F. GSA, NPS and NCPC approved amendments to the Plan in 2003 to provide for and allow the subject project as now proposed

VI. Proposed development

A. Uses:

1. Museum (Newseum), including accessory retail, assembly and office uses

2. Independent ground floor retail uses

3. Offices for the Freedom Forum

4. Apartment house of approximately 126 units

B. Maximum gross floor area of approximately 411,413 square feet (5.66 FAR)

C. Height: maximum of twelve stories, maximum of 134 feet, 1½ inches

D. Parking: approximately 200 spaces on two levels with access from C Street

E. Loading with access from C Street:

1. 2 55 foot berths

2. 2 30 foot berths

3. 1 service/delivery loading space

I. Relief required

A. Special exception for roof structures (§411.11)

1. Setback

2. Multiple enclosures

3. Walls of unequal height

B. Variance from the width of open court requirements (§776.1)

1. Court A (between the first and second bars on 6th Street):

a) Minimum width required: 18.89 feet

b) Proposed: 12 feet

c) Variance: 6.89 feet

2. Court B (between the second and third bars on 6th Street):

a) Minimum width required: 35.9 feet

b) Proposed: 22 feet, 4 inches

c) Variance: 13.57 feet

3. Court C (over the parking entrance on C Street)

a) Minimum width required: 25.94 feet

b) Proposed: 19.5 feet

c) Variance: 6.44 feet

C. Variance from the streetwall requirements (§1701.3)

1. Required: not less than 75% to a height of 15 feet must be within four feet of the lot line

2. Proposed:

a) Pennsylvania Avenue: 0%

b) 6th Street: 35%

c) C Street: 69%

3. Variance

a) Pennsylvania Avenue: 100%

b) 6th Street: 53%

c) C Street: 8%

D. Variance from the arcade requirements (§1701.2)

1. Required: must run the entire length of the square or connect to an arcade in an adjoining building

2. Proposed: 7 foot, 4 inch recess on the first floor of the building for a distance of 99 feet adjacent to the group entrance on C Street

3. Variance: remaining 191 feet on C Street

VII. Standards for the roof structure special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

VIII. Compliance with the special exception standards for roof structure

A. Size of building lot and other conditions:

1. Building is a multi-function, mixed use building, in large part devoted to a particular semi-public use

2. Design is thematic reflection of pages of newspaper, so the "bars" or "pages" have different characters and different heights

3. Requirements of the Pennsylvania Avenue Plan as amended set conditions for heights and roof structures, all of which are met by the proposed design

4. Differing heights make it impossible to place all roof structures in a single enclosure

5. Residential mechanical equipment is kept separate from the equipment for the remainder of the building

B. Unduly restrictive and unreasonable

1. Elevators and stair towers are necessary for vertical circulation through the building

2. Roof structures are integral part of design

C. Impact on light and air of other buildings

1. Roof structure is setback from exterior walls by substantial distances on all sides (more than 25 feet on the north, 15 to 38 feet on the west, more than 28 feet on the south and 23 to 42 feet on the east)

2. Site is bordered by three streets

3. Other than for residential bar, which is not the highest point of the project, mechanical equipment is located on lower roofs behind parapets

4. Other agency approvals

II. 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.

III. Compliance with the variance standards

A. Exceptional or extraordinary situation or condition

1. Shape of the site

2. Program requirements for the multi-function use

3. Requirements of the Pennsylvania Avenue Plan

4. Configuration and locations of adjacent buildings

B. Practical difficulty

1. Complying courts would result in substantial redesign of concept (diagonal bars meeting orthogonal grid)

2. Provisions are at odds with one another (e.g., streetwall requirements vs. size of courts)

3. No way to comply and meet requirements of Pennsylvania Avenue Plan to make the transition from the Canadian Chancery to 601 Pennsylvania Avenue

C. No detriment to the public good

1. Consistent with Pennsylvania Avenue Plan

2. Approved by General Services Administration, National Park Service, National Capital Planning Commission and Commission of Fine Arts

3. Use in and of itself will create substantial animation of the street

IX. Conclusions

A. Property is affected by a combination of exceptional and extraordinary conditions, including shape of site and design constraints imposed by the Pennsylvania Avenue Plan

B. Strict application of Zoning Regulations will create practical difficulties for owner, as approved design of project cannot meet a limited number of technical requirements

C. Project will be substantial improvement of area, replacing temporary parking lot with vibrant, active use

D. Roof structures are integral part of design of overall project

E. Support for design from reviewing agencies

F. The application should be granted

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