

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Application of N Street Follies Limited Partnership
Square 158, Lots 69, 835 and 836
1743-1755 N Street, NW**

Preliminary Statement of Compliance with Burden of Proof

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I. Background:

The Subject Property is located at 1743-55 N Street, NW (Square 158, Lots 69, 835 and 836), mid-block between 17th and 18th Streets, NW. Square 158 is bounded on the north by Massachusetts Avenue, NW, on the east by 17th Street, NW, on the south by N Street, N.W., and on the west by 18th Street, NW. A public alley bisects much of the Square horizontally. The Subject Property has 150.5 feet of frontage along N Street and approximately 151 feet of frontage along the rear alley. The Subject Property is currently occupied by six structures that are four to five stories in height. The Subject Property contains approximately 20,648 square feet and is located in the DC/SP-1 Zone District.

N Street Follies Limited Partnership (the "Applicant") proposes to develop a boutique hotel (the "Project" or the "Hotel") on the Subject Property in accordance with the recommendations of the Historic Preservation Division of the Office of Planning. In order to proceed with the Project, the Applicant requests the following relief from the Board of Zoning Adjustment: (1) special exception approval to permit the development of a boutique hotel under § 512 of the Zoning Regulations; (2) special exception approval under 411.11 to permit multiple roof structures that do not meet the single structure requirement of 411.3 nor the setback requirements set forth in § 530.4; (3) a modification of the rear yard provisions set forth in § 534.6; (4) variance relief from the maximum permitted height as set forth in § 530.1; (5) variance relief from the maximum floor area ratio as set forth in § 531.1.; and (6) variance relief from the requirements for a court as set forth in § 536.1.

Pursuant to § 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. In said Statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exceptions and variances. Following herein, as required by the Board's application process, is a summary statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof:

A. Special Exception Relief for Hotels and Inns (§ 512)

BZA

Case No. 17337

Exhibit No. 6

Board of Zoning Adjustment
District of Columbia
CASE NO. 17337
EXHIBIT NO. 6

1. Section 512.1:

A hotel or inn shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

2. Section 512.3:

The height, bulk, and design of the hotel or inn shall be in harmony with existing uses and structures on neighboring property.

The area surrounding the Subject Property includes non-profit office and hotel uses. To the east of the proposed development, at 1739 N Street, N.W., is the Tabard Inn, a forty-room hotel that includes dining and meeting spaces. The Canterbury Hotel, located at 1733 N Street, N.W., is situated to the east of the Tabard Inn. To the west of the Subject Property is the United Auto Workers office building. The height, bulk, and design of the proposed boutique hotel are compatible with those found in the surrounding vicinity. There are numerous buildings in Square 158 that either meet or substantially exceed the seventy-five foot height proposed by this application.

3. Section 512.4:

To ensure that the height, bulk, and design of the hotel or inn is in harmony with existing uses and structures on neighboring property, the Board may require special treatment in the way of design, building setbacks, screening, landscaping, sign controls, and other features as it deems necessary to protect neighboring property.

The Project has been carefully designed in order to be compatible with existing surrounding development. The proposed landscape plan includes stone curbs that will provide an attractive entry into the development, as well as substantial plantings on both the Subject Property and the adjacent public space. In accordance with the recommendations of the Historic Preservation Division of the Office of Planning, the building façades and much of the interior building fabric of these contributing structures will be preserved. The upper two floors of the development will be set back thirty feet from the original façade in order to maintain the existing presence of the buildings.

4. Section 512.5:

The approval of the hotel or inn shall result in a balance of residential, office, and hotel or inn uses in the SP District in the vicinity of the hotel or inn.

The Project will enhance the balance of land uses in the vicinity, which includes hotel, office, and residential uses. The areas west and south of the Subject Property primarily consist of high-rise general office buildings with street-level retail. As noted above, the area east of the Subject Property is occupied by hotel uses. To the north of the Subject Property, across Massachusetts Avenue, are several high-density apartment buildings.

5. Section 512.6:

The gross floor area devoted to function rooms and exhibit space shall not exceed fifteen percent (15%) of the gross floor area of the hotel.

The gross floor area devoted to function rooms and exhibit space will be 13.6 percent of the gross floor area of the Hotel.

6. Section 512.7:

The hotel or inn shall be located within thirteen hundred feet (1,300 ft.) of the Central Employment Area or a Metrorail station.

The Subject Property is located within the boundaries of the Central Employment Area and the Dupont Circle Metrorail Station is located less than two blocks from the Hotel entrance.

7. Section 512.8:

The 1,300 feet distance required above shall be measured from the entrance of the hotel or inn that is closest to the main lobby and guest registration desk to the edge of the Central Employment Area of the entrance to the Metrorail station, following public rights-of-way.

The Subject Property is located within the boundaries of the Central Employment Area.

8. Section 512.9:

The Board may require more or less off-street parking spaces and loading berths than required by chapters 21 and 22 of this title to accommodate the activities of the hotel or inn, so as to avoid unduly impacting parking or traffic on the surrounding streets.

Pursuant to Section 2100.5, the Project is not required to provide additional parking spaces due to the Subject Property's historic designation. However, the Project includes 128 parking spaces which are more than sufficient in ensuring adequate parking.

9. Section 512.10:

The location and design of driveways, access roads, and other circulation elements of the hotel or inn shall be to avoid dangerous or other objectionable traffic conditions.

As shown on the site plans, access to the parking garage will be through the rear alley. The circulation elements of the Hotel have been designed to avoid dangerous or other objectionable traffic conditions.

B. Special Exception Relief for Roof Structures (§§ 411, 530.4)

1. Requirements of Sections 411.3 and 530.4(b)

Section 411.3 requires that all penthouses and mechanical equipment shall be placed in one (1) enclosure.

Section 530.4(b) requires that housing for mechanical equipment or stairway or elevator penthouse shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located

The Project proposes three separate roof structures. A main penthouse for mechanical equipment that measures 15 feet in height, a smaller stair case tower 11 feet in height, and a service elevator penthouse that is only 5 feet in height. The main penthouse and the staircase tower do not meet the one for one setback requirement from the roof's edge. Therefore, the Project does requires relief from the requirements of Sections 411.3 and 530.4(b).

2. Relief pursuant to Section 411.11

Section 411.11 provides the Board authority to approve as a special exception the location, design, and other aspects of roof structures, including setbacks. In order to obtain such special exception approval, an applicant must demonstrate that: (1) compliance with the roof structure regulations is impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable and (2) the intent and purpose of Chapter 400 and the Zoning Regulations are not materially impaired by the structure and the light and air of adjacent buildings are not adversely affected.

(a) Compliance with the roof structure regulations is impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

The need for separate roof structures and the inability of two of them to meet the setback requirements is a direct result of the retention of the existing historic buildings and the setting back of the new construction. In retaining the front and rear facades, and much of the building fabric of the existing buildings, the Project is limited in what it may do with the remaining space. In essence, the Project is built around these existing buildings and is limited by the fabric it is attempting to preserve. In addition, to limit any possible impact on the view from the street and neighboring properties, the new construction is setback 30 feet from the front lot line. With a smaller roof area and the limitations imposed by the preserved structures below, it is impractical to have a single roof structure or to meet the setback requirements. In fact, it is not feasible to set back all roof structures 15 feet from all sides of this top level.

(b) The intent and purpose of Chapter 400 of the Zoning Regulations are not materially impaired and the light and air of adjacent buildings are not adversely affected

The penthouses harmonize with the main structure in architectural character, material, and color. Any impact of the structure on light and air to adjacent buildings would be minimal, as the roof level is already set back 30 feet from the front lot line.

C. Modification of Rear Yard Requirement (§ 534.6)

Section 534.6 allows the Board to waive the rear yard requirements of Section 534, provided the objectives of this section are met in accordance with §§ 534.7-534.11. Pursuant to Section 534.2 a rear yard of 14.84 feet is required. The Applicant proposes a rear yard of 12.98 feet. The granting of the requested modification will not be detrimental to the objectives of this Section and can be granted in accordance with §§ 534.7-534.11.

1. Section 534.7

No apartment window shall be located within forty (40) feet in front of another building.

The Project complies with this provision. The building on the opposite side of the alley is more than 40 feet removed from the Project's rear lot line.

2. Section 534.8

No office window shall be located within thirty (30) feet directly in front of another office window, nor eighteen (18) feet in front of a blank wall.

The Project complies with this provision. The building on the opposite side of the alley is more than 40 feet removed from the Project's rear lot line.

3. Section 534.10

Provision shall be included for service functions, including parking and loading access and adequate loading areas.

The Project provides for adequate service functions including parking and loading. There are 128 parking spaces in three underground parking levels and appropriate loading areas.

D. Special Exception Relief Pursuant to Section 3104.1

This section authorizes the Board to grant special exceptions as provided in the Zoning Regulations, where the Board determines such grant(s) of special exception to be in harmony

with the intent and purpose of the zone plan and which does not tend to adversely impact the use of neighboring property.

The requested special exceptions are in harmony with the intent and purpose of the zone plan, and will not tend to adversely impact the use of neighboring properties. The SP-1 District is designed to preserve and protect areas adjacent to commercial districts that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit. The Project is also designed in accordance with the goals of the DC Overlay District.

E. Variance Relief for Maximum Height (§ 530.1), Maximum Floor Area Ratio (§ 531.1), and the Minimum Width of a Court (§ 536.1)

The Project is located in the DC/SP-1 Zone and proposes an overall height of 75 feet, and FAR of 5.52 and an open court with a width of 10 feet. The requirements in the SP-1 Zone are a maximum height of 65 feet, a maximum FAR of 4.0 and a minimum court width of 12 feet.

Section 3103.2 allows the Board to grant variances from the strict application of the Zoning Regulations. The test for variance relief is in three-parts: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

1. Exceptional Condition or Situation:

The Subject Property is located within the Dupont Circle Historic District and the Historic Preservation Division of the Office of Planning has therefore recommended that the existing building façades and much of the building fabric of these contributing structures be preserved. In order to compensate for the usable floor area lost to this effort, the Project proposes two additional stories that are set back 30 feet from the front lot line. These additional stories result in height and FAR above the maximum allowed. The open court is located at the front of the Project and is proposed as such in order to preserve the existing structures that currently have a walkway dividing them.

2. Resulting Practical Difficulty:

Practical difficulties result from the Applicant's preservation of the building facades and interiors of the existing buildings. The configuration and historic character of the buildings present particular difficulties in developing the Subject Property:

- The widths of the building and their floor to floor height do not correspond to contemporary standards for construction, particularly in terms of wood frame

construction and difficulty in providing light, heating, cooling and power within ceiling space. There is insufficient space to accomplish this.

- The amount of preservation of existing historic fabric creates inefficient use of space and circulation space.

Much of the available FAR for the property is lost to the inefficiency of maintaining the facades and the building fabric of the existing structures. As shown in the attached plans, the Applicant calculates that as much as 23,029 square feet is lost as a result of preserving historic building fabric in the existing building. In addition, maintaining the front façade of the building results in the creating of a the non-conforming court simply by the fact that the buildings on adjoining lots will now be combined, but in order to preserve the façade the size of the space cannot be increased to the required width.

3. No Harm to Public Good or Zone Plan:

The requested variances may be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan. The additional height and FAR proposed by the Project will not tend to adversely impact the use of neighboring properties. The Project has been carefully designed to be compatible with existing surrounding development. The SP-1 District is designed to preserve and protect areas adjacent to commercial districts that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit. The Project creatively utilizes the Subject Property while protecting and preserving the historic and architectural merit of the existing buildings. In addition, the Project will have minimal visible impact. The top two floors of the Project are setback from the front building line and are not visible from Street level as shown in the submitted photo simulations F-1 through F-7 included with the Application materials.