GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16857 of HQ Acquisition LLC, pursuant to 11 DCMR § 3103.2, for a variance from the height requirements under Section 770, a variance from the residential recreation space requirements under Section 773, a variance from the parking-aisle width requirement under Subsection 2117.5, and pursuant to 11 DCMR §§ 3104.1 and 2107.1, a special exception from the off-street parking requirements under Section 2101.1, for a mixed-use (residential and retail) development in a C-3-A District at premises 4500 Wisconsin Avenue, N.W. (Square 1730, Lot 15).

Note: After a public hearing, the Board granted the three requested variances and decided to grant a variance in lieu of a special exception with respect to the requirements of subsection 2101.1.

HEARING DATE: April 9, 2002
DECISION DATE: April 9, 2002 (Bench Decision)

DECISION AND ORDER

HQ Acquisition LLC, a Delaware limited liability company and the owner of Lot 15 in Square 1730, with a street address of 4500 Wisconsin Avenue, N.W., filed an application with the Board of Zoning Adjustment on February 1, 2002, requesting zoning relief to permit the development of a mixed-use project, combining retail on the street level in a restored historic building and a four-story residential structure to be added above, in a C-3-A Zone District. The Applicant is represented in these proceedings by Latham & Watkins. After a public hearing, the Board granted the application by a bench decision.

Pursuant to 11 DCMR § 3103.2, the Applicant is seeking three variances: first, from the height requirements under Section 770, which limits maximum allowable height in a C-3-A zone to sixty-five feet; next, from the residential recreational space requirements of sections 773.3 and 773.8, which require that fifteen percent of the gross floor area of the property devoted to residential use must be provided as recreational space, no less than fifty percent of which must be outdoors; and finally, from the parking-aisle-width requirements of section 2117.5, which requires that parking aisles be not less than seventeen feet for angle parking that is sixty degrees or less. In addition, the Applicant seeks a special exception pursuant to 11 DCMR §§ 2107.1 and 3104.1 from the provisions of section 2101.1, with respect to the required number of parking spots for the retail component of the building. The zoning relief requested in the application is self-certified pursuant to § 3113.2. After a public hearing, the Board granted the three requested variances and decided to grant a variance in lieu of a special exception with respect to the requirements of subsection 2101.1.

Board of Zoning Adjustment
District of Columbia
CASE NO. 18272
EXHIBIT NO. 27A2

PRELIMINARY AND PROCEDURAL MATTERS

Notice of Application and Notice of Hearing. By memorandum dated February 25, 2002, the Office of Zoning provided notice of the filing of the application to the District of Columbia Office of Planning; Advisory Neighborhood Commission (ANC) 3E, the ANC for the area within which the property that is the subject of the application is located; ANC 3F, the ANC adjacent to the ANC in which the property is located; and the Ward 3 Councilmember.

The Board scheduled a hearing on the application for April 9, 2002. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on February 25, 2002, mailed the Applicant, the owners of all property within 200 feet of the subject property, and both ANC 3E and ANC 3F notice of hearing. The Applicant's affidavit of posting indicates that on March 21, 2002, three zoning posters were placed on the property, one on River Road, one on Wisconsin Avenue, and one of Albemarle Street, all in plain view of the public.

Requests for Party Status. There were no requests for party status in this case.

Applicant's Case. The Applicant presented testimony from Richard Lake and Armond Spikell, both of whom are directly involved in the development of the project for the owner as well as for the developer, Roadside Development, L.L.C., as well as testimony from project architect Robert Sponseller, of the architecture firm Shalom Baranes Associates. In addition, the Applicant submitted a traffic analysis from Gorove/Slade Associates, Inc., a traffic expert.[1]

D.C. Office of Planning ("OP") Report. In its report dated April 2, 2002, OP recommends approval of the requested variances and special exception.[2] OP notes that the density and mix of uses proposed by the Owner for the property, which sits atop the Tenleytown Metrorail Station, is a "strong example" of the type of transit-oriented development ("TOD") called for by the Comprehensive Plan and the Mayor's Task Force on TOD. OP concludes that the "skillful adaptive reuse for significant retail use, and the addition of a significant residential population, as proposed by the Applicant, can be a significant step in adding additional vitality to the center of Tenleytown." Finally, OP advises that the Applicant has been working closely with the staff of the Historic Preservation Review Board ("HPRB") and that the staff has recommended approval of current conceptual plans.

D.C. Division of Transportation (DDOT) Report. In its report dated April 8, 2002, DDOT recommended approval of the variance for parking-aisle width and the reduction in parking spaces as a special exception. DDOT noted that the proposed mixed-use development would generate "far less traffic" than the previous use as a single large-scale retailer (Sears, Roebuck & Company ("Sears") and then Hechinger's) and that the "level of traffic [under the

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[1] Although not formally a part of Applicant's case, it should be noted that the Applicant is seeking permission from the Zoning Commission to rescind a since-superceded covenant entered into in 1940 between the Board of Commissioners for the District of Columbia and Sears Roebuck & Company, the original developer of the current building. On the recommendation of the Zoning Commissioner, on March 26, 2002 the Applicant submitted the details of its proposed rescission as part of the record in this case, but made clear that no action was sought on the part of the Board. Accordingly, we note this submission solely for record purposes.

[2] OP's Report was submitted less than seven days prior to the April 9 hearing and, by memorandum dated April 3, 2002, OP accordingly requested a waiver of the seven-day advance filing requirement of § 3115.1. At the outset of the hearing, the Board voted 5 to 0 to grant the waiver and accept OP's Report.

proposed development] will have no measurable impact on the street system in the area." Ex, 22.

ANC Reports.

ANC 3E. ANC 3E indicates that at a public meeting on March 14, 2002, the ANC passed a unanimous resolution in support of the application. The ANC 3E resolution notes that the Applicant "has involved the community in the process of identifying tenants and planning the future of the property," and that the "current plan has been presented at public meetings of the ANC, [and] reviewed by the commissioners and a committee of interested citizens." ANC 3E's resolution further notes that the Applicant's design, following input from the community and the HPRB, has significant setbacks from both Wisconsin Avenue and Albemarle Street. With respect to parking, the resolution states that the proposed project provides more total parking than currently provided or required under zoning and that the impact on the neighborhood would be less than that of a 186,000-square foot department store, the alternative to the mixed-use proposal under consideration. Finally, the resolution notes that the residential recreational space provided is supported by market conditions and is consistent with recent BZA precedents.

ANC 3F. ANC 3F approved a resolution on the application by a vote of 5-1-0 at a duly noticed public meeting on March 18, 2002, with a quorum present. ANC 3F's resolution indicated that the ANC does not object to the height variance sought provided that the variance includes an agreement that the Applicant not lease or sell air rights above the site without approval from the residential tenants and the ANCs. The resolution next recommended that the Applicant explore using the unused ramps to the roof for recreational space. The resolution then recommended that the aisle-width variance be conditioned on approval from the Fire Marshall to avoid any impediment to access by emergency vehicles. Finally, the resolution recommended that the Applicant prepare a traffic study. ANC 3F Chair Cathy Wiss presented the ANC's resolution at the hearing.

Persons in Support of the Application. The Board received a supporting letter from the Tenleytown Neighbors Association, indicating that the Association had adopted a resolution endorsing Applicant's proposed project.

Persons in Opposition to the Application. No person opposed the Application.

Closing of the Record. The Board closed the record at the conclusion of the public hearing.

Decision Meeting. At its April 9, 2002 public meeting, the Board voting 5 – 0 – 0 approved the Application in all respects save that the Board decided to grant a variance with respect to off-street parking in lieu of the requested special exception.

FINDINGS OF FACT

The Subject Property and the Surrounding Area

1. The property that is the subject of this application is Lot 15 in Square 1730, also known as 4500 Wisconsin Avenue, N.W.

2. The property is zoned C-3-A.

3. The site on which the property sits has an irregular shape, bounded on the east by Wisconsin Avenue, on the northeast by River Road, on the northwest by Murdock Mill Road (an old remnant of a road that is now essentially an alley), on the west by a short alley, and on the south by Albemarle Street.

4. The lot is 95,131 square feet in area.

5. The property sits directly atop the west entrance to the Tenleytown-AU Metrorail Station and the design of the current building incorporates that entrance as a significant feature in the Wisconsin Avenue frontage.

6. To the west of the property, across the alley, is the Isabella Breckinridge Center (Iona Senior Services).

7. Directly northwest of the property is a series of low buildings that house professional offices.

8. Also to the northwest, across the segment of Murdock Mill Road and facing River Road, is the Eldbrook United Methodist Church. Southwest of the church is the old Methodist Cemetery.

9. Across Wisconsin Avenue to the east is a shopping center that includes a Fresh Fields grocery store as well as a variety of retail stores and restaurants.

10. South of the property, across Albemarle Street, sits the Janney Elementary School and the Tenley-Friendship Branch Public Library, which is on the corner of Albemarle Street and Wisconsin Avenue.

11. The property is primarily surrounded by commercial and public facilities, in a neighborhood noted for several civic and community buildings in close proximity. The property, for example, is only a few blocks west and southwest of Wilson High School and Fort Reno Park and reservoir and a few blocks north of the Tenley Campus of American University.

12. The property is also at the center of the Tenleytown commercial zone that runs along Wisconsin Avenue from Grant Road on the south to Chesapeake Street on the north.

13. The Tenleytown commercial cluster is designated as multi-neighborhood commercial center in the District of Columbia Comprehensive Plan and the center of the commercial corridor, including the property site, is designated as a Special Treatment Area in the Comprehensive Plan.

The Existing Building

14. The building that currently occupies the site was constructed in 1940 by Sears to house one of the first "suburban" Sears Department Stores in the country. The building is an important example of art deco architecture, noted for the ramps on three sides that lead up to a signature roof deck. The building was designated an historic landmark in the District of Columbia Inventory of Historic Sites in 1995.

15. The existing building has a basement, a ground floor, a mezzanine level and a roof deck.

16. As most recently used, the basement level combined parking, retail sales and storage. The entire ground floor and mezzanine were devoted to retail sales. The roof was used for parking, retail sales and storage.

The Proposed Project

17. The property was occupied by Sears until 1992 and then housed a Hechinger's home improvement store until Hechinger's declared bankruptcy. The property has been largely unused since 1999 and prior attempts at revitalizing the site have failed. Several factors have made development difficult, including development constraints associated with the historic

designation of the building and concerns raised by the community about the impact of large-scale single-use retail.

18. The Applicant has worked closely with the community to address these concerns and has also worked closely with the HPRB to arrive at a viable development proposal that will bring a mix of uses to the site as called for in the Comprehensive Plan while preserving and enhancing the defining historic characteristics of the existing building.

19. Under the Applicant's proposal, the basement level primarily would be used for retail parking for the project, with 150 parking spaces accessed by two ramps from River Road. The planned parking aisles would have a width of approximately 14 feet, 6 inches. In addition, approximately 11,600 square feet of the basement level is planned for retail uses, possibly subdivided to allow a small portion to connect to the ground floor retail.

20. The ground floor would be used for retail stores, with entrances along Wisconsin Avenue and River Road, and a separate lobby for the proposed residential component, with an entry on Albemarle Street. The lobby would also house uses like the residential manager's office, a club room, a business center and a fitness facility. Also, in addition to the three existing loading berths, up to three additional loading berths are to be added, all of which will allow trucks to pull entirely in off the alley (something that had been a source of concern with the previous occupant).

21. The current roof deck would be returned to its original use as parking, with approximately 170 spots for residential use. The roof deck would be accessed by the ramp leading up from Albemarle Street, keeping the residential traffic flow distinct from the retail traffic flow entering the basement parking from River Road.

22. There are two other existing parking ramps, one dropping down to Wisconsin Avenue from the roof deck and the other at the northwest side of the building. The Applicant is exploring the adaptive reuse of some or all of this ramp space for the residents.

23. On top of the roof deck, the Applicant proposes to construct a four-story residential addition that will house approximately 170 to 200 residential units.

24. In deference to the character and scale of the buildings in the neighborhood, and to allow set-backs requested by the community and the HPRB, the Applicant has significantly set back the proposed residential addition from Wisconsin Avenue.

Building Height

25. The Applicant is seeking an area variance to permit a total height for the proposed project, when the residential component is added, of 70 feet, as measured from the mid-point of Albemarle Street.

26. In order to accommodate the significant set-backs required by the HPRB and the community, and to restore the current roof deck to its original uses, it is necessary to add verticality to the design.

27. The additional height is also necessary to accommodate the complex and challenging mix of uses within the constraints of adaptive reuse. As a practical matter, there is almost no flexibility to alter significantly the base on which the residential component is proposed to be added and a variety of building systems that would ordinarily be situated directly below such a residential structure will have to be routed across what will become the ceiling of the roof parking, a task that will not be feasible (and would sacrifice the roof-level parking,

which is an integral part of the building's history) without additional transitional height between the current roof level and the proposed first floor of the residential component.

28. Additional height would also provide essential flexibility in construction methods, which is necessitated by the engineering challenges posed by adding a four-story addition atop an existing historic building.

29. Based on the above, the Board finds that the proposal's commitment to preserving the current historic structure places significant constraints on the Applicant's ability to create the mix and density of uses the community and the Comprehensive Plan designate as optimal for the site, making full compliance with the height requirements of the Zoning Regulations impracticable, unduly restrictive, and unreasonable.

Residential Recreation Space

30. The Applicant is requesting an area variance to permit the reduction in the required residential recreation space from the required 30,560 square feet (of which 15,280 square feet must be outdoor recreational space) to 9,900 square feet (of which 9,100 square feet will be outdoor recreational space). Ex. 31.

31. The recreation space to be provided would consist primarily of a large central courtyard around which the residential addition would be built. In addition, the Applicant is proposing as recreation space several components of the ground-level residential lobby area, including a fitness facility and a club room.

32. The size of the interior courtyard maximizes the light and air available to the apartment units, and provides significant common open space. Since the setbacks required by HPRB and the unusual shape of the lot place significant constraints on the design of the new residential component, the Applicant cannot expand the size of the courtyard without reducing the size of the surrounding apartment units, substantially reducing their utility.

33. The Applicant, in response to concerns raised by ANC 3F, is actively exploring landscaping and using as common space for the residents of the new addition the ramp area on Wisconsin Avenue.

34. The property is in close proximity to a variety of open space, most notably Fort Reno Park to the northwest.

35. The Board finds that the Applicant would confront practical difficulties in complying with the residential recreation space requirements due to unique and exceptional conditions of the property: the irregular shape of the lot, the need to preserve the existing historic structure, and need to set the new addition back from the Wisconsin Avenue frontage. These conditions limit the size and shape of the addition that can be constructed, which in turn limit the amount and location of the residential recreation space that can be provided.

36. In addition, the Board finds that the community surrounding the project provides sufficient alternative recreational opportunities to mitigate the impact of any variance on the residents of the new addition.

Parking-Aisle Width

37. The unusual shape of the current building, the location of the building supports, and the constraints imposed by the building's historic designation as a practical matter severely limit the configuration of parking.

38. In order to maximize parking, the Applicant is proposing 60-degree angled parking, which leaves the east-west parking aisles in both the basement and on the current roof deck with aisles of approximately 14 feet, 6 inches, instead of the required 17 feet.

39. The Board finds that the Applicant would confront practical difficulties in complying with the parking-aisle width requirements due to unique and exceptional conditions of the property: namely, the irregular shape of the lot and the need to preserve the existing historic structure.

Off-Street Parking

40. The current building provides 211 off-street parking spaces, all of which have been used for retail parking.

41. Under the proposal before the Board, the Applicant would provide a total of 320 spaces, with approximately 150 spaces in the basement for the retail component and approximately 170 spaces on the roof deck for the residential component.

42. As so designated, the traffic flow to and from the building will be separated and the limitation of retail parking to the basement level will enable the Applicant to ensure that control is maintain sufficient to prevent improper use of the parking spots by riders of the Metrorail system.

43. The site, as noted, connects directly to the Tenleytown Metrorail Station, significantly mitigating the impact of the retail uses, especially considering the type of retail proposed (as opposed to the larger, single-retail store previously in the building), but it will be important to keep residential and retail parking separate in order to maximize the benefits that such direct Metrorail access provides.

44. Directly across the street from the project site is a parking structure that serves the entire Wisconsin Avenue commercial strip of which the project is a part, and the Board anticipates that the addition of retail uses across the street will encourage shoppers to park at one destination or the other and shop at both, reducing the parking impact on the neighborhood as a whole.

45. Given the shape and historical nature of the building and the desire of the owners to be responsive to the community's desire for maximizing the parking available to the residential tenants, it would be impractical under the constraints of the site to accommodate additional parking and it would undermine fundamentally the benefits of the proposal to alter the proposed division of retail and residential parking facilities.

46. The Board finds that the Applicant would confront practical difficulties in complying with the retail parking requirements due to unique and exceptional conditions of the property; namely, the irregular shape of the lot, the need to preserve the existing historic structure, the importance of ensuring separation of traffic flow and adequate control over the retail parking.

Impacts on the Zone Plan and the Public Good

47. The Comprehensive Plan Generalized Land Use map designates the Tenleytown Metrorail Station Special Treatment Area for residential and commercial development that maximizes Metrorail access and provides for substantial new housing. See Section 1129.2, attached as an exhibit to the OP Report.

48. As described in the Zoning Regulations at 11 DCMR §§ 740.1 – 740.9, the C-3-A district is designed to accommodate important sub-centers supplementary to the Central Business district. Such community business districts should provide facilities for shopping and business needs, housing, and mixed uses for large segments of the city outside of the central core. Areas zoned C-3-A are targeted for medium density development, with a density incentive for residential development within a general pattern of mixed-use development. Finally, C-3-A districts must be compact in area and located on arterial streets, in uptown centers, and at rapid transit stops.

49. OP states that the Applicant's proposal is an important project at a key location in the central business district of the Tenleytown neighborhood. According to OP, the project is critical to revitalizing the commercial heart of the neighborhood while bringing additional housing to a Metrorail connection.

50. The applicant has engaged in extensive public outreach and modified its plans in an effort to incorporate as many community concerns as possible, meeting over the course of several years with an informal "Hechinger's Task Force" that included representatives from ANC 3E and ANC 3F and other community groups. In response to community input, for example, the Applicant set the proposed residential component back from Wisconsin Avenue to create distinction between that component and the current building. As a result of the Applicant's efforts, the proposal enjoys broad community support.

51. ANC 3F, which is located less than two blocks from the property, identified four concerns relating to this project.

52. First, ANC 3F indicated that some members of the community expressed concern that air rights on the roof may be leased or sold for commercial structures like antennas not related to the onsite use of residential and retail tenants. ANC 3F seeks a condition to the grant of the variance that the Applicant not lease or sell air rights above the site without first obtaining approval from the residential tenants and the ANCs.

53. There is no need to condition the variance, however, because to the extent that the Applicant chooses to seek additional height for its building beyond that granted by the variance requested in this proceeding, the Applicant would have to return to the Board for further approval.

54. Second, ANC 3F recommended that the Applicant explore using the unused ramps to the roof for recreational purposes.

55. The Applicant provided testimony indicating that it is exploring such use.

56. Third, ANC 3F recommends that the variance for the width of parking aisles be conditioned on approval from the Fire Marshal.

57. The Applicant will be under a continuing obligation to comply with all code requirements relating to safety regardless of parking-aisle width and the Board notes that under the current proposal, emergency vehicles would not access either the residential or the retail structure through the parking areas.

58. Finally, ANC 3F recommends that the Applicant prepare a traffic study to assess the impact of traffic from the proposal and to determine whether adjustments should be made to traffic signals and patterns to mitigate any adverse impacts.

59. No traffic study is needed, however, because the DDOT report indicates that the proposal would have no measurable impact on the street system in the area and that trip generation under the current proposal will be less than that under previous uses.

60. In addition, the Applicant has indicated its intent to work closely with the DDOT (now the Department of Transportation).

61. Based on the above findings of fact, the Board finds that granting the requested variances, and granting a variance for parking, will be in harmony with, and will not materially impair, the general purpose and intent of the Zoning Regulations, and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

62. The Board also find that the variances can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Code §§ 6-641.07(g)(2) and (3) (2001)), to grant special exception and variance relief from the Zoning Regulations. The Applicant is seeking area variances from the height requirements under § 770, from the residential recreation space requirements under § 773, and from the parking-aisle width requirement under § 2117.5. In addition, the Applicant is seeking a special exception from the off-street parking requirements under Section 2101.1. The public notice requirements of § 3113 for the public hearing on the application have been met.

In reviewing special exception and variance applications, the Board is required under D.C. Code § 1-309(d) (2001) to give "great weight" to the issues and concerns raised in the recommendations of the affected ANC (in this case both ANC 3E and ANC 3F). The Board is also required under D.C. Code § 6-623.04 (2001) to give "great weight" to OP's recommendations. The Board has carefully considered both the ANCs' and OP's reports and recommendations and has accorded them the appropriate "great weight."

Height Variance

Under the three-prong test for an area variance set out in D.C. Code § 6-641.07(g)(3) (2001), and quoted in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the property is unique because of its size, shape, or topography, or other extraordinary or exceptional situation or condition connected with the property; (2) the applicant would encounter practical difficulty as a result of the unique characteristics of the property if the Zoning Regulations were strictly applied; and (3) granting the variance will not result in substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Zoning Map. See, e.g., Gilmartin v. District of Columbia Bd. of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990); Draude v. District of Columbia Bd. of Zoning Adjustment, 527 A.2d 1242, 1254 (D.C. 1987). To show practical difficulty, an applicant must prove that compliance with an area restriction would be unnecessarily burdensome and that the practical difficulty is unique to the particular property. The nature and extent of the burden are determined on a case-by-case basis, and the Board may consider a wide range of factors in determining whether there is an unnecessary burden or practical difficulty. Gilmartin, 579 A.2d at 1170.

Section 770.1, which governs height limitations in Commercial Districts, requires a maximum height of 65 feet for the project. The Applicant is seeking an additional five feet in

order to facilitate a complex project that combines a historical retail building with a new residential component added on top with a design that for historic preservation reasons seeks to retain the current roof-top parking.

Based upon the findings of fact and having given great weight to the ANC and OP reports, the Board concludes that the proposed project meets the three-prong test for a variance. First, the Board concludes that the subject property is unique due to the need to preserve the historic retail base structure on which an entirely new residential structure will be built, on a site that due to its shape and configuration leaves no option for horizontal accommodations to design necessities. These exceptional characteristics of the property significantly limit the configuration of any building that could be built and the options for the transition for building mechanical systems that vary by use. The Board thus concludes that as a result of the unique characteristics of the property, the strict application of the height requirements of § 770.1 would be unduly burdensome and result in peculiar and exceptional practical difficulties to the owner.

The Board also concludes that the requested variance would not result in substantial detriment to the public good, nor substantial impairment of the zone plan. The proposed residential addition and revitalized retail base enjoys broad support from adjacent property owners, the Tenleytown neighborhood, and the affected ANCs. At five feet, the variance is relatively small, and OP indicates that the property is a priority redevelopment site.

Residential Recreation Space Variance

Section 773 requires that the owner of a building in a C-3-A District devoted to apartment house use provide residential recreation space in an amount equal to at least 15 percent of the gross floor area of the building devoted to residential use. Residential recreation space must be safe, secure, and suitably equipped or landscaped for the active or passive recreation use of the residents. It may be located at ground level, on or above the residential plane, on rooftops, or within a building or other structure. At least 50 percent of the total residential recreation space must be located outdoors. However, the area of a balcony may not be counted to satisfy the residential recreation space requirement if the balcony, or a portion of it, adjoins an individual residential unit and is accessible only from that unit.

As with the height restriction, the need to preserve the historic retail building on which a residential component will be added and the unusual shape of the site severely limit the amount and configuration of recreational space that may be provided. HPRB and the community have sought design changes that require significant setbacks from Wisconsin Avenue, in order to maximize the distinction between the two components of the project. The courtyard, which would provide most of the recreation space, cannot be made any larger without significantly impairing the utility of the apartment units. And, apart from the unused ramp area that the Applicant is actively exploring as recreational space, there does not appear to be any other feasible location for providing additional, meaningful recreation space.

The Board thus concludes that as a result of the unique characteristics of the property, the the proposed project meets the three-prong test for an area variance set forth above, and the strict application of the minimum residential recreation space requirements of § 773 would be unduly burdensome and result in peculiar and exceptional practical difficulties to the owner.

The Board also concludes that the requested variance would not result in substantial detriment to the public good, nor substantial impairment of the zone plan. The new central courtyard will provide a safe, secure, and landscaped area for the active and passive recreation

use of the residents, and will provide significant light and air to the apartment units. While the balconies are not counted toward the residential recreation space requirement, the residents of the units with balconies will be able to enjoy the view of the courtyard year round. The residents will also have access to significant nearby public green space, and as an apartment house with street level retail, the project is in keeping with the C-3-A zoning.

Parking-Aisle Width Variance

Subsection 2117.5 provides that "when required parking spaces are so arranged that an aisle is required for accessibility or maneuvering space between rows of two (2) or more parking spaces, or between a row of two (2) or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than . . . seventeen feet (17 ft.) for angle parking which is sixty degrees (60) or less as measured from the centerline of the aisle." The Applicant seeks a variance from this requirement to allow some sixty-degree parking aisles to be fourteen feet, six inches.

The current building, as noted, is irregularly shaped and, for the basement-level parking, has a number of structural columns that would extremely difficult to rearrange. In order to restore the current roof top to its original parking uses within the constraints of historic preservation, the amount of aisle space available is necessarily limited. The variance is minimal and the proposed aisle width meets generally recognized national standards employed outside the District.

Applying the standard for area variances set forth above, the Board concludes that the irregular shape of the lot and the need to preserve the existing historic structure warrant the variance for parking-aisle width the Applicant seeks. The subject property is unique and the Applicant faces significant practical difficulties in configuring the parking areas to maximize use and minimize the need for variances. The Board also concludes that the requested variance would not result in substantial detriment to the public good, nor substantial impairment of the zone plan. The slight reduction in parking-aisle width will facilitate maximizing parking on the site, advance OP's goals for the density desired for this transit-connected project, and not impact emergency vehicles or other safety personnel.

Off-Street Parking

Finally, as noted at the outset, the Applicant was seeking a special exception to allow retail parking below the 211 parking spots arguably required by Section 2101.1 of the Zoning Regulations which the Board changed to a variance.[3] Although the Applicant proposes a total of 320 spaces for both components, the Applicant proposes to divide the residential and retail parking, facilitating control of access to each and minimizing the impact on traffic from the mix of uses by directing traffic flow for different uses to different entrances and exits.

[3] The Zoning Regulations are not entirely clear on the subject of the number of parking spaces required for a historic property that has functioned as a retail facility and is making the transition to mixed-use. The Board therefore decided to grant a variance in lieu of a special exception with respect to the requirements of subsection 2101.1.

Applying the standard for variances set forth above, the Board concludes that the irregular shape of the lot and the need to preserve the existing historic structure warrant not only a special exception, but, for the sake of clarity, a variance. For the reasons discussed above, the subject property is unique and the Applicant faces significant practical difficulties in configuring the parking areas. It is critical for the design and to accommodate the concerns raised by the community that the retail and residential parking areas be kept separate and distinct and the best way to accommodate the concern raised by ANC 3F about ensuring maximum residential parking is to allow the configuration proposed by the Applicant. The Board also concludes that the requested variance would not result in substantial detriment to the public good, nor substantial impairment of the zone plan. The total amount of parking proposed is a significant increase from current parking, there is an underutilized parking facility directly across the street that will support cross-parking, and the variance for the number of retail parking spots supports the community's preference for residential spots.

For all of the reasons stated above, the Board concludes that the applicant has met its burden of proof. It is hereby **ORDERED** that the application is **GRANTED**, to permit the construction of the proposed mixed-use project as shown in the applicant's plans dated March 26, 2002 (Ex. 31).

VOTE: 5–0–0 (Geoffrey H. Griffis, David W. Levy, Anne M. Renshaw, Curtis L. Etherly, Jr., and James H. Hannaham to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: JUN 24 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 of the D.C. CODE. SEE D.C. CODE § 1-2531 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER. rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16857

As Director of the Office of Zoning, I hereby certify and attest that on JUN 2 4 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Armond Spikell
Richard Lake
HQ Acquisition LLC
1815 Pennsylvania Avenue, N.W.
8th Floor
Washington, D.C. 20006

Jill Diskan, Chairperson
Advisory Neighborhood Commission 3E
P.O. Box 9953
Washington, D.C. 20016

Thomas A. Dibiase, Commissioner 3E03
Advisory Neighborhood Commission 3E
P.O. Box 9953
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Kathleen Patterson, City Councilmember
Ward Three
1350 Pennsylvania Avenue, N.W.
Suite 107
Washington, D.C. 20004

Denzil Noble, Acting Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17271 of JBG/Louisiana Avenue, L.L.C., pursuant to 11 D.C.M.R. 3103.2 for a variance from the height limitation of 11 DCMR § 770.1, to allow an addition to an existing office building in the C-3 District at premises 51 Louisiana Avenue, N.W. (Square 631, Lot 17).

HEARING DATE: January 18, 2005
DECISION DATE: January 18, 2005 (Bench Decision)

DECISION AND ORDER

This application was submitted on November 5, 2004 by the owner of the property that is the subject of the application, JBG/Louisiana Avenue, LLC. ("Applicant"). The self-certified application requested a height variance to allow a 130-foot building height in a C-3-C zoning district.

Following a hearing on January 18, 2005, the Board voted 3-0-2 to approve the height variance.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memorandum dated November 9, 2004, the Office of Zoning gave notice of the application to the District of Columbia Office of Planning ("OP"), the D.C. Department of Transportation, Advisory Neighborhood Commission ("ANC") 6A, the ANC within which the property is located, the Councilmember for Ward 6, and Single Member District/ANC 6C09. Pursuant to 11 DCMR § 3113.13, the Office of Zoning published notice of the application in the *D.C. Register* and on November 18, 2004, provided notice of the hearing to the Applicant, ANC 6C, and all owners of property within 200 feet of the property. Further, the Applicant's Affidavit of Posting shows that, on January 3, 2005, 5 zoning placards were placed on the 5 street frontages of the Acacia Building, located on the Property.

Requests for Party Status. ANC 6A was automatically a party to this proceeding. There were no requests for party status.

Applicant's Case. The Applicant presented testimony from several witnesses concerning the design of the proposed new building and new atrium space, and concerning the need for the height variance. Mr. Cinkala, a principal with the Applicant, testified with regard to the uniqueness of the property. Mr. Dove and Mr. Harbour, both members of the architectural team working on the project, discussed the difficulties of designing the new building and atrium due to the unique features of the Property. Mr. Orr, a development management consultant, and Mr. Slade, a traffic consultant, testified as to the cost of the

project, and as to the lack of adverse traffic and parking impacts, respectively. Mr. Santry spoke on behalf of the tenant of the proposed new building. Lastly, both Mr. Cinkala and Mr. Dove testified as to security issues, relying to some extent on the report of the security consultant hired by the Applicant.

Government Reports. The Office of Planning, by a report filed January 11, 2005, and by testimony at the hearing, recommended approval of the application. OP opined that the property is unique because of its shape and historic nature and the shape of the existing buildings, which leave inadequate space to capitalize on the remaining matter-of-right floor area ratio ("FAR") available. OP noted that the Tiber Creek combined storm sewer and the Metro tunnel limit underground development on the property. OP also noted that there are other 12-story buildings in the extended neighborhood and that the proposed variance will likely not have a substantial detriment on the surrounding neighborhood.

The Commission of Fine Arts submitted a letter into the record stating that at its meeting of November 18, 2004, the Commission reviewed and approved the proposed concept for a new 12-story office building to replace the existing 4-level parking garage. The Commission also stated that it encouraged the strong statement of contemporary design with the inclusion of environmentally-conscious features.

The Architect of the Capitol, after consulting with the Senate Sergeant at Arms, submitted a letter in opposition to the variance, citing a possible security risk to the Capitol Building. The United States Senator for the District of Columbia (Shadow) submitted a letter countering the letter from the Architect of the Capitol and asserting that there is no evidence that the height variance, if granted, would create any greater security risk than already exists, and further, that even if a security risk exists, there is no evidence that it would be mitigated by the denial of the variance.
ANC Report. Advisory Neighborhood Commission 6A timely filed a letter in support of the application on December 16, 2004. The letter stated that at a properly-noticed meeting on December 8, 2004, with a quorum present, ANC 6A unanimously agreed to support the variance request provided that the applicant seeks LEED certification for the building.

FINDINGS OF FACT

The Property and the Surrounding Area

1. The subject site is known as 51 Louisiana Avenue, N.W., Square 631, Lot 17 (the "Property").

2. The Property is located in the C-3-C zoning district, within the Downtown East Receiving District, and within the Central Employment Area.

3. The Property is an irregularly-shaped, 5-sided parcel containing 91,021 square feet of land. It is located directly across from the U.S. Capitol

grounds, and near, although not adjacent to, Union Station and federal courts and offices.

4. The Property is situated on a full city block and is bordered by D Street, N.W. to the north, New Jersey Avenue, N.W. to the east, Louisiana Avenue, N.W. to the southeast, C Street, N.W. to the south (the property along C Street curves slightly to the northwest), and 1st Street, N.W. to the west.

5. The Generalized Land Use Map of the Comprehensive Plan designates the Property and the surrounding area in the highest density commercial designation.

6. The surrounding area is dominated by hotel, commercial and institutional uses, although the areas immediately adjacent to three sides of the Property are green spaces.

7. The Property is improved with an above-ground six-level parking garage built in the 1970's and 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.

8. The Acacia and Annex Buildings contain approximately 208,747 square feet of gross floor area or 2.29 FAR.

9. The total current FAR for the Property, including the above-grade parking garage, is 3.30, with a total gross floor area of 300,997 square feet.

10. The six-level above-grade parking garage accommodates 463 vehicles and is located on the northern portion of the Square fronting on 1st Street, New Jersey Avenue and D Street, N.W.

11. The 1935 Acacia Building is historically important. It was designed by the New York firm of Shreve, Lamb and Harmon, the architects for the Empire State Building, and has a limestone façade set with solar glass panel windows with anodized aluminum window frames on all sides.

12. The Acacia Building includes large cut stone blocks and limestone accents and soffits at the upper floor levels. It has fifteen-foot (15') floor-to-floor ceiling heights and a two-story main lobby with marble floors and walls.

13. A rooftop terrace occupies forty-five percent (45%) of the roof on the existing buildings, and features concrete pavers and raised, professionally maintained planters.

<u>The Project</u>

14. The Applicant proposes to raze the existing above-grade parking garage and replace it with a 12-story office building with 6 levels of below-grade parking. The proposed new building will be used, for the foreseeable future, solely, or primarily by, a single tenant, the law firm of Jones, Day.

15. The Applicant also proposes to construct a triangularly-shaped glass-covered atrium in a portion of the courtyard which will be open at its sides and will cover a series of ramped walkways connecting various floors of the new building to various floors of the existing buildings.

16. Together with the proposed new building, the Property will contain approximately 544,583 square feet of gross floor area or a 5.98 FAR. 6.5 FAR is allowed as a matter of right.

17. The Applicant's request for a height variance to 130 feet, the maximum height permitted by the 1910 Height of Buildings Act, gains the project approximately an additional 50,000 square feet.

18. Below-grade, the Tiber Creek combined storm sewer tunnel runs through the Property, and the Metro tunnel runs along its northern edge. Both of these tunnels are currently in use and it would be prohibitively costly to divert the Tiber Creek tunnel.

19. Construction of the 6 levels of below-grade parking, to provide required parking and to replace the existing parking garage, adds significantly to the cost of the project. The presence of the two subterranean tunnels mandates smaller-than-normal garage floor plates and greater-than-normal underpinning, sheeting and shoring, as well as construction of a complex and expensive slurry wall to support the Creek. Also, due to the location of the Creek, the southeast corner of the proposed building is truncated and requires a special structure. As a result of the presence of the two tunnels, there is an estimated additional cost of $2 million for the garage construction.

20. There exists a stand-still agreement with the District of Columbia Preservation League ("DCPL") entered into by the prior owner in exchange for DCPL agreeing not to pursue an application for designation as a historic landmark so long as the Acacia and Annex Buildings were not altered.

21. The proposed new building and new atrium must be designed in such a way as to take into account the historic nature of the existing buildings on the Property. Design elements and solutions to accommodate the concerns of the Commission of Fine Arts, OP, DCPL, and the ANC amount to additional costs of $13 - $15 million.

22. Without the variance, the estimated economic loss, at $150/FAR square foot, would be $7.5 million.

23. Pursuant to § 2101 of the Zoning Regulations, the proposed new building is required to provide 301 parking spaces. The Applicant proposes to provide parking spaces for 443 vehicles, approximately 40 of which will be in tandem.

24. The level of trip generation resulting from the Building's increased height and added commercial FAR on the Property, based on the Applicant's proposal, would not adversely impact access to neighboring properties.

25. The traffic impact of the garage on roadways leading to it equates to one car every 3 minutes during the hour of peak traffic, which the Board finds to be insignificant.

26. The Applicant proposes to implement elements of "green building" design and to seek LEED Certification for the Building.

Security Issues

27. The Architect of the Capitol, after consulting with the Senate Sergeant at Arms, opposed the grant of the variance on security grounds because it would offer sight lines from the roof and penthouse of the new building to the Senate wing of the Capitol.

28. The distance from the roof of the proposed new building to the Capitol is significant – approximately one-third of a mile, or 1695 feet.

29. There exist 5 buildings with essentially equivalent lines of sight and ranges to the Capitol.

30. At least 2 of these 5 existing buildings have shorter ranges to the Capitol, one of approximately 1280 to 1320 feet, and one of approximately 1600 feet.

31. The proposed new building will eliminate the sight line to the Capitol from some formerly exposed rooftop areas, such as that from the Hyatt Hotel just to the north of the proposed building.

32. The proposed new building will be used solely, or primarily, by a single tenant, as opposed to many other buildings in the neighborhood that are open to the public and/or have transient and anonymous occupants and visitors.

33. Security measures can be taken to mitigate any security risks, including perimeter security, control of building and roof access, rooftop security precautions, and obscurement of the Capitol Building and its interior.

CONCLUSIONS OF LAW AND OPINION

The Applicant is seeking variance relief, pursuant to § 3103 of the Zoning Regulations, from the maximum height allowed in the C-3-C District. The C-3-C zoning district is designed to permit medium-high density development, including office, retail, housing and mixed use; it permits a maximum height of ninety feet (90') The Applicant seeks a forty foot height variance to 130 feet.

The requested relief is for an area variance, the granting of which requires proof of a practical difficulty arising out of some extraordinary or exceptional situation or condition of the Property. The Applicant must therefore demonstrate that compliance with the Zoning Regulations results in practical difficulties due to such extraordinary or exceptional situation or condition. The Board must also find that the relief requested can be granted without substantial detriment to the public good or substantial impairment to the zone plan.

Uniqueness of the Property

The first criterion for the granting of an area variance is that the property is affected by an extraordinary or exceptional situation or condition. This is often termed the "uniqueness" test. The District of Columbia Court of Appeals has 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* * * * ." (emphasis in original).

Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. Of Zoning Adjustment, 534 A.2d 939, 941-942 (D.C. 1987), quoting *Taylor v. District of Columbia Bd. of Zoning Adjustment,* 308 A.2d 230, 234 (D.C. 1973). The uniqueness requirement "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." *Russell v. Board of Zoning Adjustment,* 402 A.2d 1231, 1235 (D.C. 1979). The Property is unique in several respects. It is an oddly-shaped, 5-sided parcel with an unusually deep area of public space adjacent to its New Jersey and Louisiana Avenue frontages. Adding to the uniqueness of the Property is the V-shaped configuration of the existing improvements, as well as the historic status of the Acacia building and the stand-still agreement with DCPL.

Any construction on the Property must be sensitive to the historic nature of its current improvements and must be designed not to overwhelm them. Further, the Acacia Building is not merely historic, but it has floor-to-floor heights of 15 feet, 4 to 5 feet higher than the typical floor-to-floor heights in new construction. *See, e.g., Capitol Hill Restoration Society, Inc. v. Board of Zoning Adjustment, supra,* at 942. (A condition inherent in the structures built upon the land may serve to satisfy an applicant's burden of demonstrating uniqueness).

There are also two below-grade factors contributing to the uniqueness of the Property. The Property lies over the Tiber Creek combined storm sewer, which is still in use today and would be prohibitively costly to relocate. Also, running along the northern edge of the Property, and therefore directly under and adjacent to the northern side of the proposed building, is a Metro tunnel. These unusual subterranean features, as well as the above-grade conditions discussed above, combine to create the extraordinary or exceptional situation or condition necessary to satisfy the first prong of the variance test.

Practical Difficulties Arising Out of Uniqueness

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 tunnels result in practical difficulties in designing an efficient building which fully complies with the Zoning Regulations. Moreover, full compliance with the regulations would render development of the Property economically infeasible, particularly given the increased cost associated with designing around the historically sensitive structures and designing the parking garage around the limitations imposed by the Tiber Creek and Metro tunnels. Consideration of the economic viability of the proposed project is relevant to the Board's analysis of the practical difficulty aspect of the area variance requested. *See, e.g., Tyler v. District of Columbia Board of Zoning Adjustment*, 606 A.2d 1362, 1366 (D.C. 1992). (The court states that "evidence of economic justification ... may indeed be considered in deciding whether area variances should be granted.)

The Acacia and Annex Buildings currently use only 3.5 FAR of the 6.5 to 9.0 FAR available on the Property. They form a V-shape, however, leaving only an oddly-shaped area for any additional improvements on the Property. Two options for additional improvements would be adding additional floors to these buildings (i.e., increasing the height of one or both to a height of 110 feet through TDRs (assuming this could be done) and/or constructing an addition in the location of the existing parking garage. The historic nature of the Acacia Building precludes adding additional floors, indeed, the idea was rejected by the Commission of Fine Arts when proposed by the former owners of the Property. This leaves only the possibility of a new building in the place of the existing parking garage and adding underground parking. This solution, however, is not simple and is fraught with practical difficulties due to the conditions underneath the Property, the historic nature and extremely high floor plates of the existing buildings, and constraints on the use of matter-of-right density.

The Tiber Creek storm sewer tunnel runs through the middle of the property, making it difficult to design an efficient below-grade garage. Not only must the Applicant construct a below grade design that does not encroach into the Creek, but it must also construct a complex and expensive slurry wall to support the Creek. This narrows the area of construction and pushes density vertically rather than horizontally.

Also, because of the location of the Creek, the southeast corner of the proposed new building is truncated and requires a special structure. The presence of the Metro tunnel also affects 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, and therefore less efficient, garage plates. This factor further limits the flexibility and increases the cost of construction of the below-grade garage. Due to all the above-named factors, the garage configuration will be less efficient than the typical efficiency rate of 375 square feet of space per parking space.

The proposed garage will require 450 square feet per parking space. This will result in a premium construction cost of over $2.5 million. Further, the sheeting, shoring, underpinning, and construction of slurry walls necessitated by the presence of the two below-grade tunnels will increase the garage cost by approximately $2 million.

The height variance, allowing above-grade development to the greatest extent possible, is requested to help offset these increased costs associated with the Property's unique aspects.

The historic nature of the existing improvements and the stand-still agreement with DCPL strictly limit the room and flexibility available for any additional development of the Property. In addition to being precluded from adding additional floors to the existing buildings, any addition must be stepped back and situated so as to defer to the historic buildings.

Ideally, a new building or addition would match the 15' floor plates of the existing buildings, but in reality, this would result in a significant loss of gross floor area and potential failure to meet the needs of the existing (or any potential) tenant. Therefore, 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 atrium addition to be constructed in a portion of the current courtyard. The floor plates of this atrium will be aligned with the 15' slab-to-slab floor heights in the Acacia Building. The proposed new office building's 11'2" slab-to-slab floor heights will not align with either the floors in the atrium addition or in the existing Acacia Building. Instead, there will be a series of ramped skywalks connecting various floors of the atrium addition to various floors of the new office building. The area between the new office building and the existing Acacia Building and Annex will be covered with a glass atrium roof.

Given the above-and underground constraints on the footprint of the proposed new building, the height variance is necessary to gain approximately an additional 50,000 square feet of gross floor area. Without the variance, this additional 50,000 square feet would be lost, at an economic loss of approximately $7.5 million.

The Board concludes that the extraordinary or exceptional situation or condition of the Property results in practical difficulties for the Applicant. The unique conditions of the Property render full compliance with the Zoning Regulations unduly burdensome and economically infeasible.

No Substantial Detriment to Public Good or Impairment of Zone Plan

The property is located in the Downtown East Receiving Zone, where the Zoning Regulations authorize a matter of right height of 110 feet in conjunction with the purchase of development rights. It may therefore be presumed that the Commission found that buildings that reached that height would not impair the zone district. Thus, when addressing this prong, a height of 110 may be viewed as presumptive compatible with the zone district.

There are several buildings in the immediate vicinity of the Property that are higher than 110 feet, for example, the Hyatt Hotel, just across the street to the north of the Property, has a roof elevation of 135 feet. Partially surrounding the Property is the Hotel-Residential Overlay District, which permits a matter-of-right height of 130 feet. *See,* 11 DCMR § 1101.6(a). Thus, the requested height of 130 feet will not dwarf nearby buildings, and is commensurate with building heights in the neighborhood. The Acacia Building itself is 113.5 feet high. Therefore, the proposed relief is consistent with the zone plan and map.

There is limited development immediately around the Property as it is surrounded on three sides by green space. Beyond this green space, the neighborhood hosts high density office and commercial uses. The proposed new building will improve the street experience of pedestrians walking by the project by providing a more animated streetscape experience. Furthermore, the addition has been designed to be sensitive to the historic nature of the Acacia Building. As designed, the construction of the atrium addition and new building in place of the existing above-grade parking garage will be an enhancement to the surrounding neighborhood.

The proposed project replaces an above ground parking structure with a new office building while continuing to provide sufficient parking underground, thereby not causing any adverse impact on local traffic or parking. The project is also a mere two blocks from Union Station, with its metro and bus access. The Applicant also intends to incorporate "green building" aspects into the project and to seek LEEDs certification, thereby enhancing, rather than impairing, the public good.

The primary concern with the project is the potential for a security risk to the Capitol Building. The Architect of the Capitol submitted a letter in opposition to the requested height variance stating that he had consulted with the Senate Sergeant at Arms, and that, in their opinion, the lines of sight from the roof and penthouse would present a security risk to the Senate wing of the Capitol. The letter, did not, however, expound on what type of security risk is posed, or whether there were any possible mitigating measures to be taken. The Architect of the Capitol did not request party status nor participate in the hearing. It is therefore difficult for the Board to specifically address the concerns raised.

It can be inferred from the letter that the Sergeant at Arms and the Architect of the Capitol are concerned with the possibility that a sniper could perch himself on the roof of the proposed new building and fire into the Capitol Building In anticipation of this concern, the Applicant hired a well-known security consulting firm to analyze the situation and the potential for security risks if the height variance were to be granted. *See, generally,* Exhibit No. 29. While the consulting firm acknowledged that a sniper threat is "legitimately credible," it pointed out that such a threat is similarly credible, indeed perhaps more credible, from other nearby buildings. The security consultant considers the range from the proposed new building to the Capitol to be "significant," as it is approximately a third of a mile, or approximately 1695 feet long. The consultant's analysis points out that there are five other office buildings and a hotel which would provide "essentially equivalent line[s] of sight and firing range[s]" to the Capitol as would be available from the proposed new building. In fact, two of these buildings have shorter ranges to the Capitol Building. The more southerly section of the existing building at 101 Constitution Avenue has a roof elevation of 130 feet and a range of approximately 1280 feet to the Capitol, while its northern section has a roof elevation of 110 feet and a range of approximately 1320 feet. The building just north of 101 Constitution Avenue has a roof elevation of 122 feet and a range of approximately 1600 feet to the Capitol. The Acacia Building itself, while lower in height than the proposed building, has a shorter range to the Capitol.

The consultant's analysis further points out that the greater height requested for the proposed new building will act as a screen between the Hyatt Hotel and the Capitol Building, by reducing the sight lines from the hotel to the Capitol. In this way, the granting of the height variance may actually enhance security near the Capitol, for the security analysis opines that "[t]he hotel is a far more attractive location to initiate a sniper assault, as the anonymity of its occupants and their activities are indigenous to the hotel's operation."

It appears that the potential for a sniper to make use of the roof of the proposed new building is a possibility. It appears, however, to be a remote possibility, which can readily be mitigated in three ways: rooftop design precautions, control of access to the building and to the roof, and obscurement of the target building. Intelligent and security-minded rooftop design can prevent a sniper from accessing the roof and from having sufficient time to set up the necessary equipment. The consultant's analysis provides concrete suggestions as to these design modes:

> [t]his is readily accomplished through the specification of ballistic and forced entry rated doors, frames, and hardware that access the roof. The use of commercial motion detection and video surveillance equipment routinely provide detection and assessment of these secure access protocols and should be part of such a design to ensure its effective operation. ... The use of a competently designed surveillance system can assure that such [sniper] activities do not go undetected. Furthermore, a conscientious physical security design of the roof should preclude areas of undetectable refuge. Also, it is likely that the architects can develop a scrim and/or other form of obscurring fencing on the roof at some distance inboard from the parapet, which would add another layer of significant delay by preventing the sniper from having a clear of sight and convenient setup point for target acquisition.

Exhibit No. 29, at 3.

Any potential security threat can be further mitigated by a careful control of persons entering the building and/or accessing the roof. In this regard, the consultant's report recommends "the issuance of ID credentials, the use of access control systems, security and concierge staffing, video surveillance, door monitoring systems, and other physical and electronic security measures." Exhibit No. 29, at 4. All of these measures are reasonable, particularly in light of the fact that the proposed building will be housing, at least for the foreseeable future, only one tenant, the law firm of Jones Day. Although the building will be, in a sense, "open" to the public, it appears reasonable that it can be managed so as to control the inflow of pedestrian traffic.

Lastly, the consultant recommends obscuring the target individuals within the Capitol Building. This can be done with implementation of landscaping to preclude a line of sight from any of the nearby buildings to the Capitol. The Capitol Building itself can put effective screening elements into place.

In light of the above, the Board agrees with the security consultant and the Applicant that the remote risk to one building, even a building as singularly important as the Capitol, cannot be allowed to dictate the zoning and design mandates for an entire neighborhood.

The Board does not wish to appear dismissive of the Architect of the Capitol's concerns. But the Board is limited to what is in the record, which consists of a letter expressing the Architect of the Capitol's concerns against which the Board must consider a substantial and persuasive presentation from the Applicant's security consultant. Nevertheless, the Board expects the applicant to continue working with the Senate Sergeant at Arms on security issues of concern to that office and implement reasonable security measures such as those mentioned in this order.

For all the foregoing reasons, the Board concludes that the relief requested also meets the third prong of the variance test. It can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone

Plan as embodied in the Zoning Regulations and Map.

The Commission is required under section 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990, (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2001) to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the applications persuasive.

Under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C. Code § 1-309.10(d)(3)(a)), the Commission must give great weight to the issues and concerns raised in the written report of the affected Commission. While the ANC indicated its support for the Application, it did so contingent upon the applicant seeking LEED certification for the building. Although the Board favors such action, and the Applicant has agreed to do so, the Board has no authority to condition its order upon a requirement, such as LEED certification, that is not directed to mitigating a potential adverse impact of the use.

In light of the foregoing, the Board **ORDERS** that the application be and the same is hereby **GRANTED.**

VOTE: **3-0-2** (Geoffrey H. Griffis, Ruthanne G. Miller, and John A. Mann II, to approve. Curtis L. Etherly, Jr. and the Zoning Commission member not voting, not having participated.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: APR 0 6 2005

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 17271

As Director of the Office of Zoning, I hereby certify and attest that on APR 0 6 2005 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Richard B. Nettler, Esq.
Robins, Kaplan, Miller & Ciresi LLP
1801 K Street, N.W., Suite 1200
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 6C
P.O. Box 77876
Washington, D.C. 20013

Commissioner 6C09
Advisory Neighborhood Commission 6C
P.O. Box 77876
Washington, D.C. 200013

Sharon Ambrose, City Councilmember
Ward Six
1350 Pennsylvania Avenue, N.W., Suite 102
Washington, D.C. 20004

Toye Bello, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

E

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

September 14, 2011

Catherine Buell, Chairman
Historic Preservation Review Board
Office of Planning
801 North Capitol Street, NE Suite 4000
Washington, DC 20002
historic.preservation@dc.gov

Meredith Moldenhauer, Chairperson
Board of Zoning Adjustment
441 4th Street NW
Suite 210S
Washington, DC 20001
bzasubmissions@dc.gov

Re: Request for support for HPRB concept design, zoning variances, and zoning special exception for development at 17th & O Streets, First Baptist Church

Dear Ms. Buell:

At its regular meeting on September 14, 2011, the Dupont Circle Advisory Neighborhood Commission ("ANC 2B" or "Commission") considered the above-referenced matter. With all Commissioners present, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of (9-0).

Whereas, the applicant has requested approval form the Historic Preservation Board (HPRB) for a concept design for the new structure an 17th and O Streets NW; and

Whereas, the applicant has submitted to the Board of Zoning Adjustment (BZA) an application for (1) Special Exception Relief from the Uniform Roof Structure Height (411.5) to permit the construction of a mechanical penthouse on said property, (2) a Variance for Height (530.1) from the SP-1 restriction of a maximum of 65 feet on which the apartment houses will be built, up to 90 feet and (3) a Variance of Size of Parking Spaces (2115-4) regarding the location of compact car spaces; and

Whereas, the applicant's HPRB hearing is scheduled for late September 2011, and the applicant's BZA hearing is scheduled for November 2011; and
Whereas, ANC 2B believes that a residential building at this location will be an improvement for the neighborhood over the existing parking lot; and

Whereas, ANC 2B appreciates the applicant's time and effort to provide information and explanation to the ANC (and the community) at multiple public meetings; and

Whereas, ANC 2B similarly appreciates the input and comments provided by the community, including nearby residents, business owners, property owners, and others; and

Whereas, the Dupont Circle Conservancy (DCC) has reviewed the concept design and provided support for the design as drawn; and

Whereas, the Historic Preservation Office (HPO) staff report also supports the project's concept design;

Therefore be it resolved that ANC 2B supports the concept design application to the HPRB; and

Whereas, the ANC recognizes that the applicant has included in the building design the minimum number of parking space required by current zoning rules; and

Therefore be it resolved that ANC 2B finds the parking variance request is de minimus, and therefore supports the request; and

Whereas, both the Special Exception and the Height Variance take the proposed construction well above the levels ordinarily limited by the SP-1 regulations, to wit, above 100 feet for portions of the penthouse structure, and up to 90 feet for the remainder of the apartment building; and

Whereas, this considerable Height Variance will provide the applicant with valuable added size, density, and profit; and

Whereas, the ANC acknowledges the many objections of the nearby neighbors about the project and the zoning relief requested; and

Whereas, ANC 2B is concerned about the lack of exterior green space demonstrated in the applicant's designs; and

Whereas, ANC 2B recognizes that there are many other potential designs that the applicant could build as a matter of right, without requesting this zoning relief; and

Whereas, the 90-foot height is in scale with neighboring structures on 17th Street; and

Whereas, ANC 2B appreciates that the applicant has committed orally to modify the rooftop design so as to move residents' common space for recreation and other purposes to the south side only, away from the side facing O Street NW; and

Whereas the applicant has provided the ANC with (1) the modified penthouse and rooftop designs, (2) a description of the modified unit-sized breakdown planned for the building; and (3) a plan for incorporating exterior green space.

Therefore be it resolved that the ANC supports the Special Exception and Height Variance.

Victor Wexler (victor.wexler@dupontcircleanc.net), Mike Feldstein (mike.feldstein@dupontcircleanc.net), and I (will.stephens@dupontcircleanc.net) are the Commission's representatives in this matter.

I am the Commission's representative in this matter. You can reach me at will.stephens@dupontcircleanc.net.

ON BEHALF OF THE COMMISSION.

Sincerely,

William J Stephens

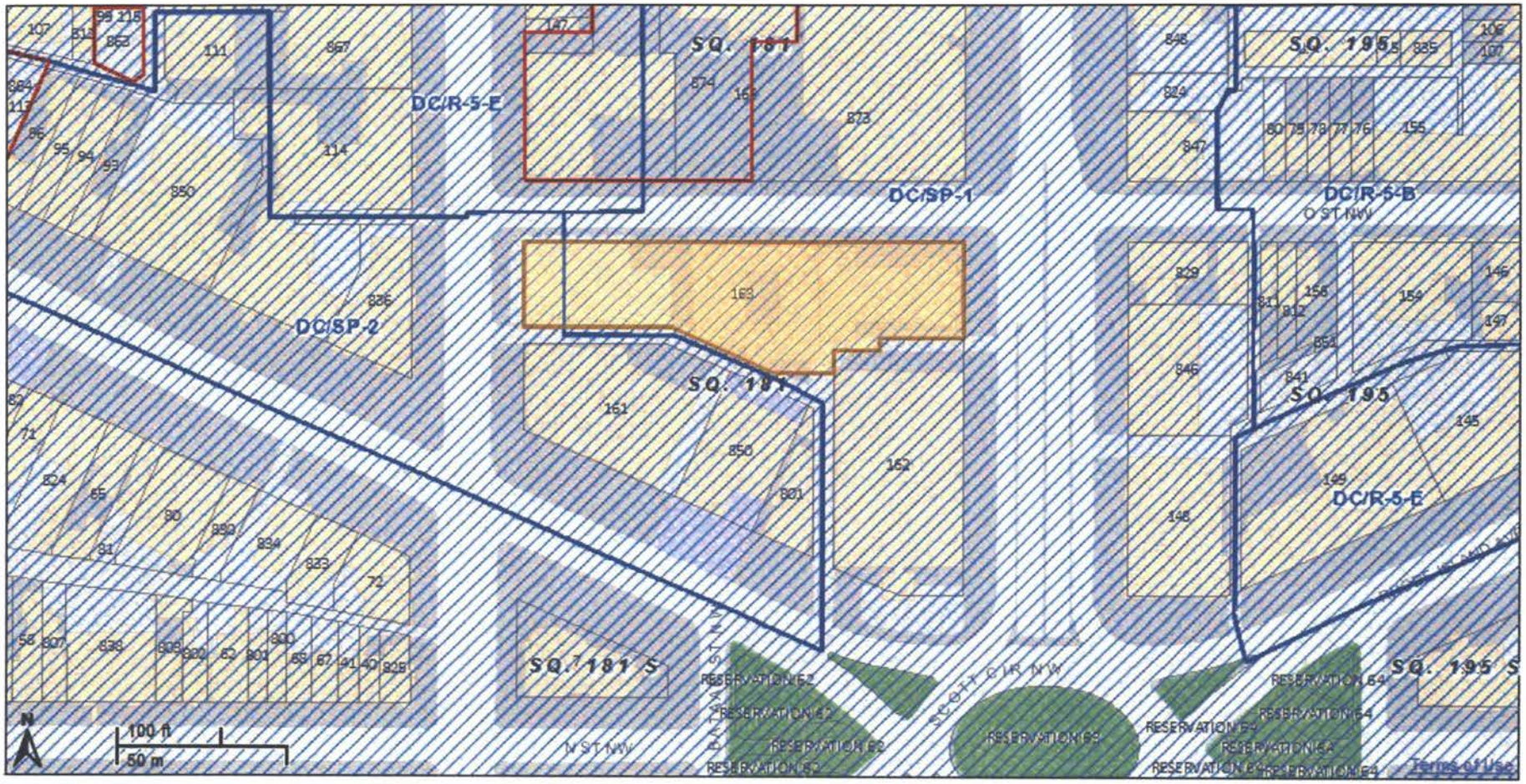
Will Stephens, Chair

CC: steve.calcott@dc.gov , ecolbert@eca-pc.com, MKorns@keenermanagement.com, sara.bardin@dc.gov, richard.nero@dc.gov

District of Columbia Office of Zoning

EXTRACT OF THE DISTRICT OF COLUMBIA ZONING MAP

November 1, 2011



Zoning Layers			
Zone Districts	CEA	Pending PUDs	
Historic Districts	Campus Plans	PUDs	
Overlays Districts	TDRs	Air Rights Zone	

To certify zoning on any property in order to satisfy a legal requirement, contact the Office of Zoning at (202) 727-6311.

F

OUTLINE OF WITNESS TESTIMONY

Representative of
The First Baptist Church of Washington

I. Introduction

- A. History of Church
- B. Focal Point in Community

II. Church Programs

- A. Worship Services
- B. Sunday School
- C. Child Development Center
- D. Social Programs
- E. Use by Other Churches, Programs

III. Existing Conditions Report on Church and Annex

- A. Extensive Deferred Maintenance
- B. Church
- C. Annex
- D. Estimated costs and reserves needed

IV. Redevelopment of Church Parking Lot to Create "Endowment"

- A. Church Needs and Parameters of New Construction
- B. No Disruption to Current Services and Programs
- C. Estimated Funds to Be Generated

V. Conclusion

OUTLINE OF WITNESS TESTIMONY

Gary Squire
KS FBC LLC
Keener-Squire Properties

I. Introduction

- A. Background on Keener-Squire Properties
- B. Residential Projects in Washington

II. 17th and O Street Site

- A. Coordinated Effort with Church
- B. Redevelopment of Parking Lot to Subsidize Church

III. Vision for Property

- A. Exceptional Residential Space
- B. Prime Location in Dupont Circle Neighborhood
- C. Challenges with Building Site
- D. Need for Special Exception and Variance Relief

IV. Community Meetings

- A. ANC 2B
- B. Dupont Circle Conservancy
- C. Community Meetings

V. Conclusion

OUTLINE OF WITNESS TESTIMONY

Eric Colbert
Eric Colbert & Associates, Project Architects

I. Introduction
   A. Site Location and Surrounding Area
   B. History of Site

II. Description of Existing Church Building and Annex

III. Description of Proposed Project

IV. Zoning Relief

   A. Special Exceptions

   B. Variances

   C. Compliance with Burden of Proof

V. Conclusions

OUTLINE OF WITNESS TESTIMONY

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

I. Introduction

II. Special Exception: Penthouse Walls of Unequal Height

- A. Purpose and Need for Unequal Heights
- B. Compliance with Special Exception Standard

III. Variance Relief: Height Limitations

- A. Exceptional and Extraordinary Conditions in Property
- B. Practical Difficulties in Complying with Height Restriction
- C. No Harm to Public Good or Zone Plan

IV. Conclusion

G

17th & O Streets NW, Washington DC • Proposed New Apartment Building

BOARD OF ZONING ADJUSTMENT SUBMITTAL SET • Nov. 1, 2011

SITE LOCATION

IMAGE FROM MASS. AVENUE

DRAWING LIST

CS COVER SHEET
0 PLAT
1 AERIAL RENDERING
2 AREA PHOTOS
3 AREA PHOTOS
4 AREA PHOTOS
5 SITE PLAN EXISTING
6 SITE PLAN PROPOSED
7 P2 & P3 PLANS
8 P1/MEZZANINE PLAN
9 1st FLOOR PLAN
10 2nd FLOOR PLAN
11 TYPICAL PLAN 3rd-9th
12 ROOF & PH PLAN
13 FULL STREET ELEVATIONS
14 17th ST ELEV WITH NOTES
15 O ST ELEV WITH NOTES
16 EAST ELEV'S WITH NOTES
17 SOUTH ELEV WITH NOTES
18 PH ELEV'S WITH NOTES
19 EAST-WEST SECTION

NARRATIVE DESCRIPTION

The First Baptist Church of the City of Washington, in partnership with Keener-Squire Properties, seeks to develop the existing church parking lot as a 218-unit apartment building with 93 parking spaces. This will have the beneficial effect of filling in a "missing tooth" in the streetscape. The parking lot site has a split zoning, with the western portion (abutting 17th Street NW) in DC/SP-2 and the remainder in DC/SP-1. DC/SP-2 has a 90' height limit, while DC/SP-1 has a 70' height limit (65' underlying + 5' for Inclusionary Zoning).

The existing church building is well below the zoning limit for height and FAR. For the proposed apartment building, which is an addition to the church from a zoning perspective, the applicant seeks a BZA height variance to extend the 90-foot height limit into the DC/SP-1 portion of the site. The overall FAR (of the church and apartment building combined) would remain substantially under the zoning limitation.

In addition, the applicant is seeking a Special Exception to allow a dual-height penthouse, in which the elevator overrides and adjacent condenser areas would be at the zoning limit of 18' but the remainder of the structure at only 13'.

PH 2:27

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., June 20, 2011

Plat for Building Permit of: SQUARE 181 LOT 163

Scale: 1 inch = 50 feet Recorded in Book 172 Page 42

Receipt No. 11-04222

Furnished to: JAN MARUT

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.)

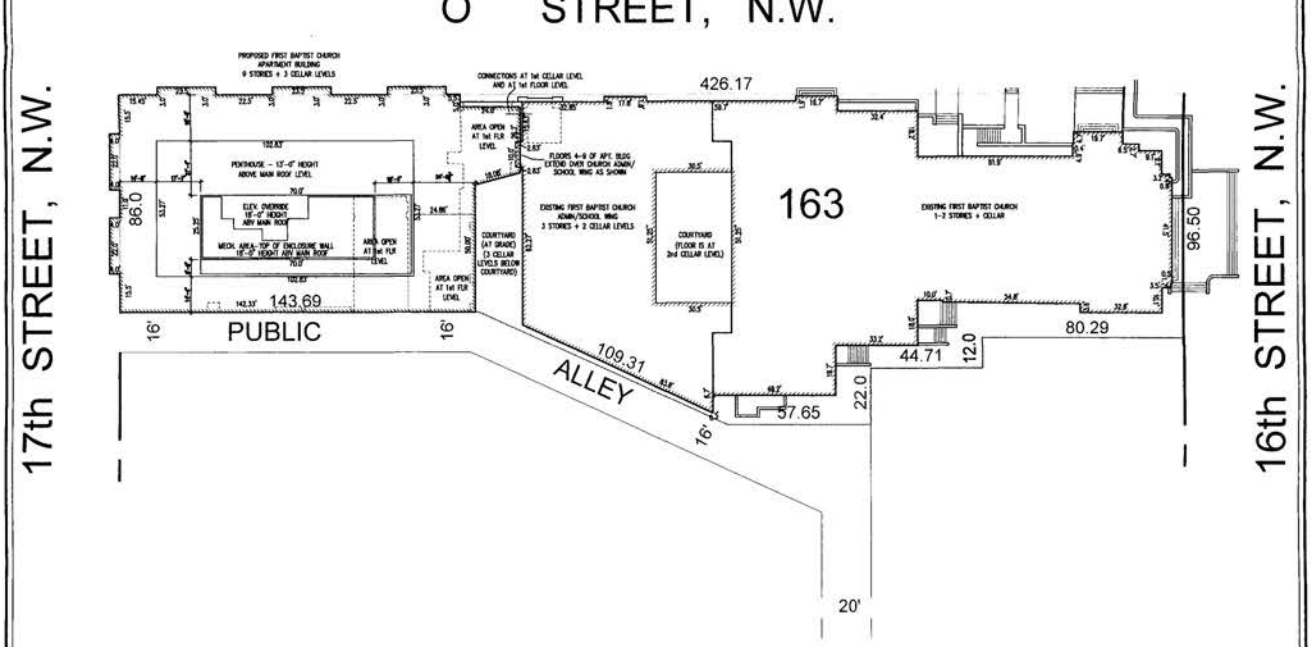
_____
Surveyor, D.C.

By: A.S.

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.



SR-11-04222(2011)
* E-MAIL

1. EXISTING FIRST BAPTIST CHURCH OFFICE/SCHOOL WING (32', 3 STORIES)
2. PROPOSED NEW APARTMENT BUILDING (90', 9 STORIES)
3. EXIST. AIRLINE PILOTS BUILDING (90'/8 STORIES)
4. EXIST. JHU–SAIS ROME BLDG. (90', 8 STORIES)
5. EXIST. AUSTRALIAN EMBASSY (90', 7 STORIES)
6. EXIST. BAY STATE APARTMENTS (90', 9 STORIES)
7. EXIST. BOSTON HOUSE CONDOMINIUM (87', 9 STORIES)
8. EXIST. RICHMOND CONDOMINIUM (90', 10 STORIES)
9. EXIST. GARDEN (ATOP UNDERGROUND PARKING GARAGE)
10. EXIST. WILDLIFE FEDERATION BUILDING (75', 7 STORIES)

AERIAL VIEW OF PROPOSED BUILDING IN CONTEXT

ARCHITECT: ERIC COLBERT & ASSOCIATES	PROJECT: FIRST BAPTIST APT. BLDG.	DEVELOPER: KEENER-SQUIRE PROPERTIES	BZA EXHIBIT 1 NOV 2011	1
717 5th STREET, NW, WASHINGTON DC 20001	17 TH & O STREETS, N.W. WASHINGTON, D.C.	1746 N STREET, NW, WASHINGTON, DC 20036		

1A Southeast - Richmond Condominium, F.B. Churchofice/schol wing with Australian Embassy above, JHU-SAIS Rome building, Airline Pilots building. (Site is the parking lot.)

1B Southeast - F.B. Church office/school wing, Australian Embassy, JHU-SAIS Rome building & Airline Pilots building.

1C East - Richmond Condominium, Wildlife Federation garden and building, F.B. Church office/school wing with back wall of sanctuary beyond/above.

1D East -Wildlife Federation building (sliver at far left), F.B. Church office/school wing (with back wall of sanctuary beyond), sliver of Australian Embassy, Airline Pilots building.

1E Northeast - Richmond Condominium, sliver of the Resources for the Future building, Wildlife Federation garden and office building, F.B. Church rear, Airline Pilots building.

1F North - Northeast (From 17th & Massachusetts Ave. intersection) Richmond condominium, Airline Pilots building.

EXISTING CONDITIONS PHOTOS FROM 17th STREET NW

2A East-southeast - First Baptist Church Sanctuary & office/school wing, with Australian Embassy & JHU-SAIS beyond. Playground is part of site.

2B Southeast - F.B. Church office/ school wing with Australian Embassy beyond/above; JHU-SAIS Rome building, Airline Pilots building.

2C South - F.B. Church office/ school wing & Airline Pilots building.

2D South - Australian Embassy (sliver at far left); JHU-SAIS Rome building, Airline Pilots building. (Parking lot in foreground is the site.)

2E Southwest - Airline Pilots building and Bay State Apartments, with historic townhouses at south side of Massachusetts Avenue beyond.

2F Northeast from Massachusetts Avenue - Bay State Apartments, site with Wildlife Federation beyond, Airline Pilots Building

EXISTING CONDITIONS PHOTOS FROM O STREET NW

3A North - Richmond condominium, with historic rowhouse at 17th & P southwest corner and north end of Brunswick Apartments at left.

3B North & northeast- Richmond Condominium, Resources for the Future, National Wildlife Federation garden and office building.

3C Northeast & east - Resources for the Future, Wildlife Federation, and F.B. Church office/school wing. Playground in foreground is part of site.

3D East & southeast - alley with back of F.B. Church ofice/school wing, Australian Embassy, JHU-SAIS Rome building & Airline Pilots building.

3E West across 17th street - Bay State apartments, Airline Pilots building at left, rear wing of Boston house condominium at far right.

3F Northwest - northeast corner of Bay State apartments, rear wing of Boston House Condominium, Brunswick Apartments, southwest corner of Richmond Condominium.

EXISTING CONDITIONS PHOTOS FROM SITE LOOKING OUT

DC/R-5-D

DC/SP-2 | DC/SP-1

FIRST BAPTIST CHURCH OF THE CITY OF WASHINGTON
1328 16th STREET, NW / SQUARE 181, LOT 163
LOT AREA = 3,454 SF IN DC/SP-2
39,833 SF IN DC/SP-1
43,287 SF TOTAL

O STREET, N.W. — 60' R.O.W.

DC/R-5-D

DC/SP-2 | DC/SP-1

17th STREET, N.W. — 110' R.O.W.

16th STREET, N.W. — 160' R.O.W.

PLAYGROUND

DC/SP-1

EXISTING SURFACE PARKING LOT: 36 SPACES TOTAL, OF WHICH 26 ARE COMPLETELY WITHIN LOT LINES

NORTH 86.00'

DC/SP-2 | DC/SP-1

EAST 426.17'

CHURCH SCHOOL & ADMINISTRATION WING
3 STORIES/ 32' HT

COURT

CHURCH SANCTUARY
2 STORIES /
APPROX. 59' AT ROOF RIDGE

SOUTH 98.50'

WEST 143.69'

16' PUBLIC ALLEY

N 65°58'35" W 109.31'

16' PUBLIC ALLEY

008

SOUTH 12.00'

WEST 60.29'

WEST 44.71'

SOUTH 22.00'

57.65'

20' PUBLIC

DC/SP-2

SITE PLAN

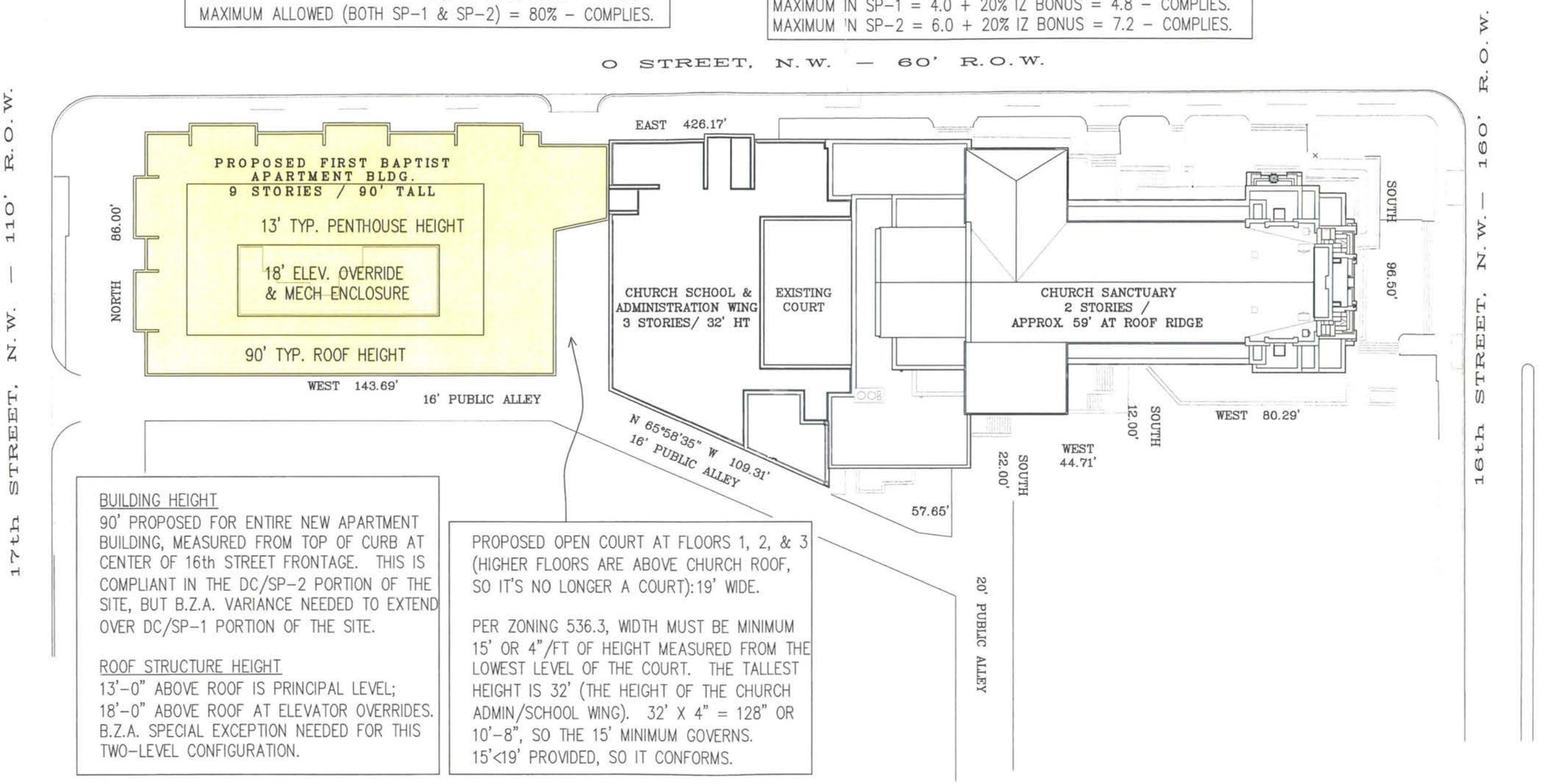
SCALE: 40' = 1"

N

ARCHITECT: ERIC COLBERT & ASSOCIATES	PROJECT: FIRST BAPTIST APT. BLDG.	DEVELOPER: KEENER-SQUIRE PROPERTIES	BZA EXHIBIT	5
717 5th STREET, NW, WASHINGTON DC 20001	17 TH & O STREETS, N.W. WASHINGTON, D.C.	1746 N STREET, NW, WASHINGTON, DC 20036	1 NOV 2011	

LOT OCCUPANCY
EXISTING CHURCH BUILDINGS: 21,816 SF COVERED (=50.4%)
PROPOSED APARTMENT BLDG: 12,732 SF COVERED (=29.4%)
TOTAL 34,548 SF COVERED = 79.8%
MAXIMUM ALLOWED (BOTH SP-1 & SP-2) = 80% - COMPLIES.

FLOOR AREA RATIO
EXISTING CHURCH BUILDINGS: 50,122 GSF (=FAR 1.16)
PROPOSED APARTMENT BLDG: 113,059 GSF (=FAR 2.61)
TOTAL 163,181 GSF = FAR 3.77
MAXIMUM IN SP-1 = 4.0 + 20% IZ BONUS = 4.8 - COMPLIES.
MAXIMUM 'N SP-2 = 6.0 + 20% IZ BONUS = 7.2 - COMPLIES.



BUILDING HEIGHT
90' PROPOSED FOR ENTIRE NEW APARTMENT BUILDING, MEASURED FROM TOP OF CURB AT CENTER OF 16th STREET FRONTAGE. THIS IS COMPLIANT IN THE DC/SP-2 PORTION OF THE SITE, BUT B.Z.A. VARIANCE NEEDED TO EXTEND OVER DC/SP-1 PORTION OF THE SITE.

ROOF STRUCTURE HEIGHT
13'-0" ABOVE ROOF IS PRINCIPAL LEVEL;
18'-0" ABOVE ROOF AT ELEVATOR OVERRIDES.
B.Z.A. SPECIAL EXCEPTION NEEDED FOR THIS TWO-LEVEL CONFIGURATION.

PROPOSED OPEN COURT AT FLOORS 1, 2, & 3 (HIGHER FLOORS ARE ABOVE CHURCH ROOF, SO IT'S NO LONGER A COURT): 19' WIDE.

PER ZONING 536.3, WIDTH MUST BE MINIMUM 15' OR 4"/FT OF HEIGHT MEASURED FROM THE LOWEST LEVEL OF THE COURT. THE TALLEST HEIGHT IS 32' (THE HEIGHT OF THE CHURCH ADMIN/SCHOOL WING). 32' X 4" = 128" OR 10'-8", SO THE 15' MINIMUM GOVERNS. 15'<19' PROVIDED, SO IT CONFORMS.

SITE PLAN - PROPOSED BUILDING AND ZONING INFORMATION

SCALE: 40' = 1"

N

ARCHITECT: ERIC COLBERT & ASSOCIATES	PROJECT: FIRST BAPTIST APT. BLDG.	DEVELOPER: KEENER-SQUIRE PROPERTIES	BZA EXHIBIT 1 NOV 2011	6
717 5th STREET, NW, WASHINGTON DC 20001	17 TH & O STREETS, N.W. WASHINGTON, D.C.	1746 N STREET, NW, WASHINGTON, DC 20036		