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Richard B. Nettler
Jeannine Rustad

January 4, 2005

RECEIVED
D.C. OFFICE OF ZONING
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BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: **Prehearing Statement for JBG/Louisiana Avenue, L.L.C.**
BZA Application No. 17271
Our File No.: 092218.0013

Dear Mr. Griffis:

On behalf the Applicant, JBG/Louisiana Avenue, L.L.C, enclosed you will find the original and twenty (20) copies of the Pre-Hearing Statement of the Applicant.

Thank you for your attention to this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler etc

Richard B. Nettler
Jeannine Rustad

cc: ANC 6C (w/encl.)
Travis Parker, Office of Planning (by hand; w/encl.)
Kai Reynolds (by hand; w/encl.)
John Wilkinson (by hand; w/encl.)

Word 45666727.1

BZA
Case No. 17271
Exhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO. 17271
EXHIBIT NO. 22A1

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of: JBG/Louisiana Avenue, L.L.C. **BZA Application No.: 17271**
Hearing Date: January 18, 2005

PREHEARING STATEMENT OF THE APPLICANT

I.
Introduction

This is a self-certified application (*see Exhibit 1*) brought by JBG/Louisiana Avenue, L.L.C. ("JBG" or the "Applicant"), the owner of the property located at 51 Louisiana Avenue, N.W., Square 631, Lots 17 (the "Property"), pursuant to 11 D.C.M.R. § 3103.2, for an area variance from the height limitations of section 1709.23 of the zoning regulations to allow the construction of an addition, designed by Lord Richard Rogers, to an existing office building at the Property. As detailed below, the Applicant submits that it meets the criteria for the requested area variance.

The proposed addition has received conceptual approval from the Commission on Fine Arts. *Exhibit* 10. We have also been working with the D.C. Preservation League ("DCPL") on design issues but have been informed that it has no objection to the area variance sought in this application. Additionally, Advisory Neighborhood Commission 6C (the "ANC") has recommended approval of the application on condition of JBG obtaining LEEDs certification for the addition proposed to be constructed.

II.
Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to 11 D.C.M.R. § 3103.2.

III.
Background Information

A. The Applicant.

The Applicant is an affiliate of the JBG Companies ("JBG"), which is a trade name for a family of related companies with expertise in development, finance, asset management, property management and leasing services exclusively in the metropolitan Washington, D.C. area. JBG's business philosophy is founded on the belief that creating value requires the consistent application of intellect, professional development skills and a disciplined process. Since 1962, JBG has built numerous long-term relationships with high-profile owners, partners and lenders, as well as impeccable reputation for integrity, discretion and fiduciary responsibility. Throughout the Washington, D.C. metropolitan area, JBG has successfully developed, owned and managed over thirty (30) million square feet of office space, four (4) million square feet of retail space, 4,000 residential units and eight (8) hotel properties.

B. Property and Surrounding Neighborhood.

1. The Property. The subject property, 51 Louisiana Avenue, N.W., Square 631, Lot 17 (the "Property"), is located in the heart of the District of Columbia, near, although not adjacent to, Union Station, federal courts and offices, and directly across from the U.S. Capitol grounds. The site, which is irregularly shaped, contains 91,021 square feet of land. The Property is situated on a full city block and is bordered by D Street to the north, New Jersey Avenue to the east, Louisiana Avenue to the southeast, C Street to the south (the property along C Street curves slightly to the northwest), and 1st Street to the west.

a. The Existing Improvements.

The Property is improved with two separate but connected buildings (known as the "Acacia Building" and "Annex Building") that are configured in a V shape around a modest

interior courtyard, and by an above-ground six-level parking garage built in the 1970's. The six-level above-grade parking garage accommodates 463 vehicles located on the northern portion of the Square fronting on 1st Street, New Jersey Avenue and D Street, N.W.

The existing buildings (including the parking garage) have a combined FAR of 3.30, for a total gross floor area of 300,997. The height of the Acacia building is 113 feet. It was constructed in 1935. The height of its 1953 Annex Building is 105 feet.

The 1935 Acacia Building was designed by the New York firm of Shreve, Lamb and Harmon, the architects for the Empire State Building. Prior to the occupancy of the building by the law firm of Jones Day, in 1999, the building was completely renovated at a cost in excess of $150.00 per square foot.

The Acacia Building has a limestone façade with anodized aluminum window frames on all sides. The extensive window lines of the Acacia Building afford spectacular views of the U.S. Capitol. The windows are all solar glass panels. The Acacia Building also includes large cut stone blocks and limestone accents and soffits at the upper floor levels.

The interior of the Acacia Building is equally as grand as its façade, containing fifteen-foot (15') ceilings and a two-story main lobby with marble floors and walls. Amenities include a fitness facility, conference center, cafeteria and a rooftop terrace. The rooftop terrace, which occupies forty-five percent (45%) of the roof on the existing buildings, features concrete pavers and raised, professionally maintained planters. This terrace offers spectacular views of events such as the inaugural parade.

b. Stand Still Agreement with the District of Columbia Preservation League.

In 1993, The Acacia Group ("AG") proposed a redevelopment plan for the Property. Under the AG proposal, both the above-grade parking garage, as well as the 1953 Annex

Building, would have been removed, leaving only the original 1935 Acacia Building. An addition was proposed in the place of these two buildings with a height of 119 feet. Unlike the current proposal, the AG redevelopment plan had an impact on the sight lines from First Street, N.W. and dwarfed the Acacia Building. The addition was described as giving a sense of bulk and sheer volume.

In response to the AG proposal, DCPL intervened in an effort to protect the historic nature of the Property, the Acacia Building and the 1953 addition and prepared an application to designate the Property an historic landmark. As a result of DCPL's intervention, AG entered into a "stand-still" agreement with DCPL, which required that the Property be maintained in its existing state and that any future development on the Property would require consultation with DCPL. *See Exhibit* 3. In turn, DCPL agreed not to pursue any application to designate the Property as an historic landmark. *Id.*

2. The Surrounding Neighborhood.

The U.S. Capitol grounds are located across Louisiana Avenue, N.W. from the Property. The Property is located two blocks from Union Station, offering direct access to the Metro system, as well as dining and shopping. Additionally, the Property is located within close proximity to the federal courts and a number of other federal office buildings, such as the Department of Labor.

There are several hotels located within the proximity of the Property. Directly across D Street, N.W. is the Hyatt Regency, an 834-key hotel and there is a 343-key Holiday Inn to the northeast of the Property at 415 New Jersey Avenue, N.W. Additional hotels in the vicinity include the 139-key Hotel George on E Street, N.W., and the 149-key Phoenix Park Hotel, which lies just beyond Union Station at 520 North Capitol Street, N.W.

Commercial entities in the surrounding area include the Federal Bureau of Prisons, which occupies the buildings directly across 1st Street and at the northwest corner of 1st and D Streets, N.W. The National Association of Letter Carriers is located at the southwest corner of 1st and C Streets N.W., and the International Brotherhood of Teamsters is located at 25 Louisiana Ave, N.W.

The National Japanese American Memorial is located across New Jersey Avenue from the Property and is bounded by Louisiana Avenue, New Jersey Avenue and D Street, N.W. The Memorial, which was dedicated on November 9, 2000

> honors the loyalty and courage of Japanese Americans during World War II, commemorating not only the heroism and sacrifice of Japanese Americans who fought and died for their country, but it also tells the story of 120 thousand brave men, women and children who, despite the abridgement of their civil rights and even relocation to desolate camps, maintained their loyalty and supported their nation on the home front.

http://www.njamf.com/welcome.htm.

C. Zoning.

The Property is located within the C-3-C zone district. The C-3-C zone is designed to permit compact medium-high density development, including office, retail, housing, and mixed use development. 11 D.C.M.R. § 740.8. The matter of right height and FAR in the C-3-C zone district is 90 feet and 6.5, respectively. However, the Property is also in the Downtown East receiving zone for the transfer of development rights ("TDRs"), which permits a maximum FAR of 9.0 and a maximum building height of one hundred ten feet (110'). 11 D.C.M.R. §§1709.15 & 1709.23. Given the street widths of, and right of ways for, New Jersey and Louisiana Avenues, of at least 110 feet, a height of 130 feet is permissible under the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as

amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.)) (the "Height Act").

D. The Proposed Addition.

Upon purchasing the Property in the summer of 2004, JBG immediately began to have discussions with the building's single tenant, the law firm of Jones Day, regarding Jones Day's desire for additional space. Jones Day anticipates that it will need additional space no later than January 2008, or it will be forced to find an alternative location. As a consequence of this need, by this application, after demolishing the existing parking garage, JBG proposes to construct a twelve (12) story "new" office building with a below-grade parking garage in its place.

Recognizing the historic significance of the Acacia Building and the complementary façade of the Annex Building, JBG began the design process by studying previous proposals so as to avoid repeating past mistakes. This review provided "lessons learned", which influenced the proposed design being presented by the instant application. Additionally, JBG selected as the architect for the project, the Richard Rogers Partnership ("RRP") of London, England, because of RRP's extensive experience in successfully designing new additions to historic buildings. JBG believed that, given the sensitive nature of the Acacia Building, RRP's experience would be directly relevant to the proposed redevelopment.

Some of the primary goals of the design were to create a light, "airy" backdrop building that does not impose upon or overwhelm the existing Acacia Building, either physically or visually. The resulting addition is a twelve (12) story office building with a glass façade that connects to the existing Annex Building via a series of elevated walkways. The courtyard will be covered and conditioned by an atrium roof spanning from the new proposed office building and connecting to the rear edges of the roofs of the Acacia and Annex Buildings. Within the

newly formed atrium spaces between the Acacia Building and new office tower is a smaller eight story triangular office building that acts as a direct connector between the new office building with its +/- 11 foot 2 inch floor to floor heights and the existing Annex Building with its fifteen foot (15') floor to floor heights. It was also important to develop a design solution that would create a new front door off of New Jersey Avenue for the atrium area and the new office building. Balancing these objectives with the operational objectives of Jones Day led to the solution presented in this application.

Of concern to the ANC was the inclusion of green building aspects in the addition. JBG is committed to obtaining LEEDs certification for the building, although the level of certification that will be sought cannot be determined at this point in the design phase. However, as pointed out to the ANC, RRP is known for its environmentally sensitive architecture[1] and JBG has a strong history of implementing LEEDS programs, including green roofs at the Department of Transportation Headquarters Building and at a 60,000 square foot office building in Montgomery county, Maryland, as well as a building in Southwest D.C., which is currently in the LEEDs certification process and a Silver rated project in Rockville, Maryland. In fact, JBG recently received a grant from the Chesapeake Bay Foundation for its green roof at the Department of

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[1] The following is an the following exert from RRP's web page:

> In an age when concern for the global environment is one of the most hotly debated topics, Richard Rogers Partnership takes its obligation to address growing concerns regarding sustainability seriously. As part of a design team, the practice has undertaken exhaustive research into a responsible approach to energy consumption, technologies that harness passive energy sources, and systems that reduce energy consumption and regulate harmful emissions, and applies the results of this research to each scheme regardless of size or budget. The practice's commitment to improving the built environment has resulted in EU awards and government grants for further research into energy regulation in design. Designs incorporating the results of this research include The National Assembly for Wales and the award-winning Lloyd's Register of Shipping headquarters in London.

http://www.richardrogers.co.uk.

Transportation Headquarters Building.

IV.

Area Variance Considerations

The standard for obtaining an area variance is well settled. In the leading case of *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972), the Court interpreted D.C. Code, §§ 5-420, 5-424(g)(3) and the corresponding provision of the Zoning Regulations, 11 D.C.M.R. § 3103.2, which permits the Board to grant variances, pursuant to the following:

> 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, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial determent to the public good and without substantially impairing the intent, purpose, and integrity of the zoning plan as embodied in the zoning regulations and map.

The above regulation sets up separate statutory requisites to the granting of variances, i.e., a showing of "practical difficulties" or "undue hardship". The court adopted the dichotomy recognized in other jurisdictions between area variances and use variances, applying the statutory requisite of "practical difficulties" to a showing of the former, and applying the separate statutory requisite of "undue hardship" to a showing of the latter. *Id.* at 541. Because "an area variance, relating to restrictions such as side yard, rear yard, frontage, set-back or minimum lot requirements, does not alter the character of the zoned district, whereas a use variance seeks a use ordinarily prohibited in the particular district", the court held that a "more stringent showing

is warranted with respect to the more drastic relief inherent in a use variance". *Id.* at 541. In short, the Board is empowered to grant an area variance where it finds three conditions:

> (1) The property is unique because, *inter alia*, of its size, shape or topography;
>
> (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied;
>
> (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

Roumel v. District of Columbia Bd. of Zoning, 417 A.2d 405, 408 (D.C. 1980); *see also Association For The Preservation Of 1700 Block Of N Street, N.W. v. Board of Zoning Adjustment*, 384 A.2d 674, 678 (D.C. 1978)(the applicant must demonstrate that compliance with the area restriction is unduly burdensome and the practical difficulties are unique to the property).

Reviewing the criteria for an area variance recently, the Court, in *Capital Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 941-942 (D.C. 1987), stated that the

> threshold requirement to show that the property is unique with respect to the hardship or difficulty asserted as grounds for the variance means the property owner must present proof that "the circumstances which create the hardship *uniquely* affect the *petitioner's property* * * * ." *Taylor, supra* note 6, 308 A.2d at 234 (emphasis in original).

Id.; see also Russell v. Board of Zoning Adjustment, supra, 402 A.2d at 1235 (the requirement that the practical difficulty be caused by the uniqueness of the property "insures relief for problems peculiarly related to the * * * land or structure, and not shared by other property in the neighborhood, thus avoiding a de facto amendment of zoning laws.").

In other words, the Applicant must demonstrate that compliance with the area restrictions is unduly burdensome and the practical difficulties are unique to the site. In finding an extraordinary or exceptional condition, the Board may rely upon a confluence of factors.

A. Uniqueness and Practical Difficulty.

1. The Shape, Location and Improvements to the Property Make it Unique.

In this case, the Property is indeed unique, as that term has been applied to area variances, and practical difficulties do result from the strict application of the Zoning Regulations.

The first aspect of uniqueness lies in the odd shape of the Property. The Property is five (5) sided. Additionally, the public space adjacent to the Property is unusually deep. Adding to the uniqueness of the Property is the V-shape configuration of the existing improvements, as well as the historic status of the Acacia building and the stand-still agreement with DCPL. *See Capitol Hill Restoration Society, Inc. v. Board of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987)(a condition inherent in the structures built upon the land itself may serve to satisfy an applicant's burden of demonstrating uniqueness). *See also United Unions Incorporated v. D.C. Board of Zoning Adjustment*, 554 A.2d 313, 317 (D.C. 1989) (the special status of a structure as a landmark reflects characteristics of exceptional design requiring special treatment in the planning of contiguous structures and additions justify the grant of an area variance).

The Acacia and Annex Buildings form a V-shape, leaving little room for any additional improvements on the Property. Two options for additional improvements would be adding additional floors (i.e., increasing the height of the building to the matter of right height of 110 feet) and/or constructing an addition in the location of the existing parking garage. Because of the historic nature of the Acacia Building, adding to the height of the building is not an option and indeed, an option, already rejected by the Commission of Fine Arts when proposed by the former owners of the site. This leaves only the possibility of an addition in the place of the existing parking garage. However, as explained in greater detail in the following section, this is not a simple solution in light of the extremely high floor plates in the existing improvements, conditions underneath the site and constraints on the use of matter-of-right density. As previously noted, the existing improvements have floor to floor heights of fifteen feet (15'); whereas the typical floor to floor heights in new construction is ten to eleven feet (10'-11').

In addition to the above-grade conditions at the Property and in the existing improvements which make it unique, there are several below-grade factors contributing to both the uniqueness of the Property and the practical difficulties in complying with the zoning regulations. First, there is the location of the Tiber Creek running through the middle of the property makes it difficult to design an efficient below-grade garage. The Creek is still in use today and is prohibitively expensive to re-locate. Not only is JBG bound by a below grade design that does not encroach into the Creek but they must construct a very complex and expensive slurry wall to support the Creek. This narrows the area of construction and pushes density vertically rather than horizontally. Finally, because of the location of the Creek a special structure is required for the southeast corner of the new building. The second subterranean factor contributing to the uniqueness of the Property is the location of the Metro Tunnel adjacent to the

northern border of the Property along D Street. The presence of that tunnel also effects the design of the below grade parking garage in that the garage cannot encroach into the zone of influence of the tunnel. Consequently, the deeper the garage to provide the required parking, the further from the tunnel it needs to be. As a result of these factors, the six levels of the garage below result in smaller and smaller garage plates and thereby are much less efficient. This factor further limits the flexibility and increases the cost of construction of the below-grade garage. The increased cost of the below-grade parking garage add to the need to increase the above-grade development to the extent possible and contribute to the need for the variance for the additional height.

2. The Uniqueness of the Property Results in Practical Difficulties if the Zoning Regulations Are Strictly Applied.

The exceptional and unique conditions presented by the shape of the Property, the location of the improvements on the Property, the historic nature of the Property and the location of the Tiber Creek and Metro tunnel, has created practical difficulty in designing an efficient building which fully complies with the Zoning Regulations. In other words, strict application of the Zoning Regulations is unduly burdensome due to the uniqueness of the Property. As the Court recognized in *United Unions, supra at* p. 317, "the peculiar difficulties of adding onto" a landmark building "seems to comprise the practical difficulties that the variances were designed to surmount."

As illustrated, the task of designing an addition for the Acacia building presented many challenges. First, as indicated above, the historic nature of the existing improvements and the stand-still agreement with DCPL leave little room for any additional development of the Property, which currently only uses 3.5 FAR of the 6.5 to 9.0 available on-site. In addition to being precluded from adding additional floors to the existing buildings, any addition must be

stepped back and situated so as to not to over-whelm the historic buildings.

Further complicating matters is the fifteen foot (15') floor to floor heights in the existing improvements. If the addition simply matched the floor plates of the existing buildings, the result would be a significant loss of gross floor area and potential failure to meet the needs of the existing (or any potential) tenant. The following table illustrates the limitations on developing the Property to its maximum potential by comparing the allowable FAR both with and without transfer development rights, as compared to the existing and proposed FAR:

	Existing Conditions	C-3-C Matter of Right	Matter of Right with TDRs	Proposed
FAR	3.30	6.5	9.0	5.98
Gross Floor Area	300,997[2]	591,636	819,189	544,583[3]

Thus, even with the height variance, it is not possible to develop the Property to its full potential of 6.5 FAR. With transferable development rights, one is only able to develop approximately sixty-six percent (66%) of the available 9.0 FAR.

In order to maximize the gross floor area to the extent possible within the limited envelope, the proposed new building will be connected to the existing buildings via a seven (7) story triangular addition to be constructed in a portion of the current courtyard. The floor plates of this addition will be aligned with those of the existing Acacia Building which has 15' slab-to-slab heights. Given that the proposed "new" office building will have 11'2" slab-to-slab heights, its floors will not align with either the floors in the addition or the existing Acacia Building. As such, there will be a series of ramped skywalks connecting various floors of the addition to

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[2] The gross floor area of the Acacia and Annex Buildings is 208,747 square feet. The gross floor area of the garage is 92,250 square feet.

[3] The gross floor area of the proposed new building and enclosed atrium is 335,836 square feet.

various floors of the new office building. The area between the new office building and the existing Acacia Building and Annex will be enclosed with a glass atrium roof.

The new building will also include a below-grade park garage accommodating approximately 443 vehicles.[4] Entrances to the parking and loading will be from 1st Street, N.W. There will be no vehicular entrances or exits from D Street, N.W.[5]

In addition to the main entrance to the buildings on Louisiana Avenue, the new office building will have a second entrance on New Jersey Avenue, which will access the new atrium. From the atrium, visitors can either enter Jones Day's existing space, or go to new offices in the addition. Ramps would be used to connect the different floor levels.

As demonstrated by the above discussion, the physical limitations of the Property not only result in a practical difficulty if the zoning regulations were strictly enforced. Even assuming that, despite the uniqueness of the Property, the proposed addition could be designed so as to fully comply with the zoning regulations, full compliance with the regulations would render development of the Property economically infeasible, given the increased cost associated with designing the parking garage so as to take into account the limitations imposed by the existence of the Tiber Creek and Metro Tunnel. Consideration of the economic viability of the proposed project, which consideration has contributed to the need of JBG to seek relief, is relevant to the practical difficulty aspect of the area variance issue.

In *Tyler v. District of Columbia Board of Zoning Adjustment*, 606 A.2d 1362, 1367 (D.C. 1992), the court held that the Board could rely on economic factors to evaluate this issue, even if

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[4] Of these spaces, forty (40) spaces will be tandem parking spaces.

[5] The ANC was concerned that the Property may be accessed from D Street. Additionally, the ANC was concerned about the potential that D Street would have to be closed for construction. This will not be necessary, however, as there is ample staging room within the property.

it was not relevant to the uniqueness issue. *Id.* at 1365-1366. In *Tyler*, the court held that the Board had failed to demonstrate how the admittedly unique factors applicable to the property in that case also created practical difficulties. Rejecting petitioners' claim that the Board could not rely on economic factors, the court merely stated that it could not determine whether the decision was based on non-economic or economic factors where, in its decision, the Board had rejected the economic justification. *Id.* at p. 1365-1366. With regard to economic considerations, the court said that it eliminated, in its decision in *Gilmartin v. Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990), "any doubt that '[e]conomic use of property' may properly be 'considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in [area] variance cases . . . ' ". *Id.* at 1367; s*ee also Wolf v. Board of Zoning Adjustment*, 397 A.2d 936, 943 (D.C. 1979) (Board properly granted area variance to permit conversion to three-unit apartment where "marketability" of property would otherwise be "unfeasible" and investment would yield loss rather than profit). *See generally* Arden H. Rathkopf & Darren A. Rathkopf, *The Law of Zoning & Planning* § 38.04, at 38-48 to 38-53 (1991) (discussing need to prove "significant economic injury" in order to show practical difficulty).

In the instant matter, reconfiguring the proposed building so as to fully comply with the height requirements of the zoning regulations is not only infeasible due to the confluence of factors inherent in the Property, the requisite loss of density would render the Property unmarketable and the redevelopment economically infeasible.

This is not a situation where the Applicant has sought to manufacture unique conditions. To be certain, the unique conditions of the Property make it physically impossible to design an addition that fully complies with the Zoning Regulations. Those conditions, namely the shape of

the Property, the historic nature of the existing improvements and the stand-still agreement with DCPL, the odd shape of the existing improvements and the location of the Tiber Creek and Metro Tunnel below grade are the primary reason why the project cannot be constructed without resort to the Board.

3. The Proposed Project Will Not Have an Adverse Impact on the Surrounding Neighborhood.

The proposed project will not substantially impair the intent, purpose and integrity of the zone plan. Nor will the project have any adverse impact on the surrounding neighborhood.

As mentioned above, given that the Property is within the Downtown East receiving zone for TDRs, the matter of right height is 110 feet. The requested height of 130 feet is consistent with the Height Act. Thus, the proposed relief is consistent with the zone plan and map.

Likewise, there will be no adverse impact on the surrounding area if the proposed relief is granted. There is limited development around the Property. The proposed project will replace an above ground parking structure with a new office building that will improve the street experience of pedestrians who walk by the project by having a more animated streetscape experience. Furthermore, the addition as been designed to be sensitive to the historic nature of the Acacia Building. As designed, the construction of the addition in place of the existing above-grade parking garage will be an enhancement to the surrounding neighborhood. The addition will also bring redevelopment to an area that has experienced little growth at a time when much of the downtown area and other areas of the District have benefited from revitalization.

In addition to enhancing the surrounding neighborhood as a result of the proposed redevelopment of the Property, JBG is considering undertaking several actions will have long-term benefits for both the surrounding area and the District of Columbia as a whole. For example, JBG is reviewing a number of preservation initiatives which will ensure preservation of

the historic Acacia Building, as well as the Annex Building, in perpetuity. With regard to the new construction, it is JBG's intention to seek LEED's certification. Incorporating "green building" aspects in the addition will have a positive impact on the surrounding environment. Finally, JBG is exploring opportunities for assisting the National Park Service with the maintenance of the Japanese Memorial Park located across New Jersey Avenue, N.W. from the Property.

4. Project Approvals and Modifications.

The proposed project has been well received by the community and governing agencies. As a result of comments from the Office of Planning and DCPL, the overhang into public space along the eastern portion of the addition adjacent to New Jersey Avenue, N.W., JBG has reduced this projection from twenty-four feet (24') to a maximum of five feet (5'), while providing an overhang on the D Street façade of 4 feet. The project has received conceptual approval from the Commission on Fine Arts, as well as approval from DCPL. Additionally, both the Planning and Zoning Committee of ANC 6C and the full ANC unanimously approved the proposed addition, with the recommendation that the BZA condition its approval on the Applicant obtaining LEEDs certification.

V.
Witnesses

1. Principal of JBG, to be determined, on behalf of the Applicant
2. Lord Richard Rogers/Dennis Austin, Richard Rogers Partnership
3. David Orr, Orr Partners
4. Lou Slade, Gorove/Slade Associates
5. George Dove, WGD Architecture
6. Art Santry, Trammel Crow

VI.

Exhibits In Support of the Application

1. Zoning Self-Certification
2. Plans
3. February 5, 1993 Stand-still Agreement with DCPL
4. Resume & outline of testimony of architect
5. Resume and testimony of traffic consultant
6. Resume and outline of testimony of David Orr
7. Resume of Sir Richard Rogers and Ivan Harbour of Richard Rogers Partnership
8. Zoning Map
9. Map of Capitol Grounds and surrounding area
10. Letter from the Commission on Fine Arts

VII.

Conclusion

For the above reasons, JBG/Louisiana Avenue, L.L.C. respectfully requests that the Board grant the relief sought. Given the lack of adverse impact on the surrounding area, the unanimous support of ANC 6C, as well as the conceptual approval of the CFA and DCPL, JBG requests a bench decision and summary order, if the Board feels such a decision is justified.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler

Jeannine Rustad

1801 K Street, N.W.
Suite 1200
Washington, D.C. 20006
(202) 775-0725

1

Form 135 – Side 1
(Revised 03/15/02)

Case No. _____

ZONING SELF-CERTIFICATION FORM

Project Address(es)	Square	Lot(s)	Zone District(s)	ANC(s)/Single Member District(s)
51 Louisiana Avenue, N.W.	631	17	C-3-C	6C09

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	☐ §3103.2 – Use Variance	☒ §3103.2 – Area Variance	☐ §3104.1-Special Exception
Pursuant to Subsections		1709.23	

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print) JBG/Louisiana Avenue, L.L.C.
Agent's Signature	Agent's Name (Please Print) Richard B. Nettler, Esquire & Jeannine Rustad, Esquire

Date	11/5/04	D.C. Bar No.	929471/451110	or	Architect Registration No.

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 §3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Signature _____ Date _____

Jerrily R. Kress, FAIA – Director
District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001
(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov

Form 135 – Side 1
(Revised 03/15/02)

Case No. _____

ZONING SELF-CERTIFICATION FORM

Project Address(es)	Square	Lot(s)	Zone District(s)	ANC(s)/Single Member District(s)
51 Louisiana Avenue, N.W.	631	17	C-3-C	6C09

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	☐ §3103.2 - Use Variance	☒ §3103.2 - Area Variance	☐ §3104.1-Special Exception
Pursuant to Subsections		1709.23	

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print) JBG/Louisiana Avenue, L.L.C.
Agent's Signature	Agent's Name (Please Print) Richard B. Nettler, Esquire & Jeannine Rustad, Esquire

Date		D.C. Bar No.	929471/451110	or	Architect Registration No.	

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 §3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Signature		Date	

Jerrily R. Kress, FAIA ~ Director
District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001
(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov

Side 2

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on Form 135. All certification forms must be completely filled out (front **and** back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of paper to complete this form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 Application to the Office of Zoning, 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	91,021	N/P	N/P	91,021	None
Lot Width (ft. to the tenth)	230.40'	N/P	N/P	230.40'	None
Lot Occupancy (building area/lot area)	74.7%	N/P	100%	100%	None
Floor Area Ratio (FAR) (floor area/lot area)	3.25	N/P	9.0	5.37	None
Parking Spaces (number)	463	271	N/P	520	None
Loading Berths (number and size in ft.)	2 @ 12' x 30' 1 @ 10' x 20'	3 @ 12' x 30' 1 @ 10' x 20'	N/P	3 @ 12' x 30' 1 @ 10' x 20'	None
Front Yard (ft. to the tenth)	0	N/P	N/P	0	None
Rear Yard (ft. to the tenth)	12'	25'	N/P	Varies (61'2" min.)	None
Side Yard (ft. to the tenth)	None	N/P	N/P	None	None
Court, Open (width by depth in ft.)	71.08°	N/P	N/P	None	None
Court, Closed (width by depth in ft.)	None	N/P	N/P	None	None
Height (ft. to the tenth)	Main - 113' 1951 addition – 105'	N/P	110'	New Addition – 130'	20'

2

51 LOUISIANA AVE.
WASHINGTON, D.C.

1/4/2005

DATA	REQUIREMENT	PROVIDED	NOTES
ZONED	C-3-C		
HEIGHT	90' (110' W/ TDR)	130'	VARIANCE REQUEST
F.A.R.	6.5, MAX. 591,636 SF (9.0 MAX. 819,189 SF W/TDR)	544,583 SF	
LOT OCCUPANCY	100%	76.70%	
SIDE YARD	NONE REQUIRED	NONE REQUIRED	
REAR YARD	27'-8"	VARIES, 61'-2" MIN.	
RECREATION SPACE			
PARKING SPACE	302	403	
LOADING SPACES	3 @ 12' x 30', 1 @ 10' x 20'	3 @ 12' x 30', 1 @ 10' x 20'	

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., November 3, 2004

Plat for Building Permit of SQUARE 631 LOT 17

Scale: 1 inch = 40 feet Recorded in Book 157 Page 170

Receipt No. 15418

Furnished to: ROBERT SOCKWELL

Surveyor, D.C.

By: L.E.S.

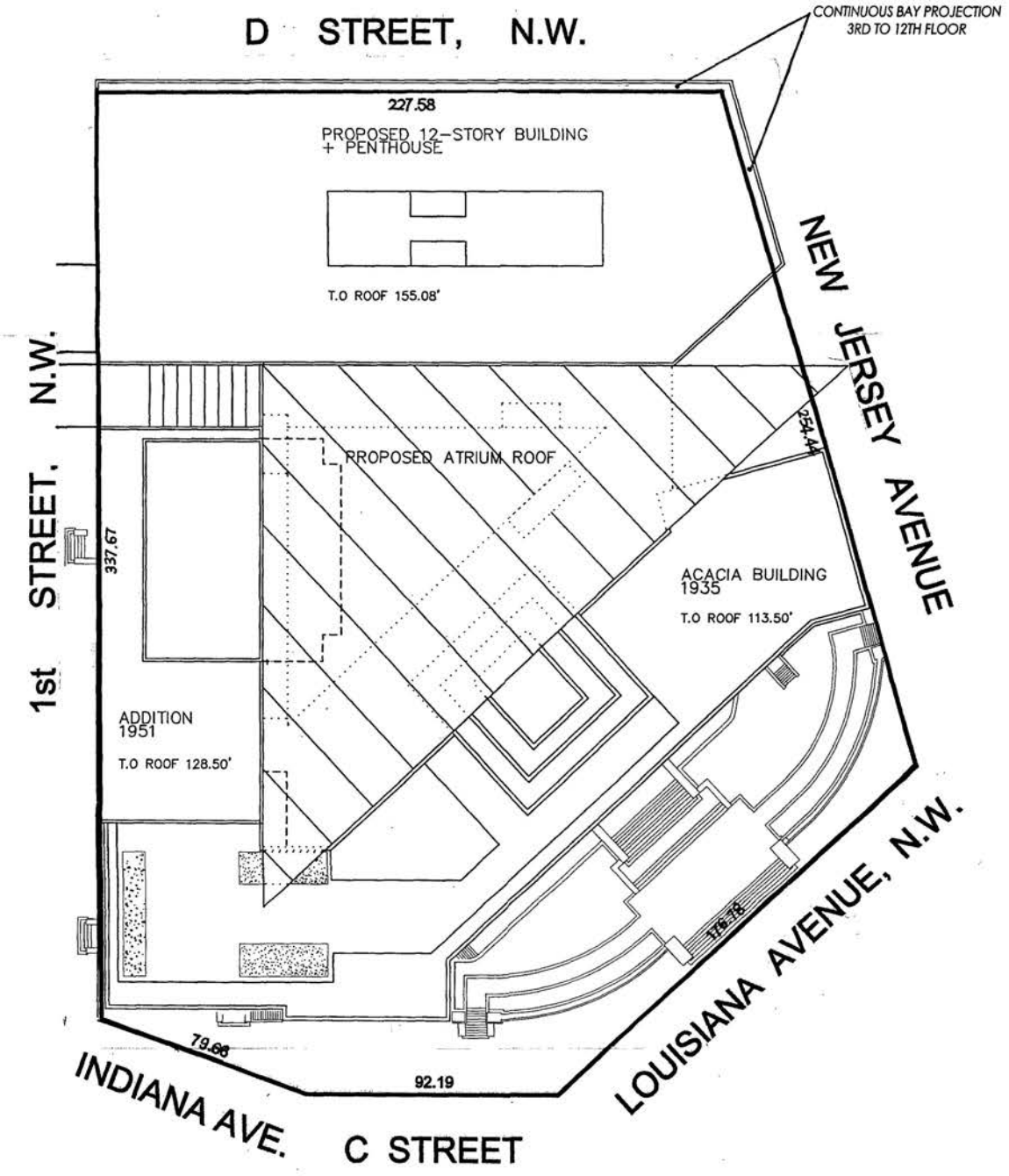
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: _____

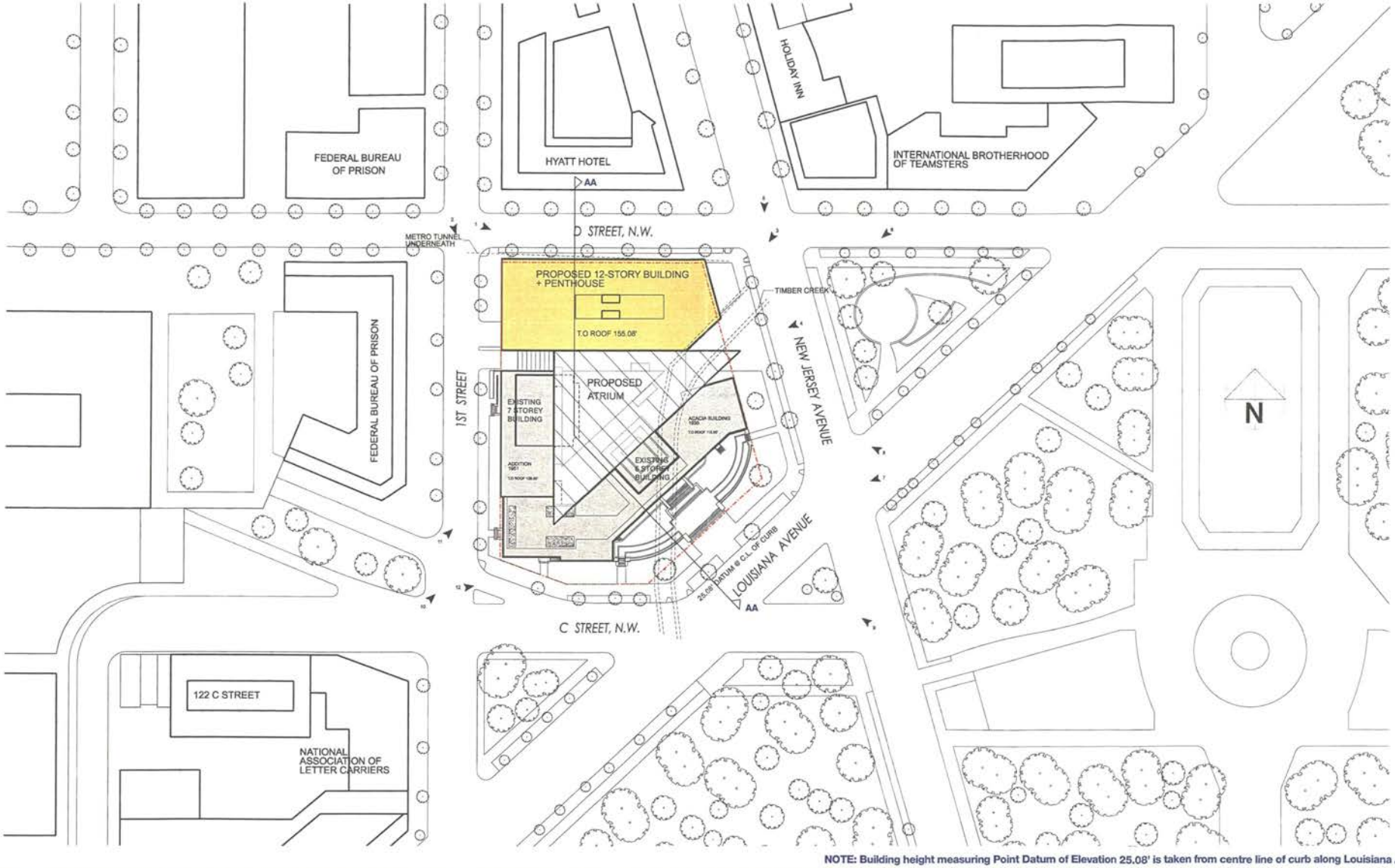
_____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



SO-15418(2004)



NOTE: Building height measuring Point Datum of Elevation 25.08' is taken from centre line of curb along Louisiana Avenue

Site Plan

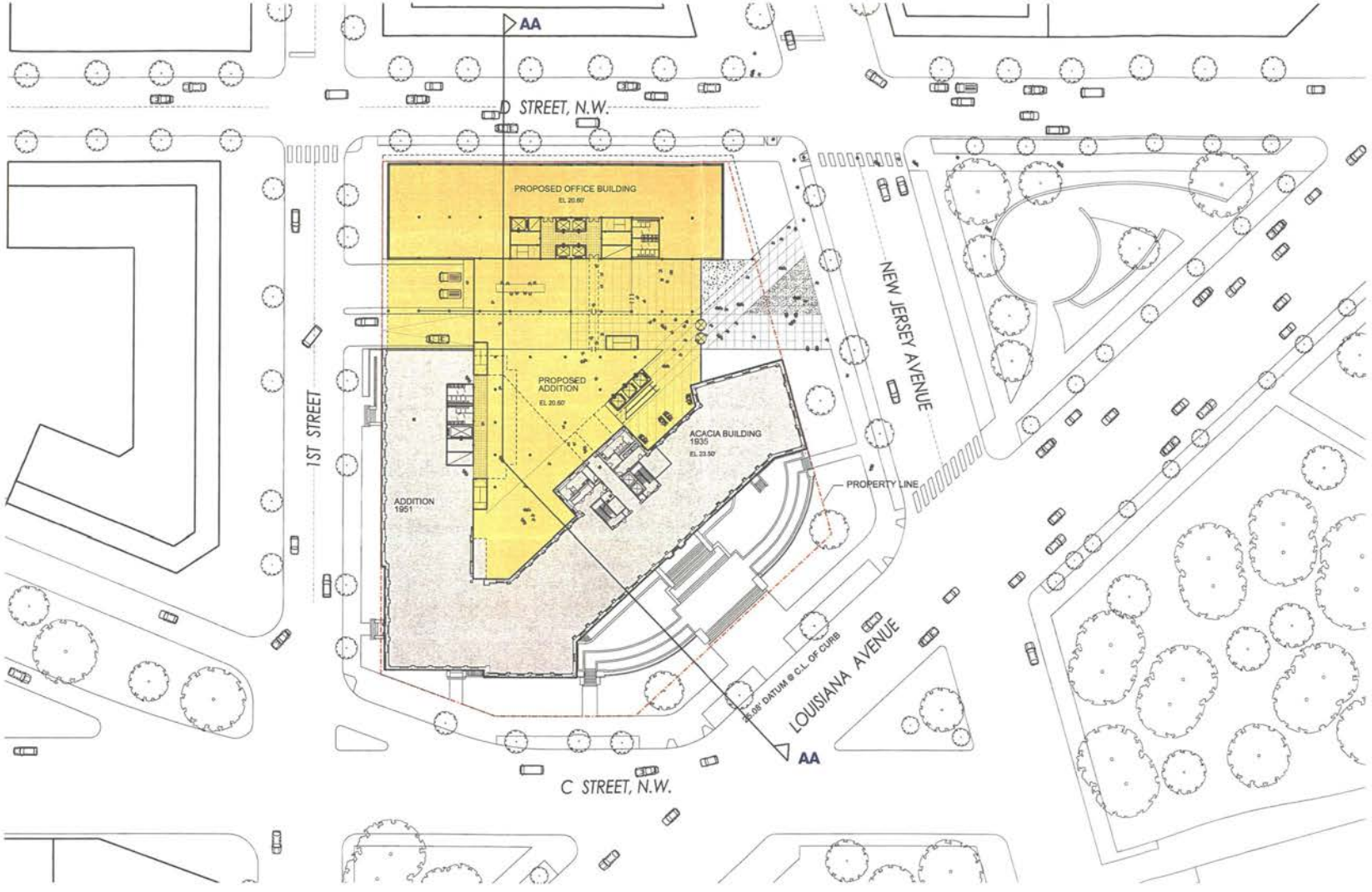
0 25 50 100 1" = 1/100'

01

51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture



NOTE: Building height measuring Point Datum of Elevation 25.08' is taken from centre line of curb along Louisiana Avenue

Ground Floor Plan

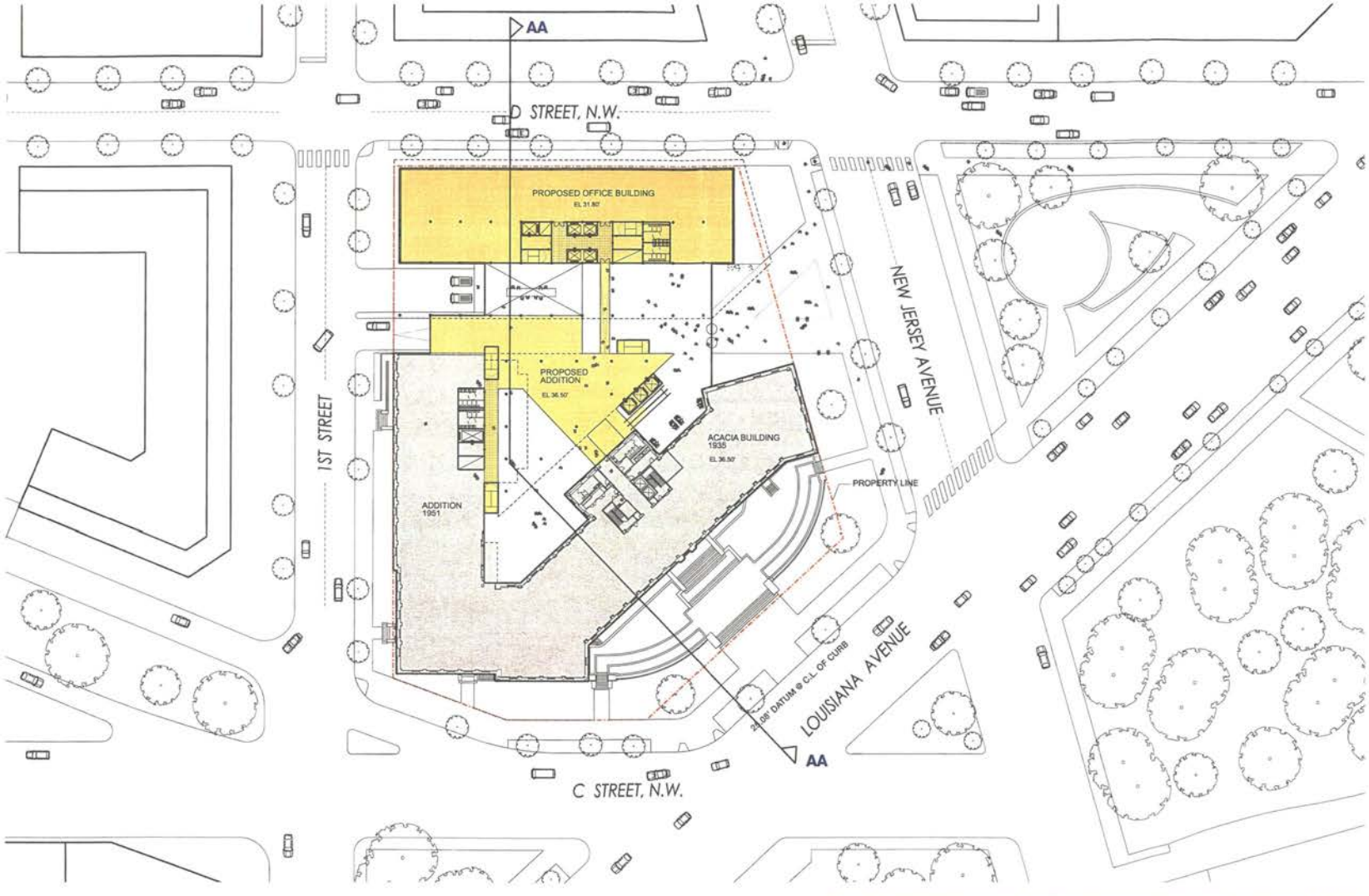
0 16 32 64 1" = 1/64'

02

51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture



NOTE: Building height measuring Point Datum of Elevation 25.08' is taken from centre line of curb along Louisiana Avenue

Second Floor Plan

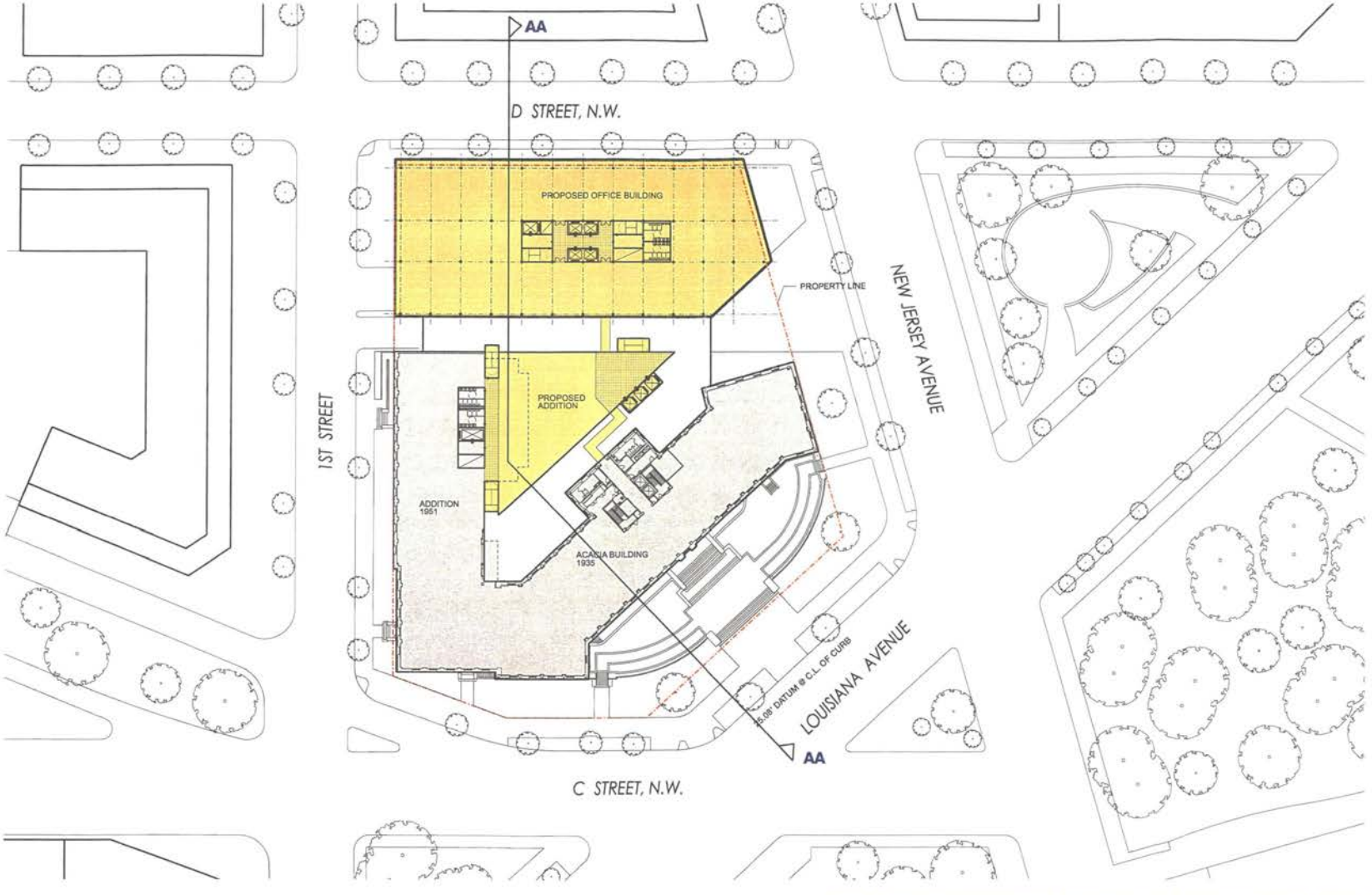
0 16 32 64 1" = 1/64'

03

51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture



NOTE: Building height measuring Point Datum of Elevation 25.08' is taken from centre line of curb along Louisiana Avenue

Typical Floor Plan

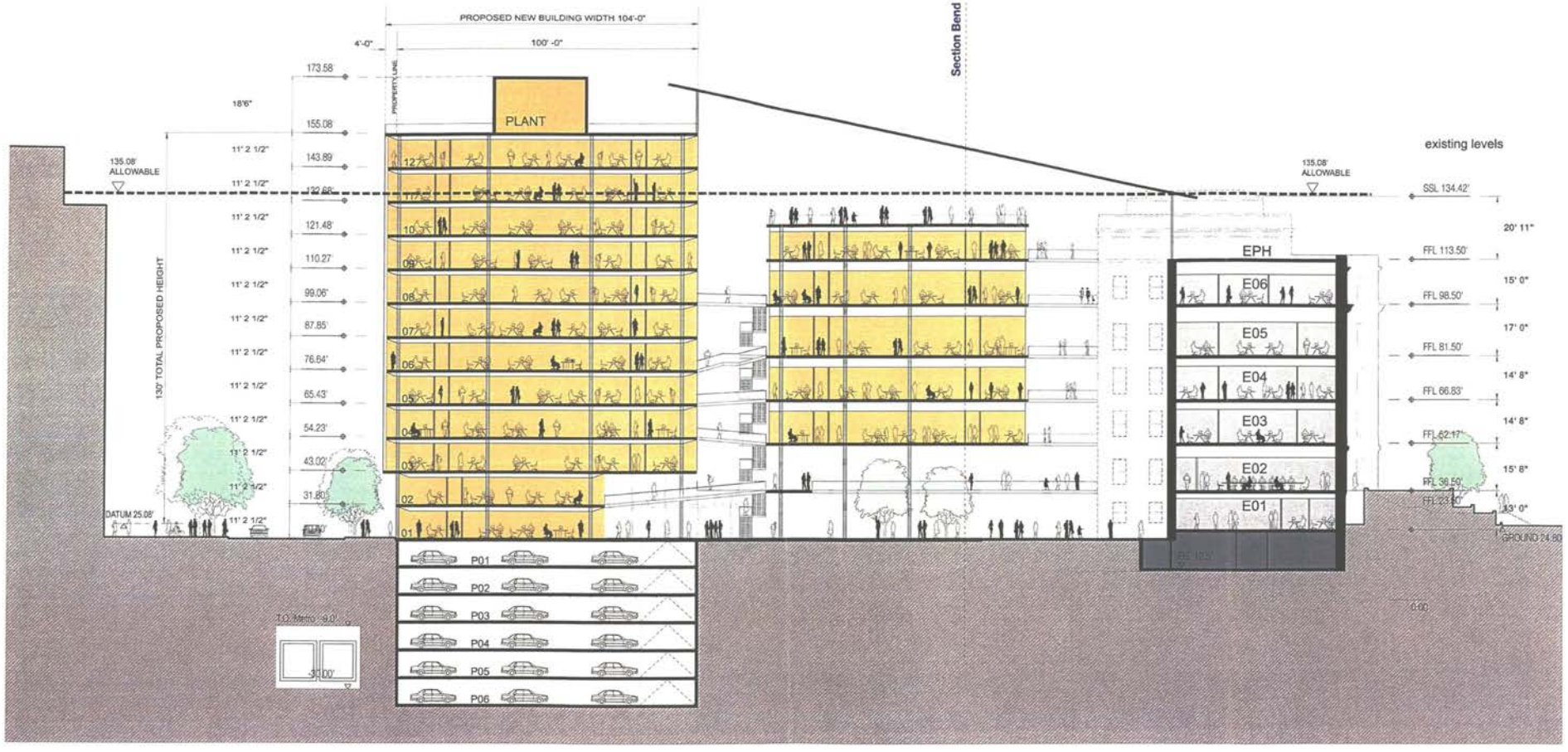
0 16 32 64 1" = 1/64'

04

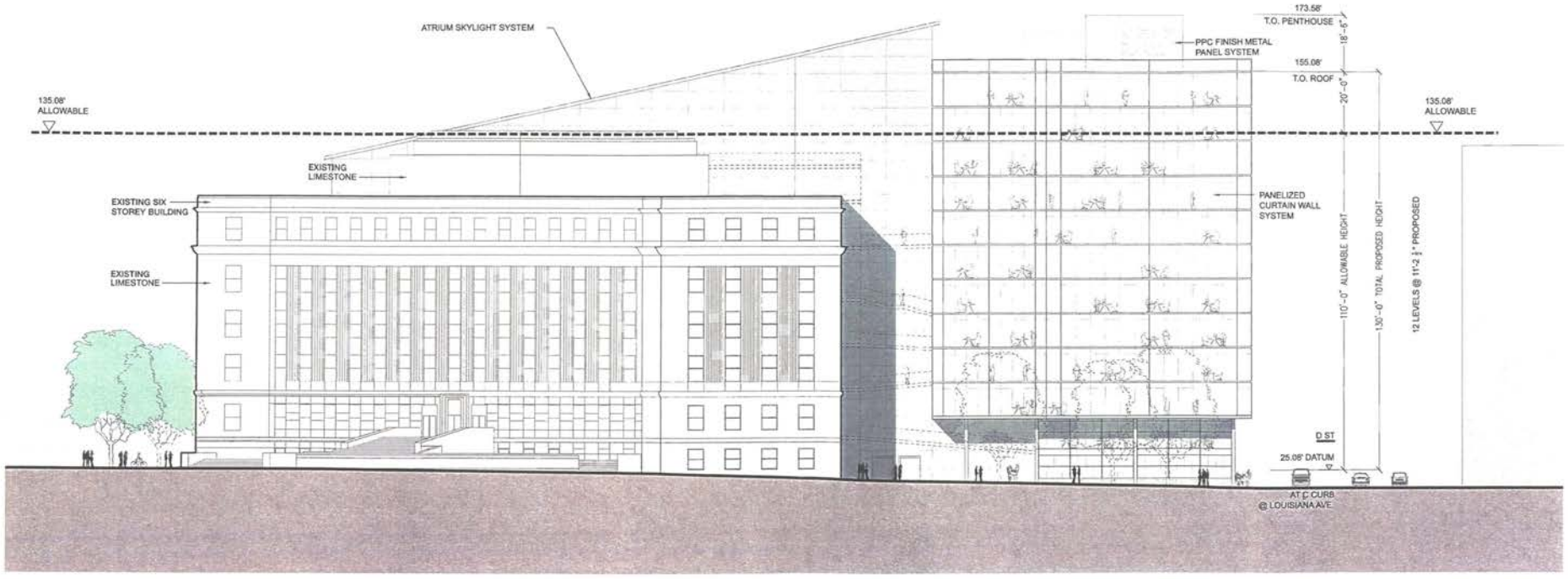
51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture



Proposed Section AA



New Jersey Avenue Elevation

East Elevation

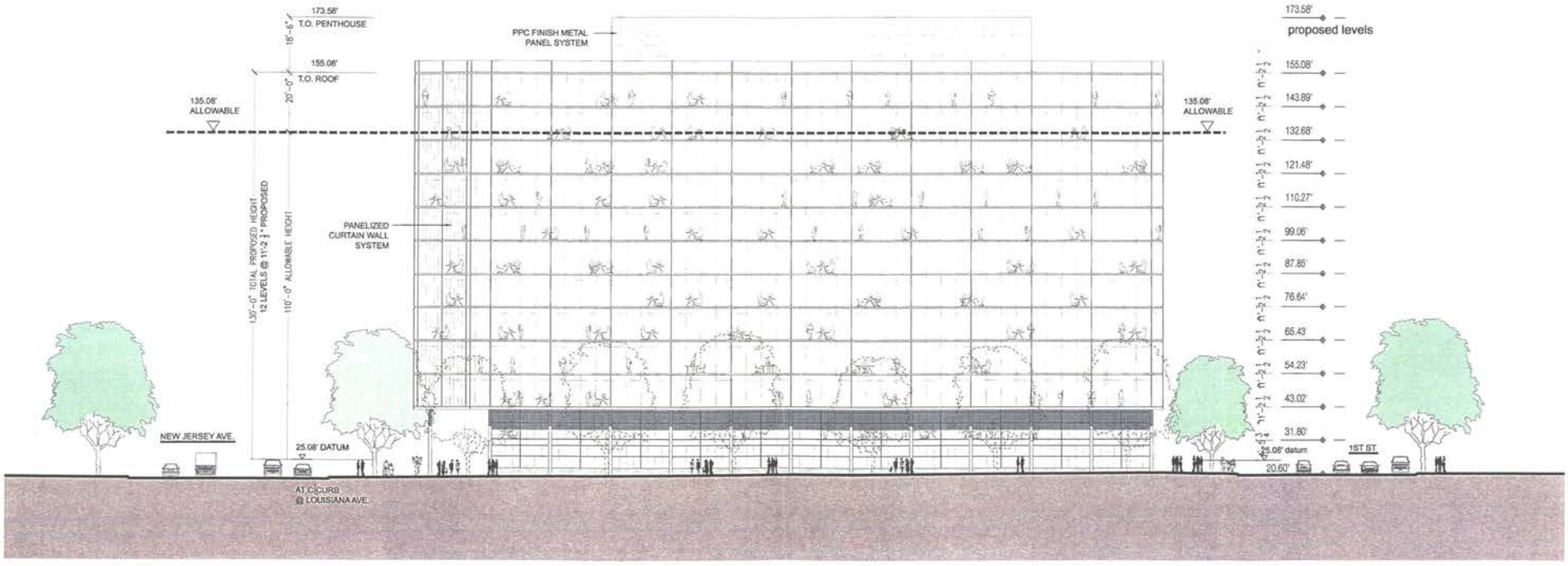
0 8 16 32 1" = 1/32'

06

51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture



D Street Elevation

North Elevation

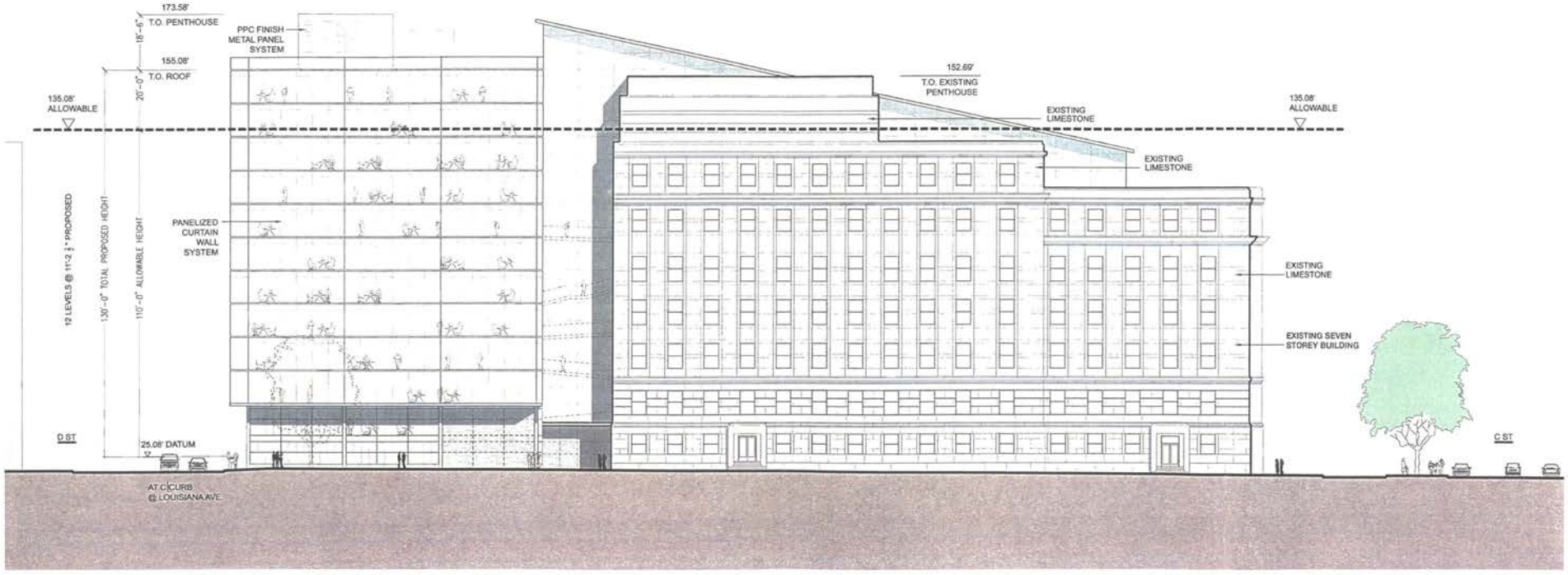
0 8 16 32 1" = 1/32'

07

51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture



1st Street Elevation

West Elevation

0 8 16 32 1" = 1/32'

08

51 Louisiana Avenue, Washington D.C. - The JBG Companies

BZA Presentation January 04, 2005

RRP Architects / WDG Architecture

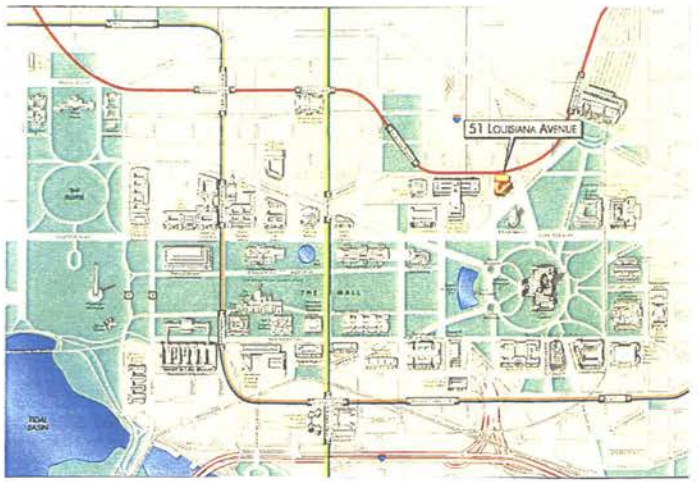


Birds eye view of Proposed Building



View of entrance at New Jersey Avenue


51 Louisiana Avenue, N.W.


51 Louisiana Avenue











1 | 2
4 | 3









5 | 6
8 | 7









9	10
12	11

3

FIRST DRAFT

February 5, 1993

BY HAND

James F. Rogers, Esquire
Latham & Watkins
1001 Pennsylvania Avenue, N.W.
14th Floor
Washington, D.C. 20004-2505

Jacqueline V. Prior, Esquire
Executive Director
D.C. Preservation League
1511 K Street, N.W.
Suite 739
Washington, D.C. 20005

Re: Agreement Relating to the Status of the Acacia Group Headquarters Site in Square 631, Washington, D.C.

Dear Jackie and Jim:

The Acacia Group owns the land and buildings in Square 631 (Subject Site), in the northwest quadrant of Washington, D.C. It is the intent of the Acacia Group (Owner) to explore alternatives for redevelopment, including appropriate preservation, of the site. The D.C. Preservation League (DCPL) is a non-profit corporation organized to act in the public interest to protect and enhance the physical and social environment of the city of Washington, D.C., and to further the goals and policies of preserving, restoring, and maintaining the character of historically and architecturally significant buildings, neighborhoods, and districts. It is the intent of this letter agreement to preserve the status quo of the site, for the purpose of furthering joint discussions about the future of the site. The Owner and DCPL (Parties) are interested in working together to define a plan for the preservation and redevelopment of the Subject Site. It is anticipated that during the period of this agreement the Parties shall enter into ongoing discussions and ultimately an agreement toward this end.

For these purposes and upon the execution of this Agreement, the Owner agrees to the following for the interim term of this letter Agreement;

the Owner will maintain its property in Square 631 in a manner consistent with its past treatment;

FIRST DRAFT

- the Owner will not seek any permits for alterations, new construction, or demolition for said property for the term of this agreement, other than those permits which may be required for routine maintenance work or interior alterations necessary for operational needs. Should the Owner seek such permits, the Owner will consult with DCPL prior to applying for such permits. The paragraph shall not apply if the need for such a permit arises for reasons beyond the control of the Owner (e.g., casualty damage caused by fire).

Toward the stated goal, and upon execution of this letter Agreement, DCPL agrees to the following:

- DCPL shall not, directly or indirectly, file or pursue any application, nor take any step or action, or aid or cooperate in any action, to designate or include any portion of the Subject Site as an historic landmark or part of a historic district. In the event that any third party pursues or takes action to seek historic designation of any sort for the Subject Site, DCPL shall not join in support of said application and shall advise the third party of this agreement and its intent;

- DCPL shall not directly or indirectly, pursue any objective, or in any way, aid any effort, that would result in any further restrictions being placed on the redevelopment of the Subject Site.

Either Party shall have the right to terminate this letter Agreement upon fourteen (14) calendar days prior written notice. In the event of such termination, the Owner shall not seek permits to alter or demolish, in whole or in part, the buildings on the Subject Site for a period of fourteen (14) calendar days following receipt by DCPL of written notice by such intention. Within fourteen (14) days of receipt of said written notice, DCPL may file an application to designate the buildings on the Subject Site as an historic landmark with the District of Columbia Historic Preservation Review Board.

All notices and other communications hereunder shall be in writing and deemed duly given upon receipt if personally delivered and signed for or mailed by certified mail, return receipt requested, postage prepaid, as follows:

FIRST DRAFT

If to Owner: Mr. Paul T. McDermott
Vice President, Real Estate
The Acacia Group
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

cc: Whayne S. Quin, Esquire
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

If to DCPL: Jacqueline V. Prior, Esquire
Executive Director
D.C. Preservation League
1511 K Street, N.W.
Suite 739
Washington, D.C. 20005

cc: James F. Rogers, Esquire
Latham & Watkins
1001 Pennsylvania Avenue, N.W.
14th Floor
Washington, D.C. 20004-2505

Each party shall be responsible for notifying the other party, in writing, of any change in address for sending notices and other communications to such party.

This letter Agreement and the obligations of the parties shall be effective upon execution by both parties. Notwithstanding any other terms of this letter Agreement, this letter Agreement can be amended or canceled by the mutual written consent of the parties.

In the event of breach of this letter Agreement, no party shall be liable to the other for monetary damages, whether direct or indirect, consequential or incidental. The parties also acknowledge that damages would in any event be an inadequate remedy and each consents, in the event of breach by it, to the entry of a decree of specific performance against it to compel performance in accordance with the terms of this agreement.

FIRST DRAFT

If the above terms and conditions are acceptable, please indicate acceptance in the space provided below and return a copy of this letter Agreement to the undersigned.

Sincerely,

Paul T. McDermott
Vice President

ACCEPTED AND AGREED TO BY:

D.C. Preservation League

By:_____
James P. Rogers, President

Date:_____

SECOND ADDENDUM TO AGREEMENT

The parties to the Agreement Relating to the Redevelopment of The Acacia Group Headquarters Site in Square 631 ("Agreement"), Washington, D.C., dated June 14, 1993, including Addendum executed in February 1995, do hereby agree to amend paragraph 1 (b) of the Agreement to include the following language after the words "Any such exterior alteration" at the start of the second sentence:

"and any interior work relating to restoration or redesign of the lobby,".

As a result, the sentence shall now read: "Any such exterior alteration, and any interior work relating to restoration or redesign of the lobby, shall be done only with the prior written consent of the League, and shall be consistent with generally-accepted preservation guidelines."

Except as set forth above, the Agreement shall remain unmodified and in full force and effect as of the date hereof.

Paul T. McDermott
Vice President, Real Estate
The Acacia Group

Date

O.K.

Sally Bark
President
D.C. Preservation League

Date

1

4

OUTLINE OF TESTIMONY OF ARCHITECTS

I. Introduction

A. Qualifications
B. Summary of Project

II. Consistency with requirements for area variances

A. Uniqueness / Practical Difficulty

1. Oddly shaped lot

2. Irregular V shape of the existing improvements

3. Historic nature of the building

4. Extremely high floor to floor heights of feet (15') in the existing buildings

5. Tiber Creek combined storm sewer running underneath the property

6. Metro tunnel underneath and adjacent to the property

B. Zone Plan

III. Lack of Adverse Impact on Neighborhood



Years Experience
39

Education
M.Arch, Urban Design, The Catholic University of America, 1971
B.Arch, Pennsylvania State University, 1965

Registration
DC: 1977 (#ARC2948)
VA: 1971 (#0401002938)
MD: 1984 (#2432)

Professional Affiliations
The Catholic University of America
Board of Advisors School of Architecture and Planning
Executive Development Board

The American Institute of Architects
Past Director, Middle Atlantic
Past President, Washington Chapter

Washington Building Congress
Past President

Washington Architectural Foundation
President, Past Vice President, Treasurer

American Planning Association

District of Columbia Department of Housing and Community Development Architectural Review Panel

CR George Dove, FAIA

Principal

Mr. Dove has been a Principal of WDG Architecture, PLLC (WDG) since 1978 and currently serves as Managing Principal. He has been a practicing architect and planner for more than 30 years, primarily in the Washington, DC area. His specialized training in urban planning has produced skillful site and master planning efforts for the firm's complex multi-use projects, and he has been instrumental in the design and management of many of WDG's award-winning projects. Mr. Dove has extensive experience in the design of a wide variety of building types including multifamily residential, office building and mixed-use complexes, headquarters facilities, hospitality, retail and senior living. In addition, he maintains a strong interest in historic preservation, renovation and adaptive reuse. Recognized as a leader in the architectural profession, Mr. Dove has served as national Board Member and Regional Director of The American Institute of Architects (AIA), President of the Washington Chapter/AIA; President of the Washington Building Congress; and founding Board Member and current President of the Washington Architectural Foundation. Currently, he serves on the District of Columbia Housing and Community Development Architectural Review Panel. In addition, he has provided assistance on review and oversight boards with public planning and design presentations, particularly as they relate to historic preservation.

Relevant Project Experience

Principal-in-Charge, Plaza America, Atlantic Realty Reston, VA: 1.2-million-sf, mixed-use project incorporating 4 Class A office buildings, a plaza and retail center.

Principal-in-Charge, Arlington Gateway, The JBG Companies, Arlington, VA: 1.25-million-sf mixed-use project with office and residential components.

Principal-in-Charge, 24th and M Streets, NW, The JBG Companies, Washington, DC: Mixed-use complex including 131,000-sf of office space; 239,000-sf of apartments, condominiums and retail; and 174,000-sf of parking.

Principal-in-Charge, The Metropolitan, Client, Bethesda, MD: Mixed-use development that includes a 12-story, 308-unit residential building; 15,000-sf of retail space; a 22,000-sf, five-story office building and a 5,000-sf child care center.

Principal-in-Charge, Reston Square, The JBG Companies, Reston, VA: Mixed-use project incorporating a 150,000-sf Class A office building; 160-unit, 200,000-sf high-rise residential complex; 175-room, 120,000-sf hotel; and 22,000-sf of retail.

Principal-in-Charge, Hoffman Town Center, Hoffman Management, Alexandria, VA: Master planning and design development of 4-million-sf, high-density, mixed-use development in 14 buildings, including office, retail, hotel and movie theater space.

Principal-in-Charge, 810 Seventh Street, NW, Development Resources, Inc., Washington, DC: Historic preservation of the street facades while constructing a 255,000-sf office building. Mr. Dove led presentations regarding this building before an Advisory Neighborhood Commission, the Historic Preservation Board and the Chinatown Businessmen's Association.

Principal-in-Charge, 1200 G Street, NW, Landow, Washington, DC: 200,000-sf office building. Mr. Dove led the presentation of this building before the Historic Preservation Review Board.

Principal-in-Charge, Chevy Chase Plaza, Abrams, Washington, DC: 230,000-sf, 10-story mixed-use project, incorporating retail, residential and office space.

Principal-in-Charge, City Crescent Federal Office Building, Otis Warren Real Estate Services, Baltimore, MD: 350,000-sf Federal office building which houses the U.S. Army Corps of Engineers, Baltimore District, Secret Service and Small Business Administration. The project met specific GSA requirements and the Baltimore Architectural Review Board. Recipient of numerous awards including The American Institute of Architects/Washington Chapter Merit Award for Excellence in Architecture.

Principal-in-Charge, Rockville Metro Plaza, Foulger-Pratt Companies, Rockville, MD: 11-story, 220,000-sf office building with retail and underground and above-grade parking.

Principal-in-Charge, Alexandria Tech Center, Simpson, Alexandria, VA: 200,000-sf office building.

Principal-in-Charge, 8270 Greensboro Drive, American Assets, McLean, VA: 150,000-sf office building.

Principal-in-Charge, One Monument Place, Charles E. Smith Commercial Realty, Fairfax, VA: 225,000-sf office building.

Principal-in-Charge, Commerce Executive Park, Trammel Crow Real Estate Services, Reston, VA: Six-building, 550,000-sf office park.

Principal-in-Charge, Fairview Park Office Building, Parcel 10, Client, Falls Church, VA: 200,000-sf office building.

Principal-in-Charge, Reston Executive Center, The Centennial Companies, Reston, VA: Three-building, 420,000-sf office park.
Principal-in-Charge, One Bethesda Center, Abrams, Bethesda, MD: 240,000-sf, mixed-use project incorporating retail, residential and office space.

Renovation

Principal-in-Charge, 1441 L Street, NW, SC Herman Companies, Washington, DC: Complete exterior and interior renovation of a 140,000-sf office building.

Principal-in-Charge, 400 First Street, NW, Continental Group, Washington, DC: Complete interior and exterior renovation of a 120,000-sf office building.

Principal-in-Charge, 1401 K Street, NW, IBG Properties, Washington, DC: Complete interior and exterior renovation of the Tower Building, a 117,000-sf office and retail building overlooking Franklin Park.

Principal-in-Charge, 6565 Arlington Boulevard, Foulger-Pratt Companies, Falls Church, VA: 150,000-sf office building renovation.

Principal-in-Charge, 7316 Wisconsin Avenue, Client, Bethesda, MD: 90,000-sf office building renovation.

Historic Preservation and Adaptive Reuse

Principal-in-Charge, Southern Railway Building, The Oliver Carr Company, Washington, DC: 257,000-sf, award-winning complete interior and exterior renovation, including a new addition.

Principal-in-Charge, IONA Senior Services Headquarters, IONA, Washington, DC: 22,000-sf senior services center.

Principal-in-Charge, 25 E Street, NW, Children's Defense Fund, Washington, DC: 50,000-sf renovation and interior design services for an existing residential building to house offices for the Children's Defense Fund.

5

Louis J. Slade, PE, PTOE

Vice President and Principal

Mr. Slade's diverse experience bridges the disciplines of civil engineering design, urban transportation planning, traffic engineering, land development, environmental analysis, and transportation systems design. Mr. Slade has directed major regional comprehensive transportation planning studies and corridor studies, traffic circulation and transit studies, and parking needs and design optimization studies for central business districts and new developments. He has devised and analyzed alternative public transportation modal options. He is familiar with road rating and sufficiency evaluation systems for primary and secondary roads. He has performed analytical assessments of air quality and noise levels of transportation facilities and systems. He has performed traffic impact assessments for residential, office, shopping and convention centers, and institutional complexes. He has been responsible for the transportation and parking components for academic, government, and corporate campuses.

Professional Certification

Registered Professional Engineer: District of Columbia and Maryland
Certified PTOE (Professional Traffic Operations Engineer)

Education

Master of Science, Civil Engineering
Northwestern University, Chicago, IL

Bachelor of Science, Civil Engineering
Northwestern University, Chicago, IL

Professional Associations

Fellow: ITE
Urban Land Institute
Lambda Alpha International Land Economics Society

Representative Projects

ARCHITECT OF THE CAPITOL EXPERIENCE

Mr. Slade has extensive transportation planning experience in the Capitol Complex area. He was Principal-in-charge on the traffic management plan for the Capitol Visitor Center construction. He is currently responsible for the transportation and parking planning for the House Office Building component of the Capitol Complex Plan, and is the designated transportation planner for the selected planning team for the entire Capitol Complex.

DOWNTOWN PROJECT PLANNING

Mr. Slade has directed all of the firm's projects in downtown Washington D.C. including transportation management and traffic operations planning for the MCI Center Sports Arena, and the new Washington Convention Center, and traffic, loading and parking plans for the National Gallery of Art, the Newseum, the Arts and Industries Building, and the National Museum of Native Americans. He has been a consultant to both the Downtown and Georgetown Business Improvement Districts, and he has directed the firm's assignments on numerous large-scale in-town residential and mixed-use development projects.

CONSTRUCTION TRAFFIC MANAGEMENT PLANS

WWII Memorial Truck Access
Principal-in-Charge. Seven months into a 30-month construction schedule, Gorove/Slade Associates, was given the challenge of developing a construction truck access plan to improve construction access to the site on the National Mall. G/SA balanced construction access needs with tourist and pedestrian safety . G/SA proposed four creative alternatives including rerouting pedestrians, and changing lane configuration to accommodate left-turning trucks, and ensuring that trucks could safely navigate between trees. The National Park Service

mandated strict observance of environmental issues including the protection, relocation and in some cases the removal of mature trees.

U.S. Capitol Visitors' Center, Construction Traffic Management Plan, Washington, DC
Principal-in-Charge. G/SA developed a traffic management plan for the construction of the new underground visitors' center in front of the U.S. Capitol. Construction is expected to last until mid 2005. The traffic management plan will minimize the impact of truck traffic upon the neighboring residential districts and downtown DC. Key issues for this project include taking into consideration the security issues resulting from recent terrorism events.

RAIL STATION PLANNING AND DESIGN

Mr. Slade has extensive experience with the planning and design of the vehicular and pedestrian components of commuter rail stations and bus terminals. This includes roadway access, circulation, and parking planning for several Metrorail stations on the Washington, D.C. system for the Transit Authority, the planning of major commuter heavy and light rail stations at the Meadowlands Sports Complex and the Carlstadt New Town Center in Bergen County, N.J., the planning of the station modifications associated with the new MCI Center sports arena at the Gallery Place Station in Washington, D.C., and planning studies for joint public/private developments at several Metrorail stations in the Washington metropolitan area.

TRANSPORTATION PLANNING STUDIES

Nashua Area Transportation Study, New Hampshire; Genessee/Finger Lakes Regional Study, Rochester, New York; Hartford County Thoroughfare Plan, Maryland; James City County Thoroughfare Plan, Virginia.

TRANSIT IMPACT STUDIES AND TRANSIT ALTERNATIVES ANALYSES

York County, Pennsylvania; Crystal City in Arlington, Virginia; Albany, New York.

CENTRAL BUSINESS DISTRICT CIRCULATION STUDIES

Washington D.C.; Alexandria, Virginia; Herndon, Virginia; Leesburg, Virginia; Baltimore, Maryland; Atlantic City, New Jersey; Indianapolis, Indiana; Albany, New York; Quincy, Massachusetts; Bowling Green, Kentucky, Takoma Center, DC.

UNIQUE AND SPECIAL TRAFFIC STUDIES AND ASSIGNMENTS

District of Columbia Comprehensive Bikeway Study; U.S. Army Museum, Arlington, Virginia; The Challenger Center for Space, Washington, D.C.; The Universal Ballet School, Washington, DC; The Capital Centre Arena, Prince George's County, Maryland; Convention Centers in Atlantic City and Trenton, New Jersey and Baltimore, Maryland; Casino Hotels in Atlantic City, New Jersey; Civil War Battle Reenactment, Fairfax, Virginia; Highway noise barrier design and design guidelines, Federal Highway Administration; Salvation Army headquarters and residence for the homeless, Washington, D.C.

TRANSPORTATION MANAGEMENT EXPERIENCE

Developed management programs to reduce peak hour traffic loads and parking requirements and development of traffic monitoring systems for various private developments in the Northern Virginia suburbs of Washington, D.C. and for federal agencies in the metropolitan area.

The National Institutes of Health (NIH)
As part of the Master Plan, Mr. Slade developed a cost-effectiveness matrix for candidate demand management programs that NIH used to advance their overall efforts to reduce trip generation. This work was presented at the I.T.E. Conference in February 1994. Gorove/Slade Associates has had an ongoing contract with NIH to expand and monitor the effectiveness of their demand management program.

The City of Alexandria, Virginia
Virginia passed a demand management ordinance in 1988 which required that all new development include a demand management program customized for the particular site based on proximity to transit, characteristics of the tenants, etc. Gorove/Slade Associates, Inc. worked with a number of clients to help interpret this new ordinance and to prepare the required program.

Institutions
Gorove/Slade Associates has developed demand management plans for a number of schools, hospitals, and performance facilities where constrained or sensitive conditions required a special means to control the generation, routing, and storage of vehicle traffic.

Anacostia Waterfront, Washington, DC
Gorove/Slade developed an area wide demand management plan for the Anacostia Waterfront in Washington, D.C. as part of a master planning study for the Office of Planning. Mr. Slade is currently Principal in Charge of the firm's involvement in the Anacostia Waterfront Initiative with the Office of Planning.

Frederick E. Gorove, P.E.

President and Principal

Mr. Gorove, a nationally recognized leader in transportation and traffic engineering, has consulted extensively nationwide performing transportation systems, traffic, and parking facilities analyses, traffic impact studies of development projects, and long range transportation systems planning. He has contributed significantly to and has been instrumental in the creation of city and regional master plans. Mr. Gorove has managed numerous parking design, utilization, and optimization studies for private developers, municipalities, and institutions. He has provided cost-benefit comparisons and financial analyses for alternate transportation systems and parking strategies. Mr. Gorove has provided expert testimony before municipal planning commissions, zoning boards, city councils, and other public agencies. Through his expertise, Mr. Gorove has been instrumental in determining appropriate transportation systems to meet public needs and to service private facilities.

Professional Registrations

Connecticut, New Jersey, Illinois, New York, Massachusetts, Virginia, Florida,Pennsylvania

Professional Affiliations

Fellow, Institute of Transportation Engineers
Associate Member, American Society of Civil Engineers

Education

Bachelor of Science, Civil Engineering
Tri-State College, Angola, IN

Graduate Studies, University of Illinois
Chicago, IL

As President and Principal Associate of Gorove/Slade Associates, Inc., Mr. Gorove oversees and manages all aspects of transportation, traffic, and parking engineering and consulting activities. He provides innovative and creative approaches to resolve new and emerging transportation issues which effect public and private use and economic and site development.

Representative Projects

Retail Projects

Mr. Gorove has provided traffic and transportation analyses for over 400 retail projects in most states and Puerto Rico. Projects include regional retail facilities in both urban and suburban areas. Examples include: Paramus Park Mall, Paramus, New Jersey; Century Plaza, Birmingham, Alabama; Potomac Mills, Prince William County, Virginia; Eastridge Shopping Center, San Jose, California; Jacksonville Landing, Jacksonville, Florida; White Marsh Shopping and Owings Mills Centers, Baltimore County, Maryland; Briarwood Shopping Center, Ann Arbor, Michigan; Citadel Shopping Center, Colorado Springs, Colorado; Stamford Town Center, Stamford, Connecticut; Moorestown Mall, Moorestown, New Jersey; Somerset Mall, Troy, Michigan; Gurnee Mills, Gurnee, Illinois; Willowbrook Mall, Wayne Township, New Jersey.

Large Acreage Mixed-use Developments

Burton Hills, Nashville, Tennessee; Eden Isles, Slidel, Louisiana; English Turn of the Lower Coast, New Orleans, Louisiana; Konterra, Prince George's County, Maryland; Liberty National Office Park, Birmingham, Alabama; Bronx Model Cities Project, New York City; Countryside, Loudoun County, Virginia; Richmond Country Club, Nashville, Tennessee.

URBAN MULTIPURPOSE COMPLEXES

The Gallery at Harborplace, Baltimore, Maryland; Stamford Town Center; Stamford, Connecticut; Georgetown Park, Washington, D.C.; Jacksonville Landing, Jacksonville, Florida; Bayside Center, Miami, Florida; Union Station, Indianapolis, Indiana; First Stamford Place, Stamford, Connecticut.

PARKING GARAGE STUDIES

- State House Garage Trenton, NJ: G/SA is under contract to provide traffic and parking planning services for a 2500 space garage that serves the state offices. G/SA also provided the signing and striping plan for this facility.
- G/SA, in conjunction with Chance Management Advisors, evaluated the circulation and access capacity constraints associated with three prospective garage sites as part of the OSU Transportation and Parking Master Plan.
- G/SA, in conjunction with Timothy Haas & Associates, developed the circulation and access plan for the proposed garages within the Health Sciences District and South Campus of Ohio State University.
- Nordstrom Garage Perimeter Mall, Atlanta, GA: G/SA developed the garage configuration plans and the plan for the external road system serving a 2400 space garage serving a new department store addition to the shopping center
- Exton Square addition Exton, PA.: G/SA helped develop the garage configuration plans and the plan for the external road system serving a 1200 space garage which allowed for the expansion and refurbishing of the Shopping Center
- Turning Stone Resort/Casino Verona, NY: G/SA is providing parking garage traffic design services for a new 2500 space garage that will serve a new event center and expanded Casino operations.
- Mohegan Sun Resort/Casino: G/SA provided the design of a unique garage access system that accommodated valet operations and garage access in a manner that eliminated pedestrian and automobiles from having to cross paths as experienced in the traditional linier design. G/SA also designed the valet area garage access plaza for the new dramatic Mohegan Sun Hotel Tower on the Thames(?) River
- Yale-New Haven Air Rights parking garage; New Haven, Connecticut
- Lafayette Place garage, Boston, Massachusetts;
- Chevy Chase Town Center garage, Washington, D.C.;
- Stamford Center parking garage, Stamford, Connecticut.

Additional General Experience

UNIVERSITY AND HOSPITAL PLANNING

- University of Rochester, New York
- Lake Michigan College, Benton Harbor, Michigan
- Boston City Hospital, Boston, Massachusetts
- Chicago Medical School, Chicago, Illinois
- Oklahoma Health Center, Oklahoma City, Oklahoma
- Jersey City State College, Jersey City, New Jersey
- Massachusetts General Hospital, Boston Massachusetts
- Georgetown University Hospital, Washington, D.C.

RESIDENTIAL TRANSPORTATION PLANNING

Shenandoah New Town, Atlanta, Georgia; Beckett New Community, Gloucester County, New Jersey; Woolwich Township Planned Unit Development, Woolwich Township, New Jersey; Riverside Towers and the 60th Street Yards Development, New York City, New York; Crown Properties, Palm Beach, Florida; Battery Park, Herndon, Virginia; Slidell, Louisiana.

CENTRAL BUSINESS DISTRICT STUDIES
Toledo and Sandusky, Ohio; Kansas City, Kansas; Baltimore, Maryland; Oklahoma City, Oklahoma; Atlanta, Georgia.

CENTRAL AREA STUDIES
Downtown Revitalization Study, Jacksonville, Florida; Central Area Parking Study, Nashville, Tennessee; Central Area Study, Erie, Pennsylvania; Central Area Study, Greensboro, North Carolina; Waterfront Study, Jersey City, New Jersey; Downtown Air Rights Studies, Atlanta, Georgia; Riverwalk Waterfront Development, New York City; Downtown Revitalization, Erie, Pennsylvania.

MAJOR RETAIL, INDUSTRIAL, HOTEL, AND OFFICE DEVELOPMENTS:
Berwyn and Chicago, Illinois; Austin, Texas; Cincinnati, Mansfield, Canton, Maumee, and Toledo, Ohio; Madison, Wisconsin; New York City, Nassau County and Suffolk County, New York; San Jose and Pinoli, California; Nashville, Tennessee; Atlanta, Georgia; Columbia, Anne Arundel County, and Baltimore, Maryland; Philadelphia, Pennsylvania; New Haven, Connecticut; Fort Lauderdale, Florida; Ann Arbor, Michigan; Bismarck, North Dakota; Montpellier, France; Pittsburgh, Pennsylvania; Kearney, New Jersey; Charleston, West Virginia; Birmingham, Alabama; Newcastle County, Delaware; Montvale, New Jersey; Morris Township and Warren Township, New Jersey; Stamford, Connecticut; Birmingham, Alabama; Kenner, Louisiana; Annapolis, Maryland; Montvale, New Jersey, Cranbury Township, New Jersey

TRANSPORTATION PLANNING FOR PORTIONS OF LARGE METROPOLITAN AREAS
Back Bay, Massachusetts; Foulton Ferry Renewal Project, New York City; Bronx Model Cities Project, New York City; Bolling/Anacostia Corridor Study, Washington, D.C.; Inner Harbor Projects, Baltimore, Maryland; Air Rights Development, Atlanta, Georgia.

TRANSIT IMPACT STUDIES
Quincy and Braintree, Massachusetts; Alexandria, Virginia; Washington, D.C.; Montgomery County, Maryland; Newark, New Jersey; Anne Arundel County, Maryland.

MULTIPURPOSE COMPLEX DEVELOPMENTS IN LARGE CITIES
Torpedo Plant, Alexandria, Virginia; Georgetown Inland Development, Washington, D.C.; Stamford Town Center, Stamford, Connecticut; Georgetown Park, Washington, D.C.; Lafayette Place, Boston, Massachusetts; River Walk, Manhattan, New York.

SPECIAL LAND USE STUDIES
Birmingham Racetrack, Birmingham, Alabama
BMW Automobile Portside Staging Facility, Oxnard, California

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TECHNICAL MEMORANDUM

TO: Kai Reynolds — JBG Companies, The
Richard Nettler — Robins, Kaplan, Miller & Ciresi, L.L.P.

FROM: Robert B. Schiesel, P.E.

CC: Daniel B. VanPelt, P.E.
Frederick E. Gorove, P.E.

DATE: December 28, 2004

SUBJECT: 51 Louisiana Avenue NW – Examination of Transportation Impacts

This memorandum presents an examination of the parking and traffic impacts of the proposed addition to 51 Louisiana Avenue NW. The proposed change is to demolish an existing parking garage and construct a new parking garage and a 12 story office building. This review compares the traffic generated by the existing conditions to the proposed future conditions, and examines the impact on traffic on roadways surrounding the site.

The site is located near Union Station, the US Capitol and the Federal Courts, and is bounded by D Street to the north, New Jersey Avenue to the east and 1st Street to the west. Currently the site contains development totaling 300,997 square feet, of which approximately 92,250 square feet is an existing parking garage. The existing parking garage contains 463 spaces, used primarily as leased spaces to office-workers. The proposed change would replace this garage with (1) an approximately 443 space garage, consisting of approximately 403 full parking spaces, and 40 tandem parking spaces, and (2) a 12 story office building that would contain 335,836 square feet of office space. The total amount of development on the block would increase to 544,583 square feet of office space. As a point of comparison, this property could be developed to 591,636 square feet of office space as a matter-of-right development, or 819,189 square feet if Transfer Development Rights were used.

The zoning requirement for the proposed office-building is 301 spaces, 142 fewer than its proposed 443 space capacity, allowing additional space for tenants of the building. The following table summarizes the number of spaces and zoning requirements.

Table 1: Summary of Parking Spaces and Zoning Requirements

	Number of Spaces			
	Existing Condition	*After Proposed Construction*	*Under Matter-of-Right*	*Under Matter-of-Right using Transfer Development Rights*
Office Space (gsf)	approx. 208,747 SF	544,583 SF	591,636 SF	819,189 SF
Parking Spaces Provided	463 spaces	approx. 443 spaces	n/a	n/a
Zoning Requirement*	115 spaces	301 spaces	328 spaces	454 spaces

*C-3-C zoning: 1 space for every 1,800 gross square feet past the first 2,000

The traffic impact of the proposed change in site use is based on the use of the parking spaces within the garage. Since the parking spaces of the proposed garage will be used in a similar manner to existing conditions (majority office-workers), traffic impacts of the proposed new construction are based on the change in the total number of spaces.

Currently, the proposed garage is estimated to contain approximately 443 spaces, but since this number may change upon refinement this analysis assumes a total of 500 spaces, a 37 space increase. Based on industry standards[1], the maximum loading or unloading rate for an office-based parking facility is approximately 50% (no more than half of garage spaces will either fill up during the morning or empty during the evening in a single hour). Thus, the 37 additional parking spaces equate to 19 more vehicles per hour.

The entrance to the parking garage will be on 1st Street NW, just south of its intersection with D Street. The traffic impact of this garage will be one additional car every three minutes during the peak hour on the roadways leading up to this entrance. This represents an insignificant amount of traffic; thus the proposed construction will not have an adverse impact on traffic conditions in the area.

[1] *ITE Parking Generation*, 3rd Edition, Institute of Transportation Engineers

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David L. Orr
President



Education

Syracuse University
B.S., Civil Engineering

Graduate Studies:

Cornell University
Ithaca, New York

Columbia University
New York, New York

Professional Associations

Northern Virginia Building Industry Association
Fairfax Chapter
Former President

Fairfax County Goals Advisory Commission
Commissioner

Associated Builders and Contractors, Northern Virginia Chapter
Board of Directors

Mr. Orr maintains oversight of the company's on-going projects. He also serves as Principal-in-Charge on key projects undertaken by Orr Partners.

Mr. Orr began his career with one of the world's largest construction companies, Morse Diesel. Upon relocating to the Washington area, Mr. Orr supervised the construction of the Marriott Headquarters in Rockville, Maryland. He then moved to Richmarr Construction where he gained extensive training and experience in all aspects of construction. Subsequently, Mr. Orr became a Partner for Lee Sammis Associates, Inc. where he was responsible for all aspects of development and construction in fourteen company-owned projects. In 1988, Mr. Orr founded Orr Partners, which is now a prominent development management firm. Mr. Orr has been involved in over 10,000,000 square feet of construction projects.

Preceding Positions

Lee Sammis Associates, Inc.
Administered the entire construction and development process for this national development company. Responsible for 54 people reporting to Mr. Orr's division and for construction of over 1,000,000 square feet of commercial office product per year for the Lee Sammis Associates, Inc. account. Notable projects include: USAA Regional Headquarters, Hughes Aircraft, CIT Alcatel and Gillette.

Richmarr Construction
Overall project responsibility for several large residential and commercial office projects. Responsibilities included bidding, awarding and writing all subcontracts, coordination of project administration and project financing. Projects completed include The Carleton of Chevy Chase in Montgomery County, Maryland, The Barkley in Arlington, Virginia, the Wadsworth House in Georgetown and Kings Park West in Fairfax, Virginia.

Marriott Corporation
Served as Field Superintendent and Assistant Project Manager on the 500,000 square foot corporate headquarters for Marriott Corporation. Responsibilities included bidding and awarding contracts to subcontractors and coordination of all trades in the field.

Preceding Positions (Continued)

Morse Diesel, Inc.
Responsibilities included supervisory and project management tasks in the field and at the contractor's main office. Projects of note included the renovation of the New York Stock Exchange, construction of a residential unit on the Penthouse level of the Park Lane Hotel and construction of the Headquarters for the Memphis Publishing Company in Memphis, Tennessee.

Outline
David Orr's Testimony

I am President of Orr Partners, a prominent development management firm that I founded in 1988. I maintain oversight of the company's on-going projects and serves as Principal-in-Charge on key projects. I have been involved in over 10,000,000 square feet of construction projects.

51 Louisiana, N.W.

51 Louisiana (the site) is an irregularly shaped, five sided site totaling 91,021 SF. It is zoned C-3-C which allows a by right development potential, at a 6.5 FAR, of 591,636 SF. Additionally, the site is in the "Downtown East" receiving zone for the transfer of development rights ("TDRs"), which permits a maximum FAR of 9.0 and a maximum building height of one hundred ten feet (110'). As such, with TDRs, the site is allowed to be developed to 819,189 SF.

The current improvements (the connected Acacia and Annex buildings and the above grade garage) on the site total 300,997 SF of which approximately 92,250 SF is the above grade parking garage. The law firm Jones Day occupies the Acacia and Annex buildings and desires expansion space by early 2008.

The challenge of this site is to realize the excess development potential given the serious and unique constraints of this site discussed in detail in the Applicant's Prehearing Statement.

These constraints, among others, are:

- Irregularly shaped, five sided site;
- V-Shaped existing improvements;
- Unusual public space surrounding the property;
- DCPL standstill agreement;
- Tiber Creek;
- Metro tunnel;
- 15' floor to floor heights of the existing Acacia and Annex Buildings;
- Requirement of keeping JD fully operational;
- Significant unused density, the utilization of a portion of which requires not only height variance, but connecting ramps to allow for the efficient expansion to the existing tenant;
- Loading dock to provide service;
- Parking;
- Desire to respond to the adjacent properties (e.g. Japanese American Memorial);

The various constraints listed above impact the Applicant in the following significant ways:

Decreased Site Yield

Given the numerous site constraints, including the historically sensitive character of the existing improvements, the resultant building footprint is smaller than would otherwise be desired given the necessity to hold back from and respect the Acacia and Annex Buildings. As such, given current height limitations of 110', this would result in a building of approximately 280,000 SF. This, combined with the existing Acacia and Annex buildings, is over 300,000 SF less than the allowable development potential (with TDRs) of the site. In order to minimize the burden of the reduced building footprint, the Applicant has requested the height variance to 130' which would gain approximately an additional 50,000 SF. As such, without the height variance the Applicant will suffer an economic loss equivalent to the value of 50,000 SF. Land values for a site similar to 51 Louisiana Avenue, if available, would command in excess of $150 / FAR SF. As such, even at $150 / FAR SF this represents an economic loss of $7.5 million. In addition, the requirement to accommodate the significantly greater slab-to-slab dimensions (15'+/-), the triangular Building is far less efficient in utilization of FAR than a conventional building on the same footprint.

Increased Construction Costs due to Subgrade Conditions

The Tiber Creek alignment through the site causes the garage configuration to be less efficient and therefore more costly. Typical garage efficiency is 375 SF / space and the proposed garage will require 450 SF / space. The estimated average cost of $70 / SF to build the below grade garage space will result in a premium construction cost of over $2.5 million for the proposed 443 space +/- garage. Also, the sheeting and shoring along the Tiber Creek elevation of the garage will require specialty techniques such as slurry walls. Additionally, the construction of the garage adjacent to the WMATA tunnel along D Street will require underpinning which will significantly increase the cost of the garage. A preliminary estimate suggests that excavation costs will be over $70 / SF of sheeting and shoring area which is nearly $40 / SF higher than normal costs. This results in an additional premium of $2 million

Increased Costs Due to the Historical Character of the Acacia and Annex Buildings

Recognizing the historical character of the Acacia and Annex Buildings, and the existing "Standstill Agreement" with DCPL, the Applicant knew it was necessary to engage an architect with an international reputation for designing additions to projects of the nature; to satisfy that requirement, the Applicant turned to RRP, to create an appropriate design solution that would meet the needs of the existing tenant, derive as much by-right value from the site as could be sensitively accommodated and respond to the long record of concerns expressed by the Commission of Fine Arts ('CFA"), the District of Columbia Office of Planning, the District of Columbia Preservation League ("DCPL"), the Advisory Neighborhood Commission ("ANC"), and, of course their neighbors. The design elements and solutions that accommodate the above stated concerns carry a cost premium that far exceeds the cost of new "trophy" office buildings currently being constructed in the Central Business District. Some of these premium items include: an all glass façade of the new office building, the creation of a central smaller triangular office building and the creation of a covered atrium space which gracefully connects the new development to the existing buildings. These items add $40-$50 / SF to the cost of the office space and result in total premiums of $13-$15 million.

Foregone Development Potential

Even with the height variance, if approved, the site will still be significantly under the allowable FAR (with TDR's) by approximately 275,000 SF. Given the values discussed earlier of $150 / FAR SF, this means that even with the height variance, the Applicant will not be able to utilize approximately 275,000 SF of allowable FAR (with TDR's) which equals over $40 million of land value. While one could debate whether or not all of this value could ever be realized, it is fair to state that the existing unique conditions of the site clearly eliminate the opportunity to realize much of this residual value.

Extended Construction Period

Given the difficult nature of the subgrade constraints (Tiber Creek and WMATA Tunnel) as well as the inherent challenges of developing next to historically sensitive structures, the Applicant's construction contractor, Clark Construction, advises that the construction schedule for this project will likely be extended for 2-3 months by putting in place means and methods that assure that the Acacia and Annex Buildings will not be compromised and to employ excavation techniques that are not typical. In addition, in order to provide adequate parking on the irregular, constrained site, the excavation will go one to two levels deeper. Assuming a total project cost of $165 million, average outstanding debt of 60%, total construction loan proceeds of 70% of total costs at an interest rate of 5.5% and the remaining capital funded by equity at a cost of 20%, then two additional months of construction time add over $2.2 million of project costs.

Conclusion

The Applicant's request for the height variance is borne of real and significant limitations imposed upon this site that would otherwise allow the Applicant to realize the full and allowable development potential of the site. These constraints limit the configuration of any new development and add significant development premiums to the project on the order of $19-$23 million. Additionally, even with the height variance, the Applicant will not realize a significant portion of the land value of the site by foregoing the opportunity to development up to the allowable limit of the site. This represents an economic loss of tens of millions of dollars. Given these factors, the variance helps to partially offset these onerous premiums and, if not allowed, jeopardize the feasibility of the development of space which would help to meet the needs of Jones day the existing tenant.