Holland Knight

Tel 202 955 3000
Fax 202 955 5564

Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006
www.hklaw.com

October 12, 2004

NORMAN M. GLASGOW, JR.
202-419-2460

Internet Address:
nglasgow@hklaw.com

VIA HAND DELIVERY

D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA Case No. 17224
Pre-Hearing Submission

Dear Members of the Board:

On behalf of the applicant, JPI Apartment Development, L.P., I enclose an original and twenty (20) copies of the pre-hearing submission for the above-referenced matter.

Please do not hesitate to contact me should you have any questions or comments.

Very truly yours,

HOLLAND & KNIGHT LLP

Norman M. Glasgow, Jr.

Enclosures

cc: Joel Lawson, Office of Planning (via Hand Delivery, with attachments)

2317113_v1

BZA
Case No. 17224
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO. 17224
EXHIBIT NO. 24

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

JPI APARTMENT DEVELOPMENT, L.P.

ON BEHALF OF

FATHER FLANAGAN'S BOYS HOME, ET AL

BZA APPLICATION NO. 17224

PUBLIC HEARING: OCTOBER 26, 2004

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of JPI Apartment Development, L.P.

BZA Application No. 17224
Public Hearing: October 26, 2004

ANC 6B

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR §3103 for 1) variance relief from lot occupancy requirements applicable to residential uses (§772); and 2) variance relief from the residential recreation space requirements (§773). This relief is requested in order to permit the construction of a five-story mixed-use residential project that will include a ground level grocery store with approximately 46,000 square feet, 247 multi-family residential units, and approximately 5,000 square feet of additional retail at Pennsylvania and Potomac Avenues, S.E. (Square 1045, Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839) (the "Property"). The Property is located in a C-2-B Zoning District.

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.

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 Property highlighted in yellow.

Exhibit B: A portion of the Zoning Map showing the Property highlighted in yellow, with zoning designation of C-2-B

Exhibit C: Outline of testimony of Representative of JPI Apartment Development, L.P., Applicant.

Exhibit D: Outline of testimony of Representative of SK&I, Architects.

Exhibit E: Outline of testimony of Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP.

Exhibit F: Revised and updated portions of the architectural plans.

IV.
BACKGROUND

A. Site and Vicinity Characteristics

1. The Property

The Property includes Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839 in Square 1045 and is occupied by four vacant buildings that were previously proposed to be used as homes for children by Girls and Boys Town and two non-residential townhouses. The Property includes 95,047 square feet of land area and has approximately 501 feet of frontage on Potomac Avenue and approximately 327 feet of frontage on Pennsylvania Avenue. Square 1045 is bounded by Pennsylvania Avenue, SE on the north, Potomac Avenue, SE on the south, and 13th Street, SE on the west (see Exhibit A). The Subject Property occupies the southeast portion of Square 1045 – bounded on the west by a public alley – and is included in a C-2-B zone district as shown in Exhibit B.

2. Vicinity

To the north and east of the Property are Pennsylvania Avenue, SE and row dwellings. To the south are Potomac Avenue, SE, row dwellings, and the Chamberlain Career Development Center. To the west are commercial uses along Pennsylvania Avenue, SE and additional row dwellings along 13th Street, SE.

B. Description of Proposed Construction

The Applicant, JPI Apartment Development, L.P., proposes to redevelop the Property with a five-story mixed-use residential project that will include a ground level grocery store of approximately 46,000 square feet, 247 multi-family residential units, and approximately 5,000 square feet of additional retail. The project will also include two levels of underground parking. In order to proceed with the development, the Applicant seeks approval by the Board of Zoning Adjustment

(hereinafter "Board") of variance relief from lot occupancy requirements applicable to residential uses (§772) and residential recreation space requirements (§773).

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 Property is irregularly shaped, a condition that creates severe restrictions on potential lot and building configurations. The proposed land uses also pose challenges to the development of the Subject Property. The proposed development includes an approximately 46,000 square foot grocery store – a use highly desired by the surrounding community – on the ground floor, in addition to other retail uses. Due to the high demand for parking for the grocery store, retail, and residential uses, there is parking located at grade on the ground level in addition to the parking located in the underground garage. Substantial loading requirements consume additional space on the ground level of the proposed development. The redevelopment of this prominent site with a high quality mixed-use development is supported by the larger community and will significantly enhance the surrounding neighborhoods.

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

The Applicant will demonstrate that the strict interpretation of the Zoning Regulations will result in a practical difficulty upon the Applicant.

1. Section 772

The C-2-B zone district limits the building or portion of a building devoted to residential uses to a maximum lot occupancy of eighty percent. While the lot coverage of the floors above ground level is only seventy-two percent due to the internal courtyard, the ground level has a total lot occupancy of ninety-six percent due largely to the approximately 46,000 square foot grocery store and additional retail uses. All residential dwelling units are located on the floors above ground level and those floors comply with the lot occupancy provisions. Residential uses on the ground level of the building include only residential recreation space and the residential lobby –

there are no dwelling units on the ground level. To the extent that space that counts as residential for purposes of gross floor area also counts as residential for purposes of lot occupancy, a technical variance would be required for lot occupancy on the ground level.

2. Section 773

Strict adherence to the Zoning Regulations would require that fifteen percent of the gross floor area dedicated to residential use be provided as recreation space. As the proposed development includes 267,538 square feet of residential space, 40,131 square feet of recreation space would be required. The Applicant proposes to provide 22,550 square feet of recreation space, seventy-nine percent of which is outdoors.

Due to the Property's irregular shape, ground floor land uses and the need for each residential unit to have an external view, the outer ring of units will face the surrounding streets and alley while the internal ring of units will face a large center courtyard. Given this configuration, an unreasonable number of residential units would need to be sacrificed in order to locate additional residential recreation space on the floors with residential units – a concept that was not intended by the Zoning Regulations.

The roof of the proposed development is not accessible for residential recreation space as it does not include an elevator or stairway penthouse. Several mechanical penthouses further preclude the location of residential recreation space on the roof.

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

The Applicant will demonstrate that requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. With respect to the public good, the proposed development is supported and desired by the surrounding community. The redevelopment of the Property with a vibrant, mixed-use project will serve to enhance the community while providing needed residential and retail uses.

The zone plan will not be compromised, as the development adheres to all other components of the Zoning Regulations including those that will foster compatibility with surrounding development.

1. Section 772

The lot occupancy of the floors that include new residential dwelling units is in compliance with the maximum permitted lot occupancy for the C-2-B zone district. The ground floor, which includes the residential lobby and residential recreation space, has a total lot occupancy of ninety-six percent. The lot occupancy of the proposed development can and should be viewed comprehensively given the significantly lower lot occupancy of the residential floors above ground level. Although the ground floor lot occupancy is sixteen percent above the maximum for residential uses in the C-2-B zone district, the upper levels are each eight percent less than the maximum. The overall lot occupancy of the proposed development therefore complies with the spirit and intent of the zoning regulations.

2. Section 773

The Applicant is providing 22,550 square feet of recreation space, seventy-nine percent of which is located outdoors. The proposed recreation space is both meaningful and accessible, including a ground level clubhouse, a large central courtyard, and a terrace on the fourth floor. There will also be a café on the ground floor of the proposed building that will serve as additional recreation space for building residents. Other recreational opportunities also exist in the vicinity, including the 1200 acre Anacostia Park, which includes Kenilworth Park and Aquatic Gardens and Kenilworth Marsh in addition to ballfields, picnic areas, basketball and tennis courts, the Langston Golf Course, marinas and the Anacostia Park Pavilion.

Advisory Neighborhood Commission 6B voted unanimously to support the application during its September 14, 2004 meeting.

For all the above reasons, the requested variance relief can be granted without detriment to the public good or without substantial impairment to the Zone Plan.

VII.
WITNESSES

A. Representative of JPI Apartment Development, L.P., Applicant

B. Representative of SK&I, Architects

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

VIII.
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,

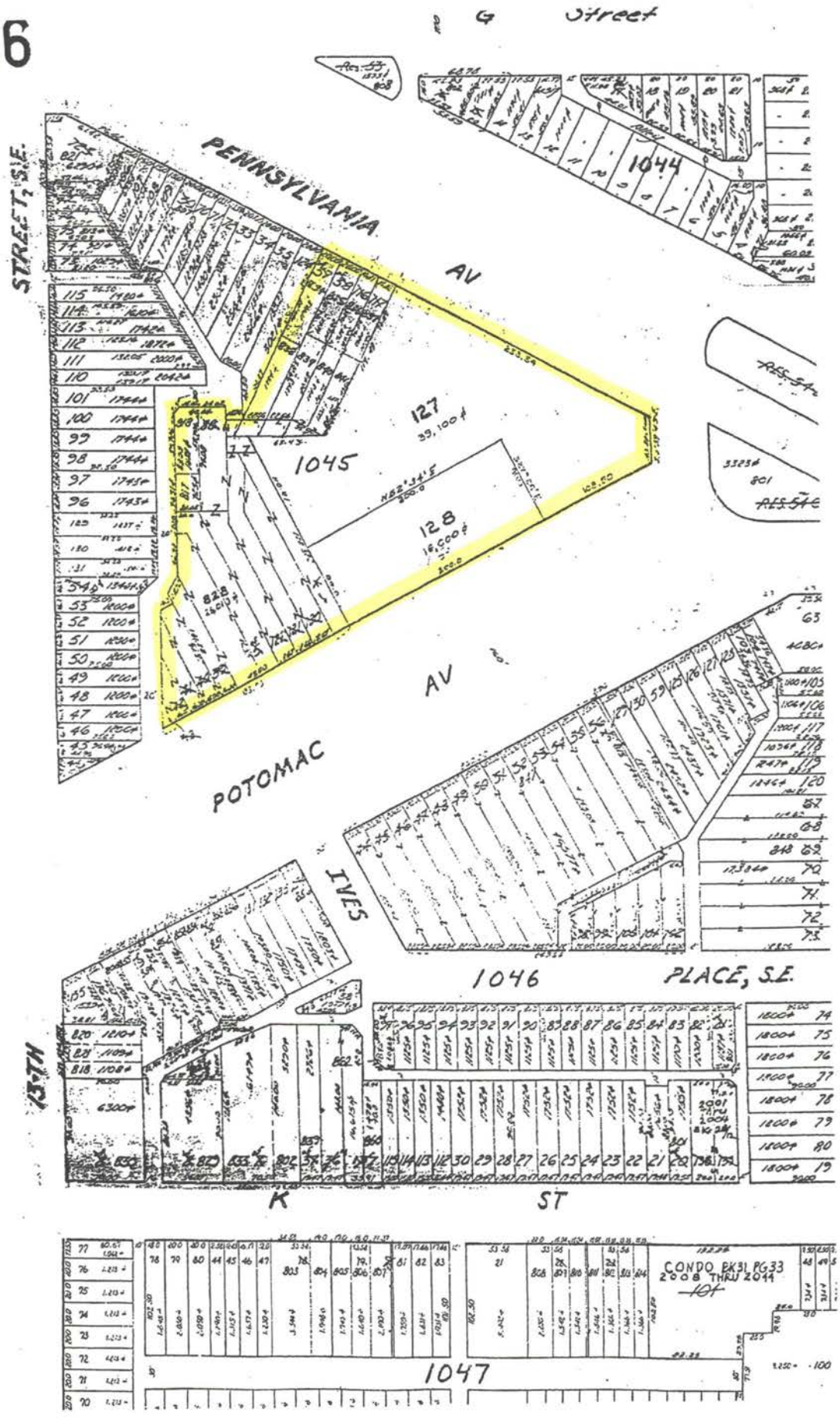
HOLLAND & KNIGHT LLP

By _____
Norman M. Glasgow, Jr.

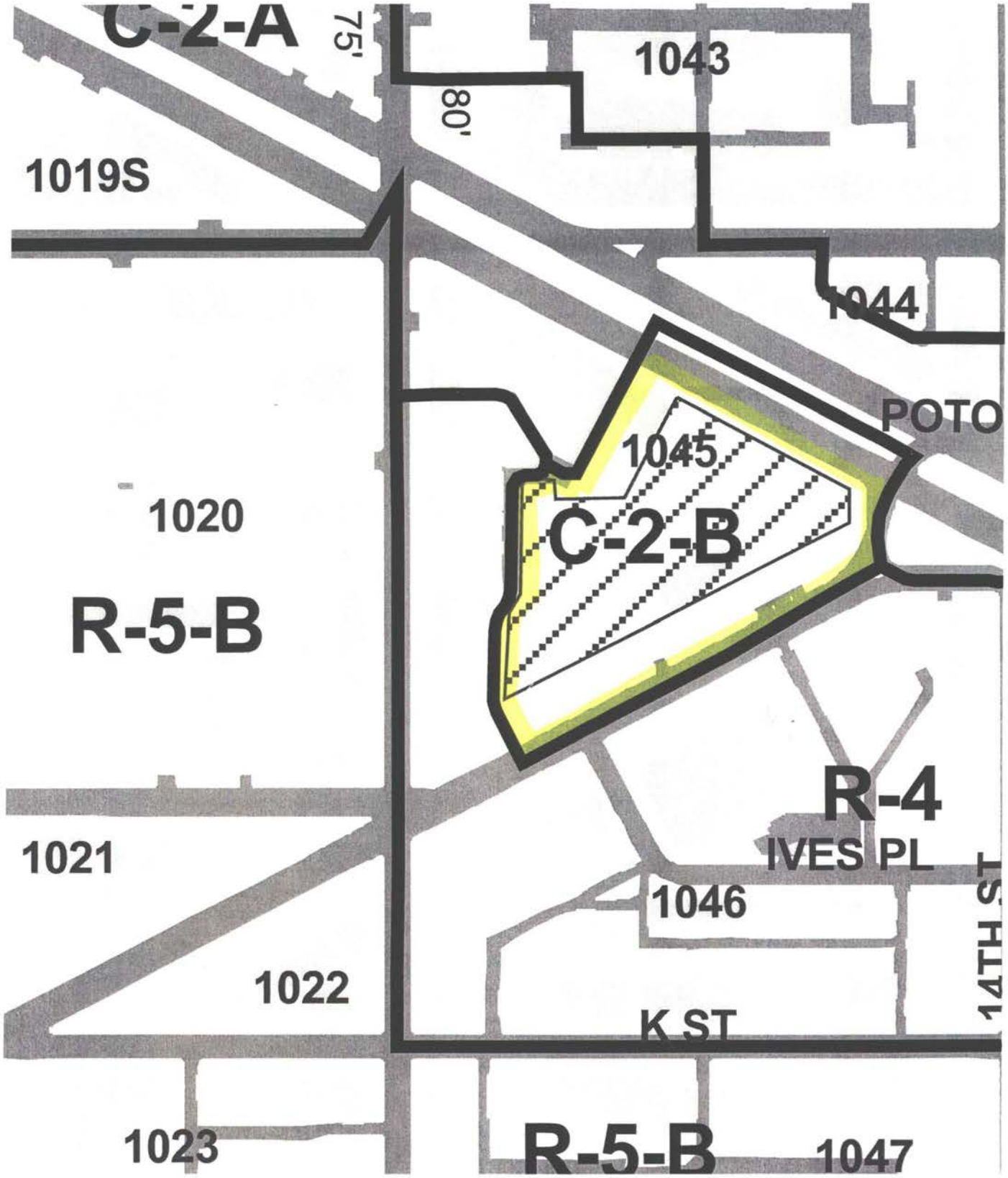
2099 Pennsylvania Avenue, NW
Suite 100
Washington, D.C. 20006
(202) 955-3000

A

256


G Street
PENNSYLVANIA AV
STREET, S.E.
1044
127
39,100 ±
1045
128
16,600 ±
828
POTOMAC AV
IVES PLACE, S.E.
1046
13TH ST
K ST
1047
CONDO PK31 PG33
2008 THRU 2044
LOT

B


C-2-A
75'
80'
1043
1019S
1044
POTO
1045
C-2-B
1020
R-5-B
R-4
1021
IVES PL
1046
14TH ST
1022
K ST
1023
R-5-B
1047

C

OUTLINE OF TESTIMONY
APPLICANT
JPI APARTMENT DEVELOPMENT, L.P.

I. INTRODUCTION

II. EXISTING USE OF SITE

III. PROPOSED DEVELOPMENT

IV. EXISTING CONDITIONS AND LIMITATIONS

V. REQUIREMENTS FOR GRANTING THE VARIANCE RELIEF HAVE BEEN MET

VI. CONCLUSION

D

THERE IS NO DOCUMENT FOR THIS EXHIBIT

E

Holland+Knight

Tel 202 955 3000
Fax 202 955 5564

Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006
www.hklaw.com

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 17224
Pennsylvania and Potomac Avenues, SE

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

October 26, 2004

I. Site location and description

A. Subject property, Pennsylvania and Potomac Avenues, SE, is comprised of Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839 in Square 1045

B. Square 1045 is bounded on the north and east by Pennsylvania Avenue, on the south by Potomac Avenue, and on the west by 13th Street

C. Subject property is located in the southeast portion of Square 1045, bounded on the west by a public alley

D. Frontage of approximately 501 feet on Potomac Avenue and approximately 327 feet on Pennsylvania Avenue

E. Land area of approximately 95,047 square feet

F. Property occupied by four vacant buildings that were previously proposed to be used as homes for children by Girls and Boys Town and two non-residential townhouses

II. Description of surrounding area

A. To the north and east:

1. Pennsylvania Avenue, SE

2. Row dwellings

B. To the south:

1. Potomac Avenue, SE

2. Row dwellings

3. Chamberlain Career Development Center

C. To the west:

1. Commercial uses along Pennsylvania Avenue, SE

2. Row dwellings along 13th Street, SE

III. Existing zoning – C-2-B

A. Multiple dwellings and retail and service uses are permitted as a matter of right

B. Height - maximum of sixty-five feet, no story limitation (§770.1)

C. Floor area ratio – maximum of 3.5, of which no more than 1.5 may be devoted to other than residential purposes (§771.2)

D. Maximum percentage of lot occupancy for residential uses – eighty percent (§772.1)

E. Rear Yard – Fifteen feet ((§774.1)

F. Side Yard – None required (§775.5)

G. Residential recreation space – not less than fifteen percent of gross floor area devoted to residential uses required to be provided (§773.3)

IV. Proposed development:

A. Five-story mixed-use residential project

B. 247 multi-family residential units

C. Approximately 46,000 square foot grocery store

D. 5,000 square feet of additional retail

V. Relief required:

A. Variance for lot occupancy on ground level of development (§772)

1. Maximum permitted lot occupancy for residential uses: eighty percent

2. Proposed lot occupancy: above ground level – seventy-two percent; ground level – total of ninety-six percent

3. Variance required: ground level – sixteen percent

B. Variance for residential recreation space – fifteen percent of gross floor area devoted to residential use (§773)

1. Minimum required: 40,131 square feet

2. Amount proposed: 22,550 square feet

3. Variance required: 17,581 square feet

VI. Standards for variance relief (§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. Property is irregularly shaped

2. Development includes an approximately 46,000 square foot grocery store in response to community requests

3. At grade parking necessary for grocery store and additional retail

4. Substantial loading requirements

B. Practical difficulty

1. Lot occupancy (§772)

a) Ground level has total lot occupancy of ninety-six percent due largely to the approximately 46,000 square foot grocery store

b) All residential dwelling units are located on the floors above ground level and those floors comply with the lot occupancy requirements

c) Residential uses on the ground level include only residential recreation space and the residential lobby

2. Residential recreation space (§773)

a) Potential recreation space constrained by irregular shape and ground floor land uses

b) Shape and depth of the property dictated double loaded hallway and ring design with large central courtyard

c) Large number of units would need to be sacrificed to accommodate additional recreation space

d) Roof not accessible due to mechanical penthouses and lack of elevator or stairway penthouses

C. Application can be granted without substantial detriment to public good or the zone plan

1. Redevelopment of prominent site with high quality mixed-use development is supported by larger community

2. Redevelopment will enhance community and provide needed residential and retail uses

3. Lot occupancy (§772)

   a) Lot occupancy of floors that include residential dwelling units is in compliance with the maximum permitted lot occupancy

   b) Lot occupancy of floors above ground level is significantly lower than the maximum permitted, given the large central courtyard

   c) Overall lot occupancy complies with the spirit and intent of the Zoning Regulations

4. Residential recreation space (§773)

   a) 22,550 square feet of recreation space provided, seventy-nine percent of which is outdoors

   b) Proposed recreation space is meaningful and accessible, including ground level clubhouse, large central courtyard, and terrace

   c) Development will include a café on the ground floor

   d) Other public recreational opportunities exist in the vicinity including Anacostia Park

VIII. Conclusions

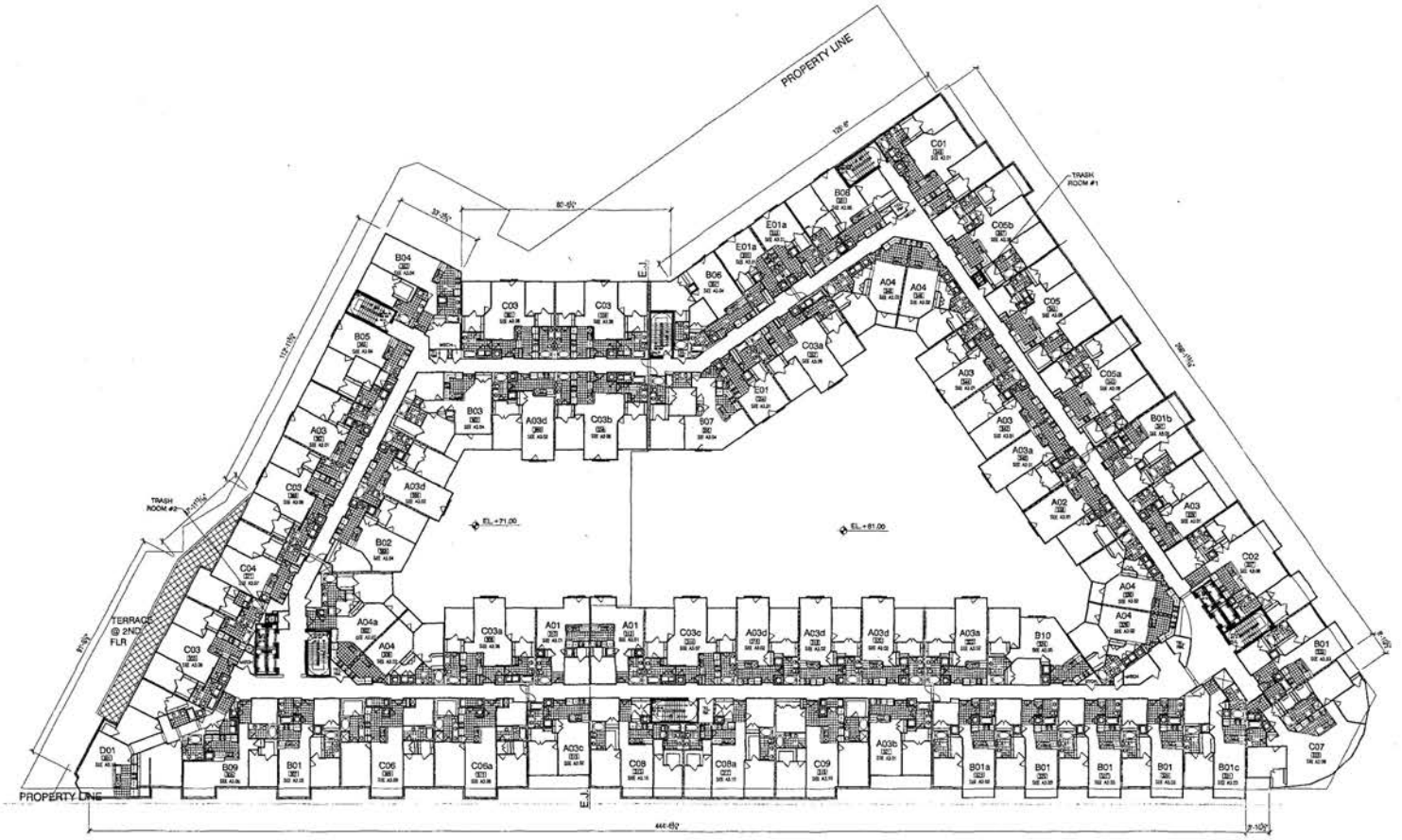
A. Site is affected by exceptional condition with regard to property shape and proposed land uses

B. Practical difficulty results from limited space left beyond residential dwellings and large central courtyard

C. Significant and meaningful recreation space is provided and total building lot occupancy is compliant, so there is no detriment to public good

D. The application should be granted

F



1 TYPICAL 1st, 2nd & 3rd FLOOR PLAN

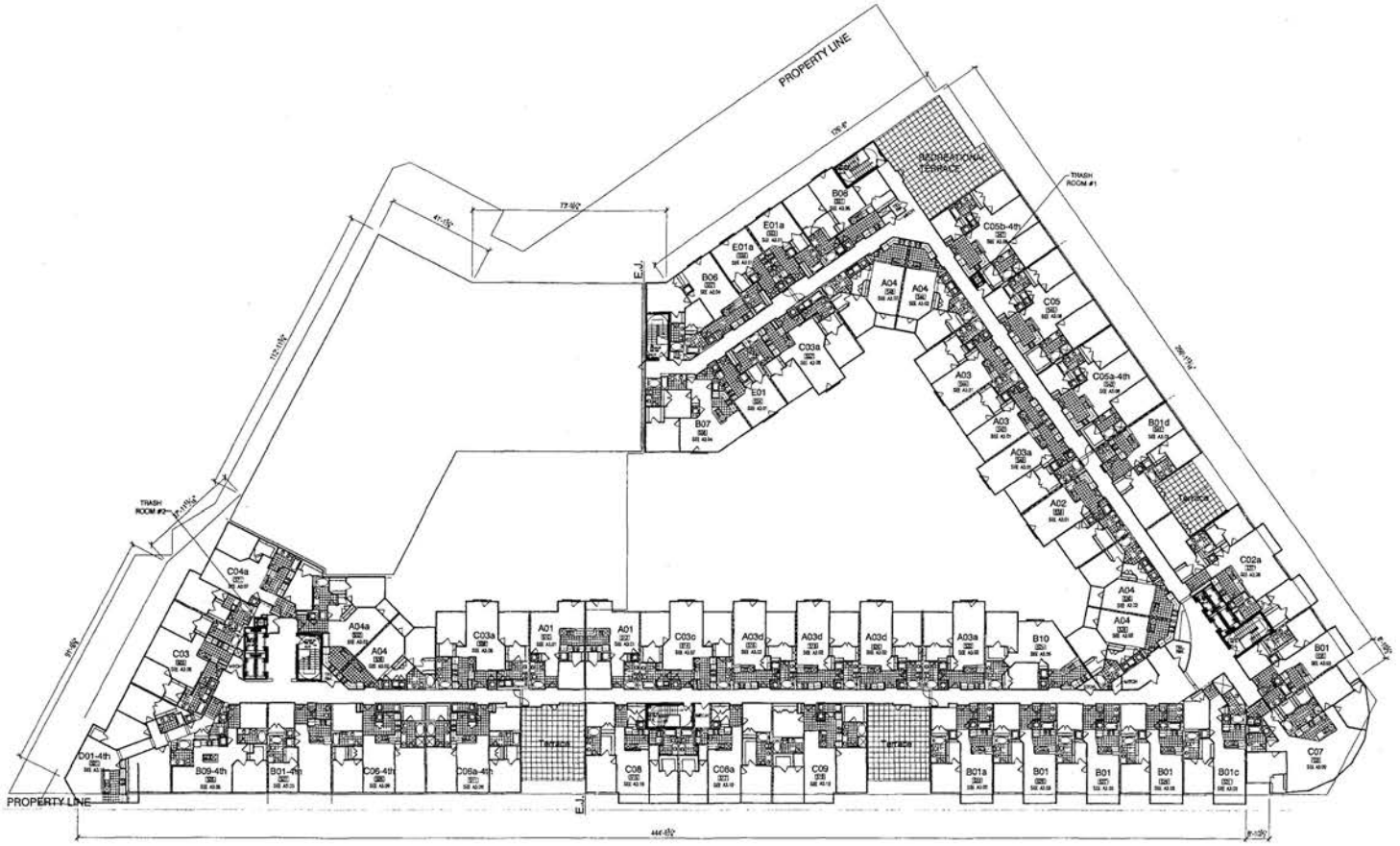
Jenkins Row

WASHINGTON, DC

JPI

SK&I

A2.05



1 FOURTH FLOOR PLAN

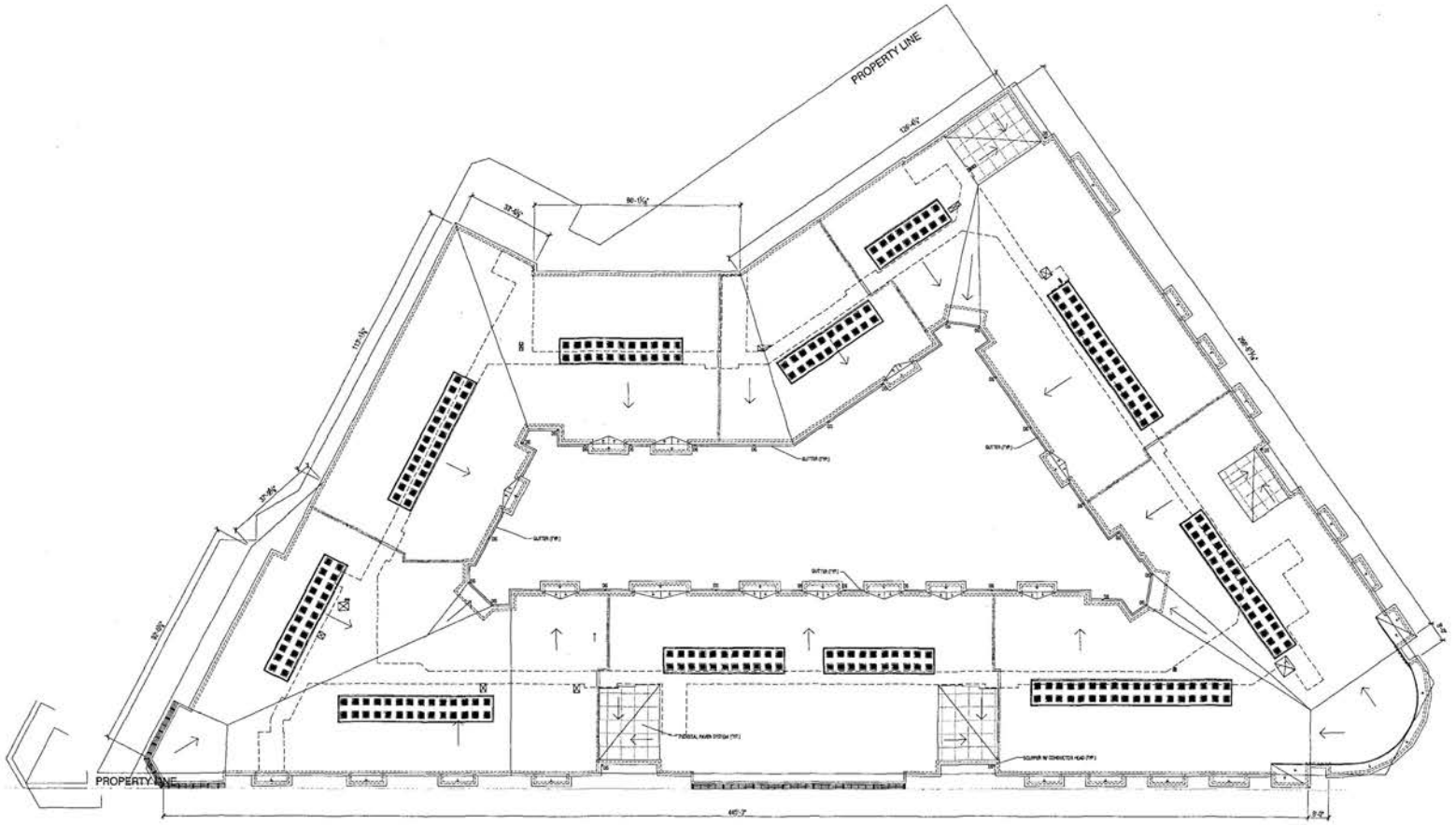
Jenkins Row

WASHINGTON, DC

JPI

SK&I

A2.06



1 ROOF PLAN

Jenkins Row

WASHINGTON, DC

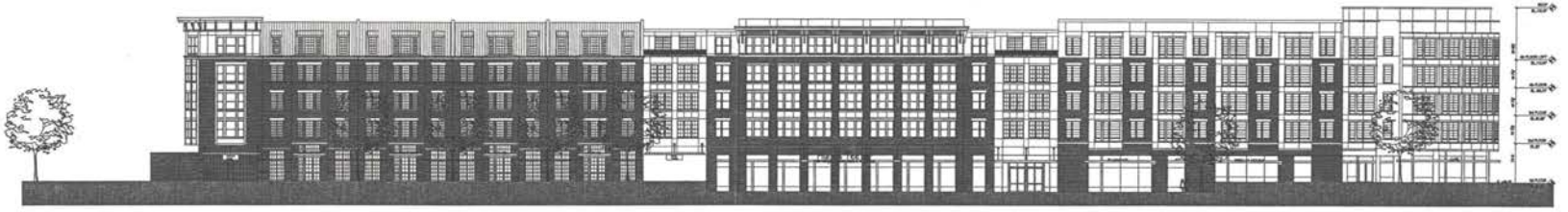
JPI

SK&I

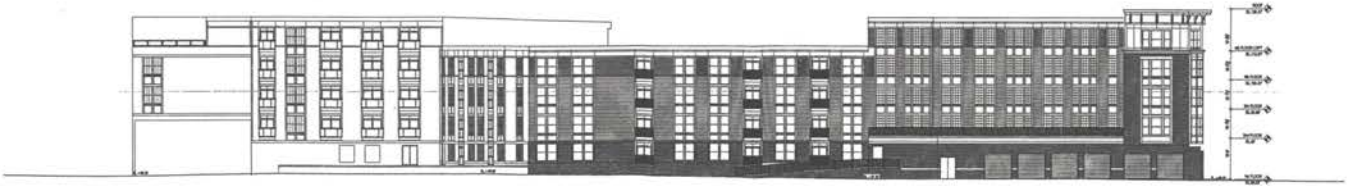
A2.07



1 PENNSYLVANIA AVENUE



2 POTOMAC AVENUE



3 ALLEY ELEVATION

Jenkins Row

WASHINGTON, DC

JPI

SK&I

A5.01