EXHIBIT LOG

CASE NO. 17271 APPLICANT JBG/Louisiana Ave LLC

Exhibit No.	Nature of Exhibit	Staff Init.	Exhibit Date	No. Pages	No. Copies	Date Rec'd
31.	Ltr. fm. William H. Pickle Chairman, Capitol Police Board, RE: Request for Reconsideration	EB	3/29/05	4	-	3/30/05 FAX 4-8-05
32.	Final Order Granted	LY	4/6/05	15	-	
33.	Attestation	LY	"	2	-	-
34.	Ltr. fm. Robins, Kaplan, Miller & Ciresi, RE: Objection to Sua Sponte Review Request	EB	4/7/05	7	-	4/7/05
35.	Ltr. fm. Benjamin R. Jacobs on behalf of the the applicant, RE: Ltr. fm. William H. Pickle, Chairman, Capitol Police Board	EB	4/8/05	11	-	4/8/05
36.	Ltr. fm. ~~EB~~ Residents of the VOID VOID Block of [illegible] NW w/enclosures	EB	(SEE BZA 17276 WRONG BZA #0.0N THE LTR.			4/14/05 EB
37.						
38.						
39.						
40.						

ZONING COMMISSION
CASE No. 05-13
EXHIBIT No. 1

ZONING COMMISSION
District of Columbia
CASE NO.05-13
EXHIBIT NO.1A

EXHIBIT LOG

CASE NO. 17271 APPLICANT JBG/Louisiana Ave. LLC

Exhibit No.	Nature of Exhibit	Staff Init.	Exhibit Date	No. Pages	No. Copies	Date Rec'd
21.	Ltr. fm. Alan M. Hantman, FAIA Architect of the Capitol in Opposition	EB	1/3/05	1	-	1/4/05
22.	Ltr. fm. Robins, Kaplan, Miller + Ciresi on behalf of the applicant w/enclosed Prehearing Statement	EB	1/4/05	Book	20	"
23.	Affidavit of Posting	EB	1/3/05	6	-	1/11/05
24.	OFFICE of PLANNING Report	EB	1/11/05	7	20	"
25.	Cross Section	BAB	1/13/05	1	-	1/18/05
26.	Letter from Paul Strauss	BAB	1/18/05	1	-	"
27.	Letter of Support from Holiday Inn	"	1/14/05	2	-	"
28.	Letter of Support from 440 First Street Limited	"	1/14/05	1	-	"
29.	Security Context Study Richard Nero - 202-727-2806	"	1/17/05	34	-	"
30.	Witness Cards	"	-	1	-	"

EXHIBIT LOG

CASE NO. 17271 APPLICANT JBG/Louisiana Ave. LLC

Exhibit No.	Nature of Exhibit	Staff Init.	Exhibit Date	No. Pages	No. Copies	Date Rec'd
11.	MEMO to ELLEN McCarthy-OP, RE: application filed	EB	11/9/04	1	-	-
12.	MEMO to ANC 6C, RE: app. filed	EB	"	2 sided	-	-
13.	MEMO to ANC6C09, RE: app. filed	EB	"	"	-	-
14.	MEMO to City Council Member for Ward 6, RE: app. filed	EB	"	1	-	-
15.	MEMO to KENNETH LADEN-DDOT, RE: app. filed	EB	"	1	-	-
16.	Exhibit Notice to adjacent Properties	AP		2		11/18/04
17.	" ANC-6C	"	11/18/04	3		" "
18.	" Applicant + Agent	"	" "	2		" "
19.	Attestation	"	" "	1		" "
20.	LTR. fm. COMMISSIONER MARK DIXON Chairman, ANC 6C in support	EB	12/16/04	2	-	12/20/04

EXHIBIT LOG

CASE NO. 17271 APPLICANT JBG/Louisiana Ave. LLC

Exhibit No.	Nature of Exhibit	Staff Init.	Exhibit Date	No. Pages	No. Copies	Date Rec'd
1.	Ltr. fm. Robins, Kaplan, Miller & Ciresi, re: application filed	EG	11/5/04	1	20	11/5/04
2.	BZA Application	"	"	2	"	"
3.	DC Surveyor's Plat	"	"	1	"	"
4.	Statement of reasons in support of application	"	-	3	"	"
5.	Zoning Self-Certification Form	"	11/5/04	3	"	"
6.	Ltr. of authorization	"	11/2/04	1	"	"
7.	Names & address of property owners within 200 ft	"	-	5	"	"
8.	Set of plans, including color photos	"	11/3/04	14	"	"
9.	Copies of check & BZA receipt	"	11/5/04	1	"	"
10.	Ltr. of acknowledgement	"	"	1	"	"

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., November 3, 2004

Plat for Building Permit of SQUARE 631 LOT 17

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

Receipt No. 15418

Furnished to: ROBERT SOCKWELL

Surveyor, D.C.

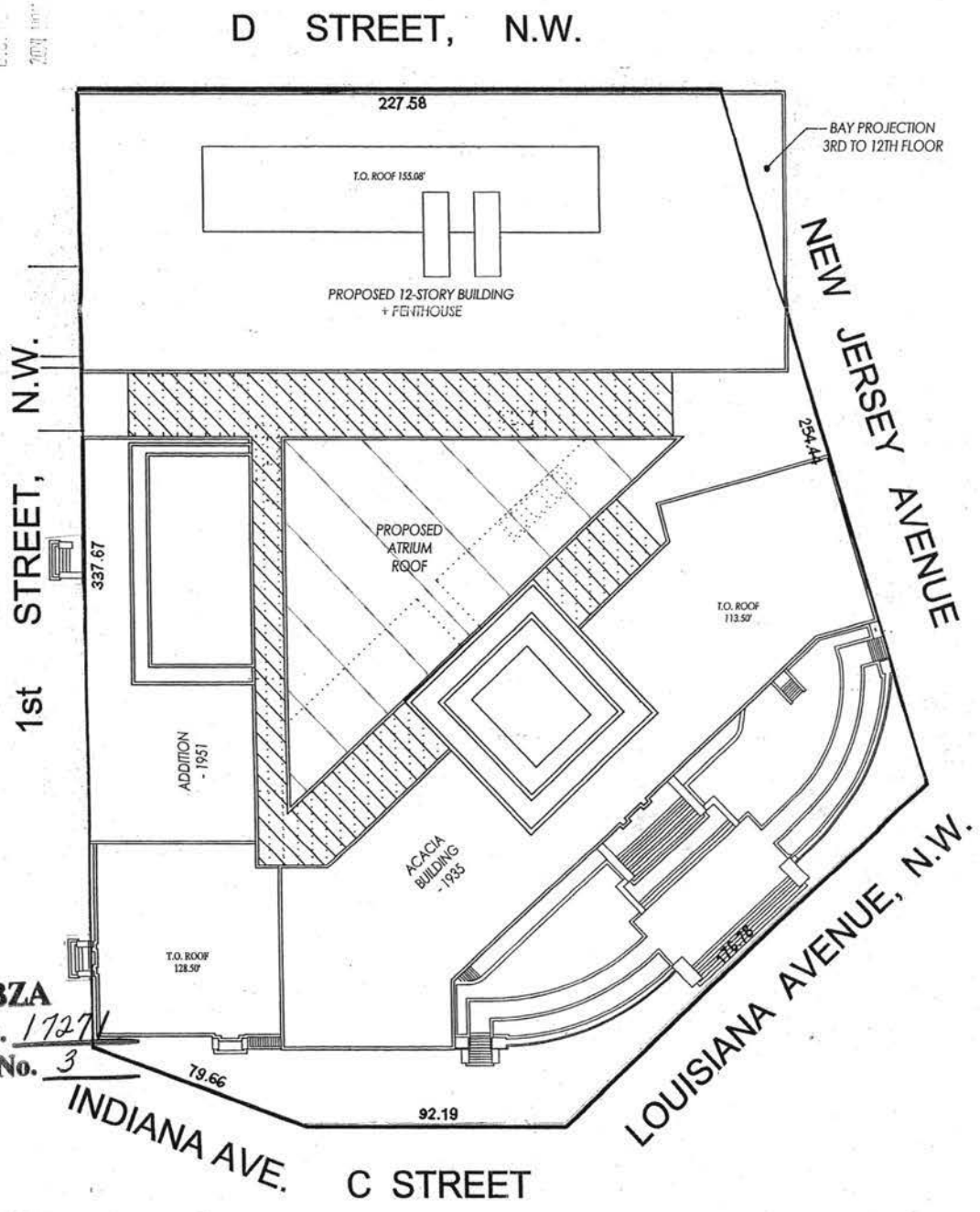
By: L.E.S.

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

Date: _____

_____
(Signature of owner or his authorized agent)

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



BZA
Case No. 1727
Exhibit No. 3

SO-15418(2004)

Form 120 – Exhibit 1
(Revised 04/29/02)

Case No. 17271

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

APPLICATION

Notice: See other side of application form for instructions

Pursuant to Sections §3103.2 - Use Variance, §3103.2 - Area Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s).	Zoning Districts	Relief Being Sought Area Variance · Use Variance Special Exception	Section No(s).
51 Louisiana Avenue, N.W.	631	17	C-3-C	Area Variance	1709.23

Present use(s) of Property:	Office building
Proposed use(s) of Property:	Office building

Owner of Property:	JBG/Louisiana Avenue, L.L.C.	**Telephone No:**	240-333-3645
Address of Owner:	4445 Willard Avenue, #400, Chevy Chase, MD 20815		

Written paragraph specifically stating the "who, what, and where of the proposed action(s)". This will serve as the Public Hearing Notice: Variance from the height limitations of section 1709.23 of the zoning regulations to allow an addition to an existing office building at the premises 51 Louisiana Avenue, Square 631, Lot 17, in the C-3-C zone district.

Estimated construction cost	$58,687,498	**Advisory Neighborhood Commission Single-Member District(s)**	6C09

Date:	November 5, 2004	**Signature:**	Applicant*

* The Owner of the Property for which the application is made or his/her authorized agent. In the event an authorized agent files an application on the behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany the notice of application.

To be notified of hearing and decision:
(Owner or Authorized Agent*)

BZA
Case No. 17271
Exhibit No. 2

Name:	Richard B. Nettler, Esquire & Jeannine Rustad, Esquire,				
Address:	Robins, Kaplan, Miller & Ciresi L.L.P., 1801 K Street, N.W., Suite 1200, Washington, D.C. 20006				
Phone No.:	736-2720/2718	**Fax No.:**	223-8604	**E-Mail:**	rbnettler@rkmc.com / jrustad@rkmc.com

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

INSTRUCTIONS

Any notice of application for action provided in the District of Columbia Zoning Regulations (11 DCMR Zoning) that is not completed in accordance with the following instructions shall not be accepted. ***Do not mail this form to the Board of Zoning Adjustment.***

1. All applications shall be made on Form 120. All applications must be completely filled out and be typewritten or printed. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form (drawings and plans may be no larger than 11"x17").

2. Present this form and supporting documents, in person, to the Office of Zoning at 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

3. At the time of filing an application before the Board of Zoning Adjustment, the Petitioner shall pay a filing fee in accordance with the Board of Zoning Adjustment Schedule of Fees (11 DCMR 3180).

4. ***REQUIRED information to be submitted when making an application submission, includes one (1) original and twenty (20) copies of the following (except for labels of which (1) original and (1) copy is required):***

   A. All applicants shall obtain from the Zoning Administrator (DCRA) a memorandum directing the applicant to the Board of Zoning Adjustment prior to filing this application or file through self-certification using Form 135. For self-certification, a licensed architect or attorney must certify the proposed relief requested.

   B. A plat, drawn to scale and certified by a DC licensed survey engineer or the D.C. Office of the Surveyor showing boundaries and dimensions of the existing and proposed buildings and accessory buildings. Also required are architectural plans and elevations in sufficient detail to clearly illustrate any proposed building to be erected or altered, proposed landscaping/screens and building materials. Submittal of plat and plans shall not exceed 11? x 17? in size. (See Form 130 – Plat, Plan and Elevation Specifications for the required information on these drawings.)

   C. A detailed statement of existing and intended use of such building or part of building.

   D. A detailed statement explaining how the application meets the specific tests identified in the Zoning Regulations for variance (area and/or use), special exception or other specific relief being sought. (See Form 121 – Applicant's Burden of Proof for Variance and Special Exception Applications.)

   E. Three color photograph views of appropriate size, not-to-exceed 8½? x 11?, showing pertinent features of the building and the property involved (front, rear and sides, if possible).

   F. The names and mailing addresses of the owners of all property within 200 feet, in all directions from all boundaries of the property involved in the application, **and self-stick labels of the names and mailing addresses of the owners of the properties.** (Note: This information is most readily available from the D.C. Department of Tax and Revenue, Tax Assessors, 941 North Capitol Street, N.E., 1st Floor, Washington, D.C. 20002.)

   G. The name and mailing address of any person who has a lease with the owner for all or part of any building located on the property involved in the application.

   H. Documentation or a copy of the Certificate of Occupancy showing the current authorized use. In cases where a change in one conforming use to another non-conforming use is requested, provide a copy of the past authorized uses.

Note: **All applications are referred for review and recommendation to the D.C. Office of Planning (OP) and the Advisory Neighborhood Commission within which the affected property is located. Their reports are given "great weight" in the BZA decision-making process. Applicants are strongly recommended, at the time of filing a Form 120 appl ication, to make contact with these agencies to discuss the merits of their application. OP can be reached at (202) 442-7602.**

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

2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
TEL: 612-349-8500 FAX: 612-339-4181
www.rkmc.com

ATTORNEYS AT LAW

RICHARD B. NETTLER
JEANNINE RUSTAD
(202) 775-0725

RECEIVED
D.C. OFFICE OF ZONING
2004 NOV -5 PM 4:35

November 5, 2004

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: Application of JBG/Louisiana Avenue, L.L.C.
51 Louisiana Avenue, N.W., Square 631, Lot 17

Dear Mr. Griffis:

On behalf of our client, JBG/Louisiana Avenue, L.L.C., we are hereby submitting an application for an area variance from the height restrictions of section 1709.23 of the zoning regulations for the above-referenced property, which zoned C-3-C. Accordingly, enclosed you will find the original application, with supporting documents, and twenty (20) copies. Supporting documents attached to the application include: a letter of agent authorization; a fully executed zoning self-certification form; a statement of reasons in support of the application, including the existing and proposed uses; photographic views of the property; surveyor's plat of the property; plans for the property; and a list of neighbors within 200 feet of the property, along with one set of mailing labels to the neighbors. Lastly, we have also enclosed a check in the amount of $800.00 for the filing fee for the requested area variance.

Thank you for your attention to this matter.

Sincerely,

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

Richard B. Nettler
Jeannine Rustad

Enclosures (as stated)
cc: Kai Reynolds (by hand; w/encl.)
Office of Planning (by hand; w/encl.)
ANC 6C (w/encl.)
Mr. Charlie Docter (by hand; w/encl.)

Word 45665035.1

BZA
Case No. 17271
Exhibit No. 1

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

ATTORNEYS AT LAW

2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
TEL: 612-349-8500 FAX: 612-339-4181
www.rkmc.com

RICHARD B. NETTLER
JEANNINE RUSTAD
(202) 775-0725

RECEIVED
D.C. BOARD OF ZONING ADJUSTMENT
2004 NOV -5 PM 4:35

November 5, 2004

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

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

Richard B. Nettler
Jeannine Rustad

Enclosures (as stated)
cc: Kai Reynolds (by hand; w/encl.)
Office of Planning (by hand; w/encl.)
ANC 6C (w/encl.)
Mr. Charlie Docter (by hand; w/encl.)

Word 45655035.1

BZA
Case No. 17271
Exhibit No. 1

THE JBG COMPANIES

April 8, 2005

Via Telefacsimile

RECEIVED
D.C. OFFICE OF ZONING
2005 APR -8 AM 10:41

Jerrily Kress, Director
DC Office of Zoning
441 4th Street NW, Suite 210 South
Washington, D.C. 20001

Re: BZA Application No. 17271 – 51 Louisiana Avenue

Dear Ms. Kress:

I am writing to you on behalf of the Applicant, JBG/Louisiana, L.L.C., ("JBG") in regards to correspondence to you from the William H. Pickle, Chairman, Capitol Police Board. I want to make you aware of the history of that issue and JBG's commitment to the safety and security over the proposed building and the Capitol Building.

By way of background, immediately prior to the BZA hearing on January 18, 2005, JBG was notified that the Architect of the Capitol, via Mr. Pickle, was opposed to the matter before the BZA for security concerns. JBG immediately responded in several ways. As you have seen in the Order, the Applicant engaged a world renowned security consultant to review the building design and its relative location to the US Capitol. The resulting *Ducibella Report* is attached for your review.

As reflected by JBG's letter of January 21, 2005 (copy attached), the Applicant met with the Sergeant of Arms on January 18, 2005 to discuss the situation, review the *Ducibella Report* and discuss measures by way to reduce the security risk. At that meeting, and in the January 21, 2005 letter, JBG re-affirmed its commitment to implement security measures in the building.

The Applicant is respectful of the concerns and remains very willing to adopt the security measures described in the Order as recommended.

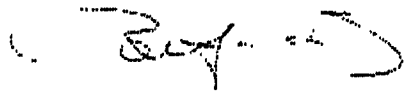
Additionally, the Report points out that the roof of the proposed building is a significant distance from the Capitol and that at least five other existing buildings have equivalent sight lines to the Capitol. Of those five, at least two are a shorter distance from the Capitol. The report also points out that the new building will obscure the sight lines from the Hyatt Hotel, a building which is relatively open to the public and has transient and anonymous occupants.

BZA
Case No. 17271
Exhibit No. 35

As required by the Order and affirmed in JBG's January 21, 2005 letter, the Applicant is committed to meeting with and working with the Capitol Police Board to effectively create security counter measures and make the building, the neighborhood and the Capitol safe.

Thank you for your attention to the matter.

Sincerely,



Benjamin R. Jacobs

cc. Ellen McCarthy, DC Office of Planning
Alan Bergstein, Chief Land Use and Public Works
Geoffrey H. Griffis, Chairman BZA
Richard Nettler, Esquire

DUCIBELLA VENTER & SANTORE
SECURITY CONSULTING AND ENGINEERING SINCE 1961

CONFIDENTIAL & PRIVILEGED

January 17, 2005

Mr. Kai Reynolds
The JBG Companies
#400 - 4445 Willard Ave.
Chevy Chase, MD 20815

Subject: **51 Louisiana Avenue**
Security Context Study
Considerations & Recommendations

Dear Mr. Reynolds:

In response to an inquiry from The JBG Companies regarding the development of the property located at 51 Louisiana Avenue, we have reviewed the documentation forwarded to us and provide our professional assessment herein. Our observations are based on over 40 years of continuous professional security engineering practice on projects of significance throughout the world with extensive metropolitan experience in cities where there are security sensitive assets.

These clients include members of the United States government with significant security profiles and concerns, including the Dept. of Justice, The Dept. of State, The Dept. of Transportation, the Internal Revenue Service, the Secret Service, the U.S. Marshals, the Federal Protective Service, the GSA, the Social Security Administration, the Food and Drug Administration, the Dept. of the Interior, and others; as well as foreign government agencies in Kuwait, Saudi Arabia, The Republic of China, Canada, Hong Kong, Egypt, and Ireland.

Additionally, our commentary is tempered by security consultation and engineering commissions in the protection of political, diplomatic, judicial, financial, ecclesiastical, and cultural dignitaries in facilities including the United States Mission to the United Nations, the entire United Nations campus and its facilities, eight Federal Courthouses, the Connecticut Supreme Court, the Brooklyn Supreme Court, the Superior Court of New Jersey, the Brooklyn District Attorney's offices, the Commonwealth of Virginia legislative office building, the Kuwait Mission to the United Nations, the Freedom Forum, the Council on Foreign Relations, the William J. Clinton Presidential Library, the Thomas O'Neill Federal Building, the Federal Reserve banking system, and numerous others.

These experiences have sensitized us to the concerns identified in Mr. Hantman's, Architect of the Capital, letter dated January 3, 2005, to the Board of Zoning Adjustment, wherein he references the Senate Sergeant at Arm's concerns regarding the opportunity for 51 Louisiana Avenue to provide a potential sniper threat to the Senate Park section of the Capital grounds. We share the Sergeant at Arms' legitimate concern for the welfare of our political and legislative leaders. They are the backbone of our democracy and represent the body of individuals duly elected to manage our freedom. They are undeniably invaluable intellectual resources and consequently constitute a critical asset at risk.

The JBG Companies have requested that our firm provide the benefit of our professional experiences in the identification of a rational plan for mitigating the potential threat identified by the Senate Sergeant at Arms. Specifically, the use of the proposed new roof at elevation ..55' by a sniper. This new roof is to be part of the renovations and expansions at 51 Louisiana Avenue and is identified to be a potential location from which to target occupants of the Senate Chamber.

As part of our review and analysis, we have taken into consideration the information provided on four graphic analysis documents, as follows:

- Security Context Study: "Comparative Rooftop Elevations and Distances from Senate Wing, dated 1-18-05
- Security Context Study: "Existing Exposure area from Rooftops, dated 1-18-05
- Security Context Study: "Overlay Exposure Area from Rooftop of New Building, dated 1-18-05
- WDG Architecture: Building and Project Cross Section [Security Context Study], 51 Louisiana Avenue, dated 1-13-05.

These documents should be used in support of this letter (as an exhibit) in any subsequent discussions and/or representations to the appropriate government agencies. Due to the sensitive nature of this analysis, we strongly suggest that the distribution of these documents be kept to a limited and need to know basis.

Traditionally, it is a universally accepted security design practice, once the threat has been identified and the vulnerability of the institution defined, to protect that institution in a manner commensurate with the extent of the threat, the degree of its vulnerability, and the criticality of its assets. In that regard, the value of the assets has been determined and is undeniable. The threat of a sniper is legitimately credible, although the range from perpetrator to target is significant. The vulnerability is the assumed inability of the current facility glazing to preclude the effectiveness of an attack utilizing a high-powered rifle and an extremely skilled perpetrator with adequate time for equipment deployment and target acquisition.

With these considerations in mind, the logical solution is to address the facility and the internal assets at risk. This should be achieved by modifications to the openings, which provide the windows of opportunity for the potential criminal activity. There are several solutions which are routinely adopted with great success to mitigate this threat in similar circumstances in numerous other buildings. First, they include obscurescence of the target between the perpetrator and the building in which the target resides. This may be accomplished with landscaping, lighting, reflective materials selection, or other effective screening elements available to site design. Secondly, they include the fitment of ballistic rated glazings, which preclude the penetration of the target round. Thirdly, the obscurescence of the window opening through the use of screens, blinds, films drapes, or other forms of reflective glazing, which preclude the ability to clearly sight a target from a distance (a quarter of a mile) as large as that which would exist from the roof of 51 Louisiana Avenue.

Subsequent to the events of 9/11/01, new security realities have focused the nation's attention on a greater range of more insidious threats and such have become the challenge of law enforcement, security professionals, urban planners, architects, engineers, and contractors. It has been our experience, without exception, that the range and scope of these threats warrant the protection of the

institution and the assets at risk, through a process of protective design specific to and implemented at the specific facility. This protective design rationale is clear and fundamentally in support of our democratic principals and quality of life. Otherwise, the risks of a single institution become the inherent responsibility and thus subsequent design mandate of the entire community. Due to the increasing diversity of these threats, the protective design response palette is every increasing thus potentially affecting every form of architecture and living environment, if the mitigating strategies are accepted as community design responsibilities, not the target at risk.

As an example, in support of this premise, we do not design new commercial high-rise office buildings to be responsive to an attack by an aircraft, by potential security breaches within the airline screening process. Rather, the security screening process is targeted for improvement. Imagine the cost and design impact on the American economy and American architecture if the skyscraper becomes the mitigating strategy for baggage security management breaches.

Similarly, we do not require the installation of ballistic rated glazing and non operable windows in all of the buildings which have a sight line view corridor to institutions where there may significant dignitaries in residence. Imagine the design mandate to retrofit all of the existing buildings or to require that all new buildings in Manhattan and Queens, which have such a view corridor to the United Nations' campus, be fitted with such ballistic protective design features.

In summary, it has been identified that there is an enormously dangerous precedent in extending the realm of protective design to an entire community for the benefit of a single, even if enormously significant, institution at risk. In the case of 51 Louisiana Avenue, the range of proposed influence would extend nearly a half mile in diameter into the urban fabric of Washington, D.C. from the Senate Park campus. This is a disturbing premise when one considers the other Federal Agencies (not including the Capital) within the District and the effect which such a new protective design standard would have on the surrounding Washington, D.C. community.

The above design process considerations not withstanding, there are additiona practical solutions which should be implemented by The JBG Companies in response to the Senate Sergeant at Arms' concerns. Specifically, the roof of the 51 Louisiana Avenue facility should be made inaccessible to unauthorized individuals and the success of such inaccessibility should be monitored by an effective detection and assessment system.

This 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.

In anticipation of a sniper's requirement to utilize a weapon steadying appurtenance and to perform sighting system calibration, there is the reasonable expectation that a sniper, to be effective, will require equipment setup time and additional time to acquire the target. The use of a competently designed surveillance system can assure that such 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 obscurescence 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 line of sight and convenient setup point for target acquisition.

In support of these rooftop protective design measures, our experience in providing security designs in numerous other similar office building facilities has identified the opportunity to significantly mitigate the access of unauthorized persons. This is routinely accomplished by 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. In summary, it is reasonable to expect that 51 Louisiana Avenue can be provided with a security management plan that would make it a far less attractive and opportunistic facility for a sniper attack than the adjacent five office buildings and hotel, all of which have essentially equivalent line of sight and firing range to the Senate Park section of the Capital grounds. Please refer to the exhibits identified previously in this letter for substantiation of this premise.

Furthermore, the modifications to 51 Louisiana Avenue will reduce sight lines from the adjacent hotel on New Jersey Avenue to the Senate Park, thus minimizing the use of this facility as a staging area. The 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, a circumstance which would be aggressively mitigated against through the institution of security systems, physical security designs, and personnel at 51 Louisiana Avenue.

In summary, the implementation of physical security measures at 51 Louisiana Avenue to safe guard roof access, prevent sniper line of fire, preclude unauthorized entry and to manage building activities would defer the use of the facility for the currently considered activity to one of the numerous other adjacent buildings.

In closing, it is our considered opinion that the most appropriate response for the protection of the Senate Park occupants is:

- The implementation of landscaping, which precludes line of sight to Senate Park building occupants from any one of the facilities along Louisiana Avenue between Constitution Avenue and North Capital Street.
- The application of appropriate physical protective designs for the window openings in the Senate building.
- The institution of a quality security design, as identified hereinbefore, and management plan for 51 Louisiana Avenue to preclude its use as a convenient site for potential sniper activities.

Respectfully submitted,

Robert Ducibella
Senior Principal

THE JBG COMPANIES

January 21, 2005

Mr. William Pickle
Sergeant of Arms Senate
United States Capitol, Room S151
Washington, DC

Dear Mr. Pickle:

Thank you for taking the time to meet and review the facts relating to our proposed development on New Jersey Avenue, N.W.

In light of our discussion, your agreement to review with your security experts the letter report of Ducibella Associates dated January 17, 2005 and accompanying exhibits I left with you and, your expressed intention to contact me in the coming week to further review the results of the foregoing I felt it appropriate to make you aware of the action taken by the Board of Zoning Appeals (BZA).

On Tuesday afternoon the BZA ruled 3-0 in favor of granting the relief we sought. Because there seemed to be some confusion on Mr. Hildebrand's part regarding our by-right, height entitlement, let me restate it; our site is zoned C-3-C and is within the Downtown East receiving zone which permits by-right the transfer of development rights and concomitant increase in building height to 110 feet. As I stated during our meeting, JBG currently owns development rights that are available for that site and the 110 foot height allowance is not an issue.

The BZA's action does not require the implementation of the security arrangements that we discussed. However, I am very respectful of the concerns you expressed and the importance of your mission; accordingly, I remain willing to implement the building security precautions I described to you during our meeting and as recommended in the Ducibella January 17, 2005 report.

The Ducibella Associates report indicates that the security risks associated with the now approved zoning variance are mitigated and in the case of existing buildings improved by taking the security steps he recommends. Accordingly, no increased security threat would result from acceptance of the ruling of the BZA. The Architect of the Capitol is on record as opposing the variance, thus no precedent would be set in the mere acceptance of the ruling of the BZA. I therefore respectfully request that the Architect of the Capitol accept the ruling of the BZA with regard to the approved zoning variances.

I am available at your convenience to discuss this project.

Thank you for your consideration of this matter.

Sincerely,

Benjamin R. Jacobs

4445 WILLARD AVENUE CHEVY CHASE, MARYLAND 20815-3690 (240) 333-3600 TELEFAX: (240) 333-3610

UNITED STATES CAPITOL POLICE BOARD

119 D Street, NE
Washington, DC 20510

FACSIMILE

To:	Mr. Benjamin R. Jacobs, The JBG Companies
Fax number:	(240) 333-3610
Subject:	Courtesy copy of letter concerning BZA Case 17271
Date:	03/30/05
Pages:	cover page plus 2

From the desk of...

Jeff Rupert
Executive Officer
119 D Street NE Room 703 D
Washington, DC 20510

202-224-7025
Fax: 202-228-4264
Jeff_Rupert@cap-police.senate.gov

PHONE 225-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

March 29, 2005

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

Ms. Jerriley Kress
Office of Zoning, District of Columbia
414 4th Street NW; Suite 210 South
Washington, D.C. 20001

Re: BZA Case 17271 - JBG/Louisiana
51 Louisiana Avenue, NW
Request for Reconsideration

Dear Ms. Kress:

The Capitol Police Board (Board) understands that the Board of Zoning Adjustment is planning to issue a final order concerning the JBG Companies' request for a height variance at 51 Louisiana Avenue, NW. The Board has waited to request reconsideration because internal law enforcement experts have been actively reviewing and analyzing the potential security impacts that a height variance at 51 Louisiana, NW would have on the U.S. Capitol Complex. As a result of the analysis completed by internal security experts, the Board concludes that the variance under consideration will have a significant impact on Congressional security. Therefore, the Board respectfully requests the reconsideration of the variance currently being reviewed by the Board of Zoning Adjustment.

Moreover, pursuant to the authority of the Capitol Police Board under Public Law 108-447, December 8, 2004, to make determinations regarding the release of information which imports Congressional security, the Board also requests an opportunity to review information that is proposed for public release to protect against release of any security sensitive information or revealing any vulnerabilities of the U.S. Capitol Complex.

Attached for your review is a copy of a letter from the Capitol Police Board to Mr. Benjamin R. Jacobs, The JBG Companies, dated March 4, 2005, expressing the Board's security concerns.

Your consideration of the Board's security concerns and requests outlined above is greatly appreciated. The Board remains willing to provide any information that you may require for reconsideration. Please do not hesitate to contact me if I may be of assistance.

Very Respectfully,

William H. Pickle
Chairman
Capitol Police Board

Cc: Mr. Geoffrey H. Griffis

PHONE 224-2041

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

March 4, 2005

Mr. Benjamin R. Jacobs
The JBG Companies
4445 Willard Avenue, Suite 400
Chevy Chase, MD 20815

Dear Mr. Jacobs:

On behalf of the Capitol Police Board, this correspondence is in response to your letter, dated January 21, 2005, regarding your proposed development in close proximity to the U.S. Capitol.

The Capitol Police Board and the United States Capitol Police have reviewed your request to accept the ruling of the Board of Zoning Appeals (BZA) regarding your proposed development on New Jersey Avenue, NW. However, after further consideration, we cannot accept your contention that there are no security issues. Indeed, our security and law enforcement professionals have advised that, from a security perspective, the variance to increase the height of the building would increase exposure and vulnerability to the Capitol complex, and as such, we are not able to accept or endorse the BZA ruling.

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,

William H. Pickle
Chairman
Capitol Police Board

cc: The Honorable Wilson Livingood
Member, Capitol Police Board
The Honorable Alan M. Hantman
Member, Capitol Police Board
Chief Terrance W. Gainer
Member, *Ex Officio*, Capitol Police Board

THE JBG COMPANIES

4445 Willard Avenue, Suite 400
Chevy Chase, Maryland 20815
Phone: (240) 333-3000 (240) 333-3610

Fax

To:	Jerrily Kress, Director	**From:**	Benjamin Jacobs
Fax:	202-727-6072	**Pages:**	11. (includes cover)
Phone:	202-747-6311	**Date:**	4/8/2005
Re:	BZA Application No. 17271 – 51 Louisiana Avenue	**CC:**	Geoff Griffis, Chairman BZA

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

RECEIVED
D.C. OFFICE OF ZONING
2005 APR -8 AM 10:11

If this fax is illegible or incomplete, please contact:
Denise Pattakos, 240-333-3713

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

SUITE 1200
1801 K STREET, N.W.
WASHINGTON, D.C. 20006-1307
TEL: 202-775-0725 FAX: 202-223-8604
www.rkmc.com

ATTORNEYS AT LAW

RICHARD B. NETTLER
JEANNINE RUSTAD
(202) 775-0725

April 7, 2005

BY HAND
Ms. Carol J. Mitten
Chairperson
Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2005 APR -7 PM 3:21

Re: BZA Application No. 17271
Objection to Sua Sponte Review Request
Our File No. 092218.0012

Dear Ms. Mitten:

We have been informed by the Office of Zoning that the Architect of the Capitol (the "Architect") has requested that the Zoning Commission (the "Commission") *sua sponte* review the order in BZA Application 17271. Pursuant to section 3128.3 of the zoning regulations, we submit the following objections to this request on behalf of the Applicant, JBG/Louisiana Avenue, L.L.C. ("JBG").

In review decisions of the Board of Zoning Adjustment (the "Board"), the zoning regulations set forth the following guidelines to determine whether the Commission should invoke its *sua sponte* review authority:

> (a) In a particular instance where it appears to the Commission that the Board has exceeded its prerogatives and has thus in effect changed the zoning;
>
> (b) Where it appears that a basic policy of the Commission, as expressed in the Zoning Regulations, has been violated as a result of action by the Board; or
>
> (c) In an unusual instance, as determined by the Commission.

11 DCMR § 3128.7. In the instant matter, none of these criteria apply. The Board did not exceed its prerogatives, effectively changing the zoning. Nor did the Board violate any basic principle of the zoning regulations. To the contrary, the Board's granting of the height variance is consistent with the zoning regulations and map. Moreover, the Board based its decision on the evidence in the record. Finally, as illustrated below, there are no unusual circumstances, other than the Architect's failure to participate or offer evidence to support its unsubstantiated claims. Having had full opportunity to participate, the Architect, as a represented member of the

BZA
Case No. 17271
Exhibit No. 34

As a final matter, the Applicant believes it is appropriate for Commissioner Hildebrand to recuse himself from the Commission's deliberations, given Commissioner Hildebrand's involvement before the Board

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L L P

Richard B Nettler
Jeannine Rustad

Enclosures (as stated)
cc Office of Planning Ms Ellen McCarthy
Alan Bergstein, Esquire
Mr Benjamin Jacobs
Mr Dean Cinkala
Mr Kai Reynolds
Mr John Wilkinson
(The above by hand with enclosures)
ANC 6C (w/encl)

Commission, cannot be allowed to circumvent the zoning regulations to invoke the Commission to review the Board's decision.

As previously noted, the Architect did not participate in the proceedings before the Board. Rather, the Architect simply submitted a letter objecting to the requested relief and urging the Board to deny the application based on the speculation of the Senate Sergeant at Arms that the "lines of sight that would be created from the roof and penthouse of the proposed structure would present a serious security risk to the Senate wing of the Capitol." *See* Exhibit 1 The Architect did not provide any supporting evidence that such a risk was, in fact, created by the proposed addition subject to the application Nor did the Architect apply for party status or testify at the hearing

Upon receipt of a copy of the Architect's letter to the Board, JBG made several unsuccessful attempts to meet with the Architect Being unsuccessful in these efforts, JBG retained Dusebella, Venturui and Santori ("DVS"), security consultants to the Department of Justice, Department of State, the Department of Transportation, the Internal Revenue Service, the Secret Service, the U.S. Marshal, the Federal Protective Service, to review any security issues presented by the proposed project DVS submitted a detailed report on the security of the proposed addition subject to the application. At the hearing, George Dove testified as to this report, as well as the sight line issues *See* Transcript at 49-59 Additionally, Dean Cinkala of JBG testified as to the security measures that would be provided at the subject property. *See* Transcript at 25-30 This evidence was unrefuted The Board's order illustrates that the Board properly weighed the evidence in the Record.

This case does not present an "unusual instance", as contemplated by section 3128 7 of the zoning regulations. To the contrary, an unusual instance would be created if the Commission were to exercise its powers of *sua sponte* review in light of the overwhelming evidence in this case In the instant matter, we have a non-party to the proceedings (again, one who is a member of the Commission) before the Board asking for *sua sponte* review of an order that addressed all the issues and evidence with an extraordinary attention to detail. More importantly, the Architect is asking for this relief despite having failed to present any evidence to the Board to support its unsubstantiated claim of a security threat. The Architect was in no way denied opportunity to appear before the Board but, rather, chose not to do so. Once again, the Board received strong evidence that the Architect's concerns were unfounded Given the evidence received and the Architect's failure to participate, the Board acted properly.

What's more particular about the Architect's approach in this matter is that neither the Architect nor the Sergeant at Arms participated in the proceedings before the Commission of Fine Arts ("CFA"), the federal agency charged with reviewing private buildings adjacent to public buildings and grounds of major importance CFA approved, in concept, the project subject to this application *See* Exhibit 2

Exhibit I

THE ARCHITECT OF THE CAPITOL
1793

Washington, DC 20515
January 3, 2005

RECEIVED
D.C. OFFICE OF ZONING
2005 JAN -4 PM 12:36

Mr Geoffrey H Griffis, Chairman
Board of Zoning Adjustment
Office of Zoning, District of Columbia
441 4th Street NW; Suite 210 South
Washington, D.C. 20001

Re BZA Case 17271 - JBG/Louisiana
51 Louisiana Avenue NW
Opposition to Requested Variance from Building Height Limitation

Dear Chairman Griffis,

Mr George Dove of WDG Architects contacted my office regarding a proposed addition to an existing building at 51 Louisiana Avenue, NW. It is my understanding that the owner will request a variance from the current 110' height restriction for that site. The proposed variance would allow the applicant to build to the maximum height established by the 1910 Height of Buildings Act. which is 130' for Louisiana Avenue. The penthouse of the addition would rise an additional 18' - 6" above the 130' level

As you know, the proposed addition is adjacent to the Senate park section of the Capitol Grounds. We have reviewed the proposed addition and the height variance with the Senate Sergeant at Arms and have been advised that they strongly object to the variance. The lines of sight that would be created from the roof and penthouse of the proposed structure would present a serious security risk to the Senate wing of the Capitol.

Therefore, we strongly urge you to deny the requested height variance and maintain the existing zoning envelope allowed for this site.

Sincerely,

Alan M Hantman, FAIA
Architect of the Capitol

cc Mr William H. Pickle, Senate Sergeant at Arms
CMR. 04-12-29-13-01

BZA
Case No. 17271
Exhibit No. 21

Exhibit II

THE COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
401 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

6 December 2004

Dear Mr. Jacobs:

During its meeting of 18 November 2004, the Commission reviewed and approved the proposed concept (S.L. 05-009) for a new 12-story office building to replace the existing 4-level parking garage at 51 Louisiana Avenue, NW. The Commission appreciates the clarity of the design and encourages the strong statement of contemporary design with the inclusion of environmentally-conscious features. The Commission looks forward to more information regarding this project including the development of the elevations and the roof configuration.

The Commission recommends submission of a revised concept as the project develops. Our next meeting is scheduled for Tuesday the 25th of January 2005, with a submission deadline on the 6th of January. As always, the staff is available should you require guidance.

Sincerely,

Frederick L. Lindstrom
Acting Secretary

Mr. Benjamin R. Jacobs
The JBG Companies
4445 Willard Avenue, Suite 400
Chevy Chase, MD 20815-3690

cc: Lord Richard Rogers, Richard Rogers Partnership

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

BZA
CASE No. 17271
EXHIBIT No. 33

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

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

BZA
CASE No 17271
EXHIBIT No. 32

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

PHONE 225-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

March 29, 2005

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

Ms. Jerrilev Kress
Office of Zoning, District of Columbia
414 4th Street NW, Suite 210 South
Washington, D C 20001

RECEIVED
D C OFFICE OF ZONING
2005 APR -8 PM 4:41

Re: BZA Case 17271 - JBG/Louisiana
51 Louisiana Avenue, NW
Request for Reconsideration

Dear Ms Kress·

The Capitol Police Board (Board) understands that the Board of Zoning Adjustment is planning to issue a final order concerning the JBG Companies' request for a height variance at 51 Louisiana Avenue, NW The Board has waited to request reconsideration because internal law enforcement experts have been actively reviewing and analyzing the potential security impacts that a height variance at 51 Louisiana, NW would have on the U.S Capitol Complex. As a result of the analysis completed by internal security experts, the Board concludes that the variance under consideration will have a significant impact on Congressional security Therefore, the Board respectfully requests the reconsideration of the variance currently being reviewed by the Board of Zoning Adjustment.

Moreover, pursuant to the authority of the Capitol Police Board under Public Law 108-447, December 8, 2004, to make determinations regarding the release of information which imports Congressional security, the Board also requests an opportunity to review information that is proposed for public release to protect against release of any security sensitive information or revealing any vulnerabilities of the U S Capitol Complex

Attached for your review is a copy of a letter from the Capitol Police Board to Mr Benjamin R Jacobs, The JBG Companies, dated March 4, 2005, expressing the Board's security concerns

Your consideration of the Board's security concerns and requests outlined above is greatly appreciated. The Board remains willing to provide any information that you may require for reconsideration Please do not hesitate to contact me if I may be of assistance

Very Respectfully,

William H Pickle
Chairman
Capitol Police Board

BZA
Case No. 17271
Exhibit No. 31

Cc. Mr. Geoffrey H Griffis

PHONE 224-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

WILLIAM H PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

March 4, 2005

RECEIVED
D.C OFFICE OF ZONING
2005 APR -8 PM 4:41

Mr. Benjamin R. Jacobs
The JBG Companies
4445 Willard Avenue, Suite 400
Chevy Chase, MD 20815

Dear Mr. Jacobs:

On behalf of the Capitol Police Board, this correspondence is in response to your letter, dated January 21, 2005, regarding your proposed development in close proximity to the U.S. Capitol

The Capitol Police Board and the United States Capitol Police have reviewed your request to accept the ruling of the Board of Zoning Appeals (BZA) regarding your proposed development on New Jersey Avenue, NW. However, after further consideration, we cannot accept your contention that there are no security issues. Indeed, our security and law enforcement professionals have advised that, from a security perspective, the variance to increase the height of the building would increase exposure and vulnerability to the Capitol complex, and as such, we are not able to accept or endorse the BZA ruling.

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,

William H. Pickle
Chairman
Capitol Police Board

cc: The Honorable Wilson Livingood
Member, Capitol Police Board
The Honorable Alan M. Hantman
Member, Capitol Police Board
Chief Terrance W. Gainer
Member, *Ex Officio*, Capitol Police Board

UNIT ATES CAPITOL POLIC\ \RD
S-151 The Capitol
WASHINGTON, DC 20510

March 29, 2005

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

2005 MAR 30 AM 11:19
OFFICE OF ZONING

Ms. Jerriley Kress
Office of Zoning, District of Columbia
414 4th Street NW; Suite 210 South
Washington, D.C. 20001

Re: BZA Case 17271 - JBG/Louisiana
51 Louisiana Avenue, NW
Request for Reconsideration

Dear Ms. Kress:

The Capitol Police Board (Board) understands that the Board of Zoning Adjustment is planning to issue a final order concerning the JBG Companies' request for a height variance at 51 Louisiana Avenue, NW. The Board has waited to request reconsideration because internal law enforcement experts have been actively reviewing and analyzing the potential security impacts that a height variance at 51 Louisiana, NW would have on the U.S. Capitol Complex. As a result of the analysis completed by internal security experts, the Board concludes that the variance under consideration will have a significant impact on Congressional security. Therefore, the Board respectfully requests the reconsideration of the variance currently being reviewed by the Board of Zoning Adjustment.

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Attached for your review is a copy of a letter from the Capitol Police Board to Mr. Benjamin R. Jacobs, The JBG Companies, dated March 4, 2005, expressing the Board's security concerns.

Your consideration of the Board's security concerns and requests outlined above is greatly appreciated. The Board remains willing to provide any information that you may require for reconsideration. Please do not hesitate to contact me if I may be of assistance.

Very Respectfully,

William H. Pickle
Chairman
Capitol Police Board

BZA
Case No. 17271
Exhibit No. 31
FAX

Cc: Mr. Geoffrey H. Griffis

09/30/2005 12 20 PM BZA 017188

PHONE 224-2341

UNITED STATES CAPITOL POLICE BOARD

S-151 The Capitol
WASHINGTON, DC 20510

WILLIAM H. PICKLE, Chairman
WILSON LIVINGOOD, Member
ALAN M. HANTMAN, Member

March 4, 2005

RECEIVED
D.C. OFFICE OF ZONING
2005 APR -8 PM 4:11

Mr. Benjamin R. Jacobs
The JBG Companies
4445 Willard Avenue, Suite 400
Chevy Chase, MD 20815

Dear Mr. Jacobs:

On behalf of the Capitol Police Board, this correspondence is in response to your letter, dated January 21, 2005, regarding your proposed development in close proximity to the U.S. Capitol.

The Capitol Police Board and the United States Capitol Police have reviewed your request to accept the ruling of the Board of Zoning Appeals (BZA) regarding your proposed development on New Jersey Avenue, NW. However, after further consideration, we cannot accept your contention that there are no security issues Indeed, our security and law enforcement professionals have advised that, from a security perspective, the variance to increase the height of the building would increase exposure and vulnerability to the Capitol complex, and as such, we are not able to accept or endorse the BZA ruling.

If you have any questions or would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,

William H. Pickle
Chairman
Capitol Police Board

cc: The Honorable Wilson Livingood
Member, Capitol Police Board
The Honorable Alan M Hantman
Member, Capitol Police Board
Chief Terrance W. Gainer
Member, *Ex Officio*, Capitol Police Board

WITNESS CARD CASE NO 17271

Proponent ✓ OPPONENT

Name IVAN HARBOUR

Address 1, HILLVIEW, SWAIN'S LANE,

City LONDON . UK Zip N66EU

DAYTIME PHONE No. +44 207385 1235

WITNESS CARD CASE NO 17271

Proponent ✓ OPPONENT

Name C.R. Gozelle Davis

Address 1025 Connecticut

City Wash, DC Zip 20036

DAYTIME PHONE No. 2028578300

WITNESS CARD CASE NO 17271

Proponent ✓ OPPONENT

Name David L. Orr

Address 3110 Fairview Park Dr.

City Falls Church Zip 22042

DAYTIME PHONE No. 703-289-2100

WITNESS CARD CASE NO 17271

Proponent ✓ OPPONENT

Name William E. Kaye

Address 1820 457 Street NW

City Washington DC Zip 20007

DAYTIME PHONE No. 2/255-3326

WITNESS CARD CASE NO 17271

Proponent ✓ OPPONENT

Name DENNIS AUSTIN

Address 84 TENNYSON ST

City LONDON Zip SW8 3TH

DAYTIME PHONE No. 011-44-207 746-0424

Case No. 17271

Exhibit No. 30

Exhibit 29

BZA Application No. 17271

of JBG/Louisiana Avenue, L.L.C.

This exhibit from the Applicant is considered confidential and privileged in nature because of national security reasons. For this reason, the Office of Zoning has filed this document to a secure location. Please consult the Office of Zoning staff, if you are inquiring about the content of this document.

THE LENKIN COMPANY

January 14, 2005

Mr Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: BZA Application No. 17271 of JBG/Louisiana Avenue, L.L.C.
51 Louisiana Avenue, N.W., Square 631, Lots 17 (the "Property")

Dear Mr. Griffis:

I am writing on behalf of 440 First Street Limited Partnership, the owner of the property 440 First Street. We have reviewed the plans proposed by JBG and we are in support of the above-referenced application for an area variance from the height restrictions of the zoning regulations to allow an addition at the Property.

We understand that JBG is seeking a variance of twenty feet (20') to allow an addition to the existing Acacia building, which addition will be primarily occupied by the existing tenant, Jones Day – the third largest law firm in the country. This addition is to replace the existing above-grade garage on the Property. We believe that the proposed addition will be a great improvement of the Property. We do not believe additional height sought by JBG will adversely affect the neighborhood, which is characterized by commercial buildings, hotels and open space. Further, the addition will ensure the continued presence of the Property's tenant.

We look forward to the further development of the Property, as proposed, and the enhancement of the streetscape it will bring to the neighborhood.

Thank you for the opportunity to comment on this application

Sincerely,

440 First Street Limited Partnership

By: Melvin Lenkin
Its: General Partner

cc: Mr. Kai Reynolds
Jeannine Rustad, Esquire (by facsimile: 202-223-8604)

4922-A ST ELMO AVENUE BETHESDA, MARYLAND 20814
301 654 2100 TEL 301 654 0961 FAX

BZA
Case No. 17271
Exhibit No. 28

January 14, 2005

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: BZA Application No 17271 of JBG/Louisiana Avenue, L.L.C.
51 Louisiana Avenue, N.W., Square 631, Lots 17 (the "Property")

Dear Mr. Griffis:

I am writing on behalf of I&G Capitol, LLC, the owner of the Holiday Inn on the Hill hotel, located adjacent to the subject property. We are in support of the above-referenced application for an area variance as described below from the height restrictions of the zoning regulations to allow an addition at the Property.

We understand that JBG is seeking a variance of twenty feet (20') from the height restriction to allow an addition to the existing Acacia building, which addition will be primarily occupied by the existing tenant, Jones Day – the third largest law firm in the country. This addition is to replace the existing above-grade garage on the Property We believe that the proposed addition will be a great improvement of the Property. We do not believe additional height sought by JBG will adversely affect the neighborhood, which is characterized by commercial buildings, hotels and open space. Further, the addition will ensure the continued presence of the Property's tenant.

We look forward to the further development of the Property, as proposed, and the enhancement of the streetscape it will bring to the neighborhood.

Thank you for the opportunity to comment on this application.

Sincerely,

I&G Capitol, LLC

By: Michael D. Barnett
Its: Authorized Signatory

cc: Mr. Kai Reynolds
Jeannine Rustad, Esquire (by facsimile: 202-223-8604)

BZA
Case No. 17271
Exhibit No. 27

Facsimile



3 Bethesda Metro Center, Suite 1200
Bethesda MD 20814
tel +1 301 941 1500 fax +1 301 941 1559

To	John Wilkinson		
Company	JBG Companies	Fax Number	(240) 333-3610
From	Kenneth Fuller	Direct Line	(301) 941-1560
Number of Pages	(Including this sheet)	Date	1/14/05
Subject	51 Louisiana Avenue NW, Square 631, Lots 17		

IF YOU DO NOT RECEIVE A CLEAR TRANSMISSION OR IF ANY SHEETS ARE MISSING, PLEASE CALL THE NUMBER ABOVE

CONFIDENTIALITY NOTE. The pages accompanying this facsimile transmission contain information that is confidential or privileged. The information is intended to be for the use of the individual or entity named on this cover letter. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original document at no cost to you.

U.S SENATOR PAUL STRAUSS
DISTRICT OF COLUMBIA (SHADOW)

OFFICE OF THE
United States Senator
FOR THE DISTRICT OF COLUMBIA

1 JUDICIARY SQUARE
SUITE 1000-S
WASHINGTON, D C 20001
VOICE (202) 727-7890
FAX (202) 727-9672

January 18, 2005

Mr. Geoffrey Griffs
Chairperson
Board of Zoning Adjustment
441 4th Street, NW – Room 210
Washington, DC 20001

RE: Application #17271 – 51 Louisiana Avenue, NW

Dear Mr. Griffs:

In my capacity as the District of Columbia's elected representative to the United States Senate, I am writing in regards to the above referenced application for a variance from the height restrictions of the zoning regulations to allow an addition to this existing property. It is my understanding that the owner, JBG, is seeking a mere 20 foot (20') variance from the height restriction to allow an addition to the existing Acacia building.

I was recently disappointed to learn that despite the full support of the ANC, the Office of Planning, and multiple adjacent property owners, an appointed official of the United States Senate, has requested that the Architect of Capitol oppose this request citing unspecific "security concerns".

While we should all be mindful of the legitimate need to protect our important federal institutions, especially our beloved Capitol, I believe that these concerns are unfounded. There is no evidence that the occupants of this property will present any greater risk to the Capitol or it's occupants than the guests at the adjacent Hyatt Regency, or Holliday Inn, the tenant's and restaurant patrons of 101 Constitution Avenue, NW, the Teamsters, or any other nearby structure. Certainly, there is little evidence that any so-called threat, to the extent that one actually exists, would even be mitigated effectively by the denial of the mere 20 feet that is the subject of this variance.

In the interest of Home Rule, I urge this body to ***consider this application according to the merits as defined by the zoning regulations****, and not to be unduly pressured by the United States Senate, or the existing state of "paranoia" that seems to be the order of the day.*

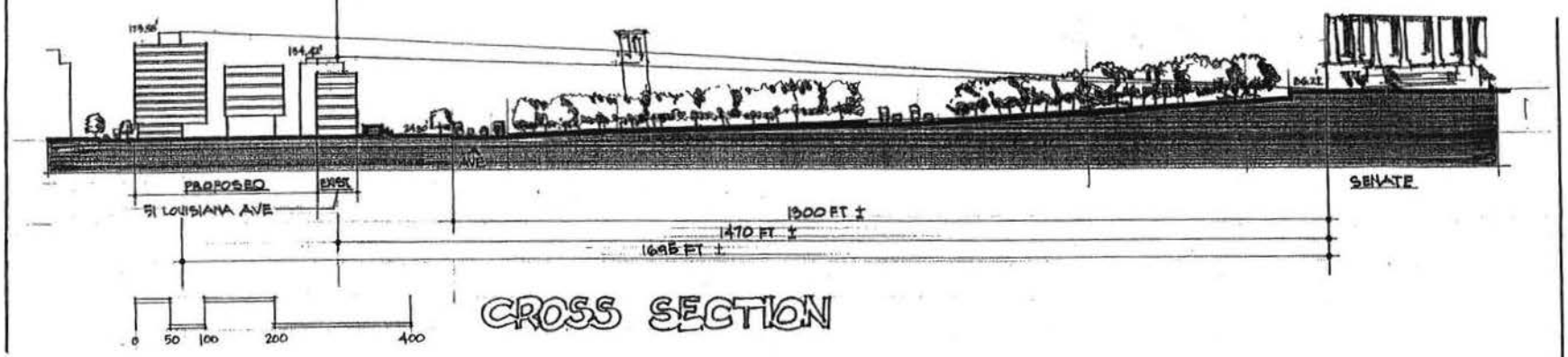
Thank you for the opportunity to comment on this application.

Sincerely,

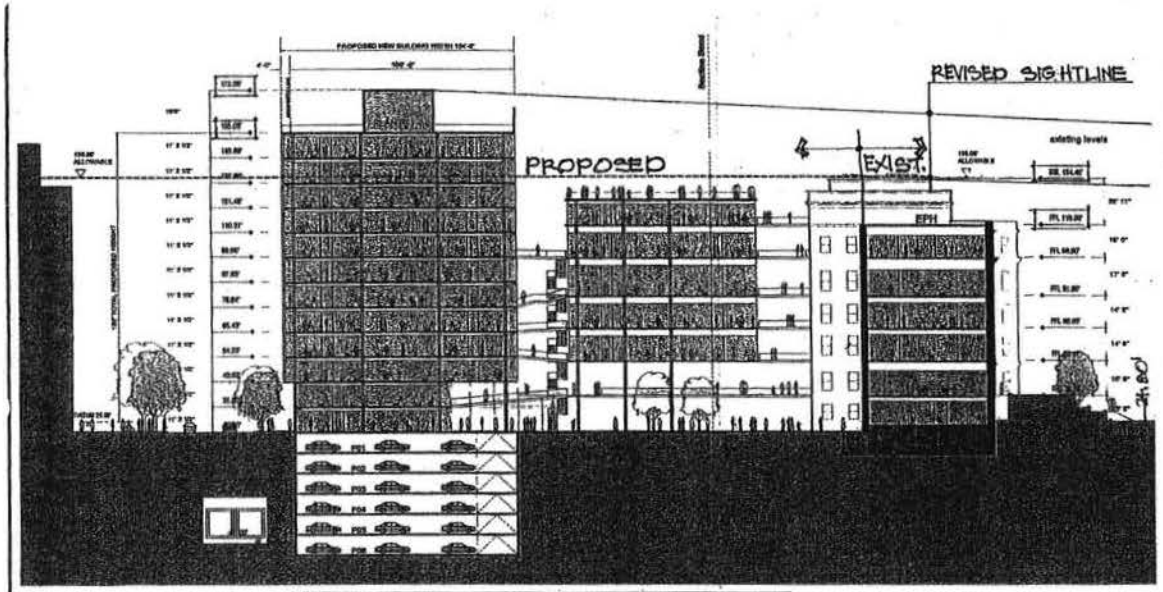
Paul Strauss

Paul Strauss
United States Senator
District of Columbia (Shadow)

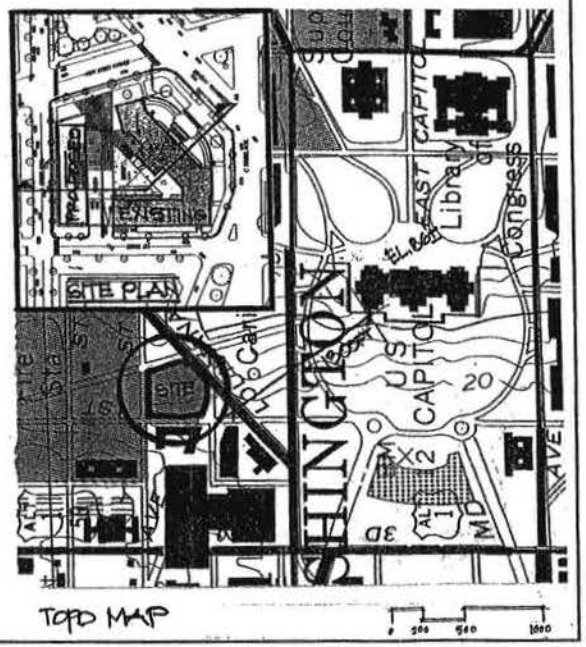
BZA
Case No. 17271
Exhibit No. 26



CROSS SECTION



Section



TOPO MAP

51 Louisiana Avenue

Washington, D.C.

Case No. 17271
Exhibit No. 25

The JBG Companies

JAN.13.05

WA 04

Scale: As Shown

WDG ARCHITECTURE

GO' NMENT OF THE DISTRICT OF C(JMBIA
OFFICE OF PLANNING

★ ★ ★

Office of the Director

RECEIVED
D.C. OFFICE OF ZONING
2005 JAN 11 PM 3:45

MEMORANDUM

DATE January 11, 2005

TO· District of Columbia Board of Zoning Adjustment

FROM Andrew Altman, Director

SUBJECT· Board of Zoning Adjustment Case No 17271
51 Louisiana Avenue, N.W

Summary

The applicant is seeking approval of a variance from the height requirements of §1709 23 for a proposed office building The Office of Planning **recommends approval** of the requested variance based on the analysis of the variance tests below

Site and Area Description

The subject property is located at 51 Louisiana Avenue N W, Square 621, Lot 17. The lot is 91,021 square feet in size, covering the full city block bounded by C Street on the South, D Street on the North, 1st Street on the West and New Jersey Avenue on the East The historic Acacia Building occupies the southeast portion of the lot with a 1950s addition to the west The northern portion of the lot currently contains a parking garage that will be removed for the new construction. The subject property and the properties to the north and west are zoned C-3-C Properties to the south and east belong to the federal government The immediate area consists mainly of high density office and commercial uses

Project Description

The applicants propose a 12-story, 130' office building to replace the existing 5-level parking garage on the northern portion of the lot The new building will be joined to the Acacia Building by a seven-story office addition in the existing courtyard A slanted atrium roof will cover the connecting building. The total gross floor area on the site after development would be 511,366 square feet 591,636 square feet are allowed as a matter of right



Figure 1: Site Map

Zoning Requirements

The applicant is requesting a variance from the maximum height allowed in the Downtown East receiving zone. The building meets all other zoning requirements for the C-3-C zoning district.

Section	Item	Required/Allowed	Proposed	Variance
1709.23	Height	110'	130'	20'
771.2	FAR	6.5	5.62	N/A
772.1	Lot Occupancy	100%	76.7%	N/A
774.1	Rear Yard	27' 8"	61' 2"	N/A
2101.1	Parking	271	520	N/A



Figure 2: Aerial View from the East

Variance Analysis

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Exceptional Situation

The applicant has submitted arguments that the application meets the requirements of the first test for multiple reasons. First, the lot is an odd six-sided shape that significantly narrows from south to north. Second, the existing building is historic in nature and protected by long-standing agreement. The design of this building does not make efficient use of the developable area of the site, leaving inadequate building envelope space for the remaining matter-of-right FAR. The Acacia Building has floor to floor heights of fifteen feet that are much higher than typical ten to eleven foot heights and that cause inefficiencies in constructing a new addition. Finally, underground structures for the Tiber Creek combined storm sewer and the Metrorail tunnel limit underground development on the site.

Practical Difficulty
These existing situations on the lot provide practical difficulties to full development of the property. The historic nature and existing agreement between the Acacia Group and the D.C. Preservation League prevent the owner from demolishing or building over the existing buildings. The odd shape of the lot provides less buildable area on the unprotected north end of the lot. Options for underground levels are hampered by the existing sewer and Metro structures under the site. These factors combine to leave a developable area on the north side that is insufficient to capitalize on the lot's remaining matter-of-right gross floor area. The answer proposed by the applicant would increase the height on this northern portion while meeting all other zoning requirements to relieve the constraints placed on the bulk of the lot.

The lot is further hampered by the historic design of the Acacia building. The very high floor to floor heights combined with the diagonal placement of the building on the lot make it difficult to design an addition that takes advantage of the remaining space. The proposed building addition would fill the existing courtyard with stories of equal height to the existing building. The main new building would be designed with more efficient floor to floor heights and attached with a series of ramped skywalks.

Substantial Detriment
It does not appear that the proposed variance for height will have a substantial detriment on the surrounding neighborhood. While the buildings immediately surrounding this lot appear to be within the 90' C-3-C height limit, there are other buildings in the extended neighborhood that extend to 12 stories and would be of nearly the same height as the proposed structure.

In addition, OP believes that approval of this variance will not impair the intent or purpose of the Zoning regulations or Zoning map. There is no reason to believe that granting this variance will increase the likelihood of other buildings exceeding the height requirements of the zoning ordinance because of the unique circumstances of this property.

Based on the above analysis, OP believes that the application meets the standards of §3103.2 for approval of a variance from the requirements of §1709.23. The application will be in harmony with the purpose and intent of the Zoning Regulations and Zoning Maps and will not adversely affect the use of neighboring properties.

ANC Recommendation
The site is located in ANC 6C. The ANC report dated December 16, 2004 is attached. ANC 6C offers its support of the application with the condition that the applicant obtain LEED certification of the proposed building. The applicant has stated a desire to seek LEED certification, but is not able to determine the level of certification that will be applied for or received.

Recommendation

The Office of Planning concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3103.2 of the Zoning Regulations, for the granting of the requested variance to permit the increase in height for the proposed new building. The request can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zoning Regulations.

The Office of Planning **recommends approval** of the requested variance relief by the Board of Zoning Adjustment to allow the increase in height at 51 Louisiana Avenue N.W.

Attachment: ANC Letter

AA/tp

Government of the District of Columbia
Advisory Neighborhood Commission 6C

December 16, 2004

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: BZA Application No. 17271 of JBG/Louisiana Avenue, L.L.C.
51 Louisiana Avenue, N.W., Square 631, Lot 17

Dear Mr. Griffis:

At its regularly held meeting on December 8, 2004, with a full quorum of 5 Commissioners present and proper notice having been provided, Advisory Neighborhood Commission 6C (the "Commission") considered BZA Application No. 17271 of JBG/Louisiana Avenue, L.L.C. (the "applicant") for an area variance from the height restrictions so as to allow the construction of an addition at the subject property – 51 Louisiana Avenue, N.W., Lot 17 in Square 631 (the "Property").

The Planning and Zoning Committee (the "Committee"), which met on December 1, 2004, with a full quorum present, unanimously recommended that the Commission support the applicant with the condition that the BZA condition its approval on the applicant obtaining LEEDs certification. The Committee had found the Property is unique due to the following features:

- Its oddly shaped lot -- the lot is five (5) sided– with larger than usual public space surrounding the property.
- Irregular V shape of the existing improvements.
- Historic nature of the building -- The building is subject to a standstill agreement with DCPL entered into by the prior owner and thus effectively treated as a historic landmark.
- Extremely high floor plates of fifteen feet (15') in the existing building.
- Tiber Creek combined storm sewer running underneath the property.
- Metro tunnel underneath and adjacent to the property

The Committee further found that the uniqueness results in practical difficulties in developing the property if the zoning regulations are strictly applied and that there will be no harm to the public good done by the granting of the application, with the condition of the LEEDs certification requirement.

Present for the applicant at the ANC meeting was: Jeannine Rustad, Esquire, Robins, Kaplan, Miller & Ciresi L.L.P.; Dean Cinkala, Kai Reynolds and John Wilkinson of JBG/Louisiana Avenue, L.L.C. ("JBG") and George Dove, WGD Architects. After questions of the applicant from the Commission, the Commission voted unanimously to support the applicant with the condition that the applicant be required by the BZA to obtain LEEDs certification. This recommendation to the BZA is based on the Commission's determining that:

1. The Property is unique due to: (a) its odd shape; (b) the irregular V shape of the existing improvements; (c) historic nature of the building and standstill agreement with DCPL; (d) extremely high floor plates of fifteen feet (15') in the existing building; (e) Tiber Creek combined storm sewer running underneath the Property and the Metro tunnel underneath and adjacent to the property.

2. The uniqueness of the Property results in practical difficulties in developing the property if the zoning regulations are strictly applied. It was noted that, even with the additional height requested, the total development on the lot would not meet the maximum density of 6.5 FAR.

3. There will be no harm to the public good by the granting of the application with the condition of the LEEDs certification requirement.

Thank you for your consideration.

Sincerely,

Mark Dixon (KW)

Commissioner Mark Dixon
Chairman, ANC 6C

✓ cc: Jeannine Rustad, Esquire

Form 145
(Revised 04/29/02)

Case No. 17271

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

AFFIDAVIT OF POSTING

Notice: Click Here for Affidavit Form Instructions

DISTRICT OF COLUMBIA, ss:

Lauren Ordene *, being first duly sworn, do hereby depose and say that:

I,* Lauren Ordene , posted* 5 zoning poster(s)

("Notice of Public Hearing") furnished by the Director of the Office of Zoning on private property known as*

Acacia Building (51 Louisiana Avenue N.W.) on* January 3 at* 3:15 pm

The zoning posters were placed in plain view of the public on the street frontages as listed on this affidavit below. I have maintained the posting notice by checking the signs every five days, and by posting new notices as necessary.

I have taken, or authorized to be taken,* 5 photograph(s) of the zoning posters where they have been placed.

The photographs (not to exceed 8 ½" X 11"), attached hereto, clearly show each zoning poster as seen by the public.

The photographs, are numbered and correspond to the following street frontages:

Photograph No.*	Street Frontage*
1	C Street
2	Louisiana Avenue
3	New Jersey Avenue
4	D Street
5	First Street

RECEIVED
D.C. OFFICE OF ZONING
2005 JAN 11 PM 2:11

Signature: Lauren N. Ordene

Subscribed and sworn to before me this 10th day of January, 2005

Seal

Notary Public, D.C. [signature]
LOIS A. CHRISTOPHER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 14, 2006

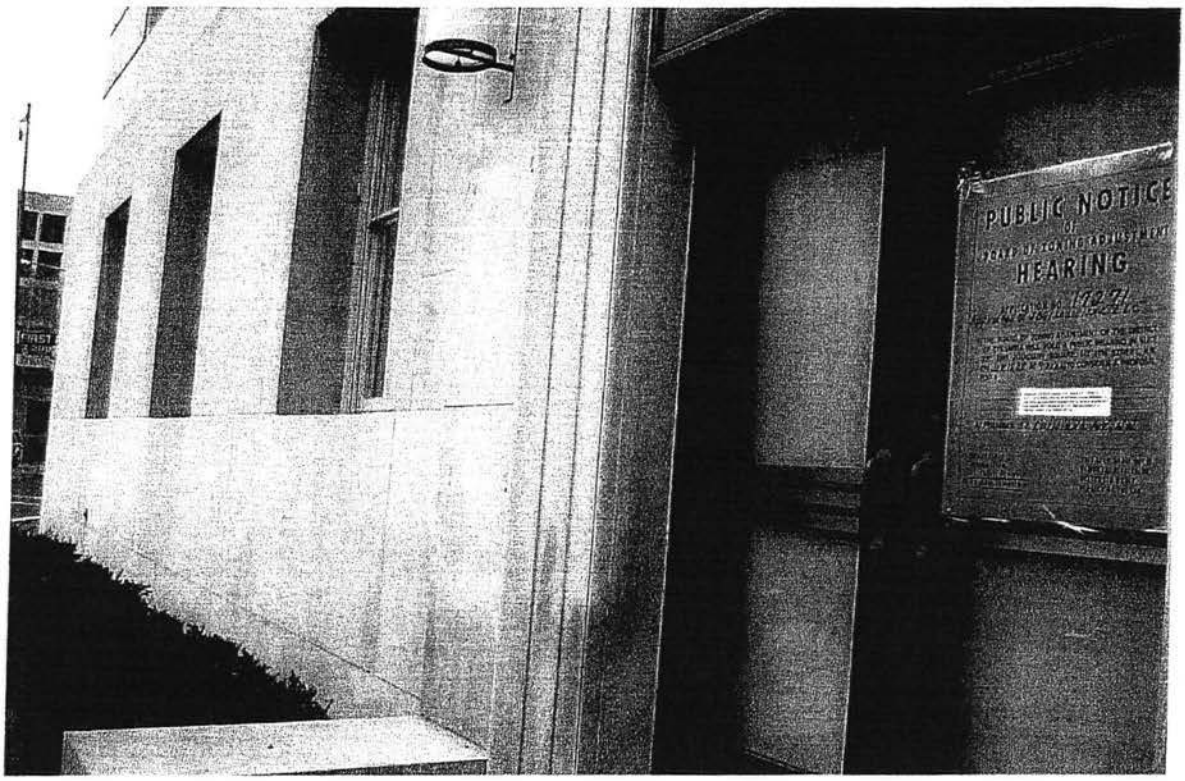
My commission expires on:

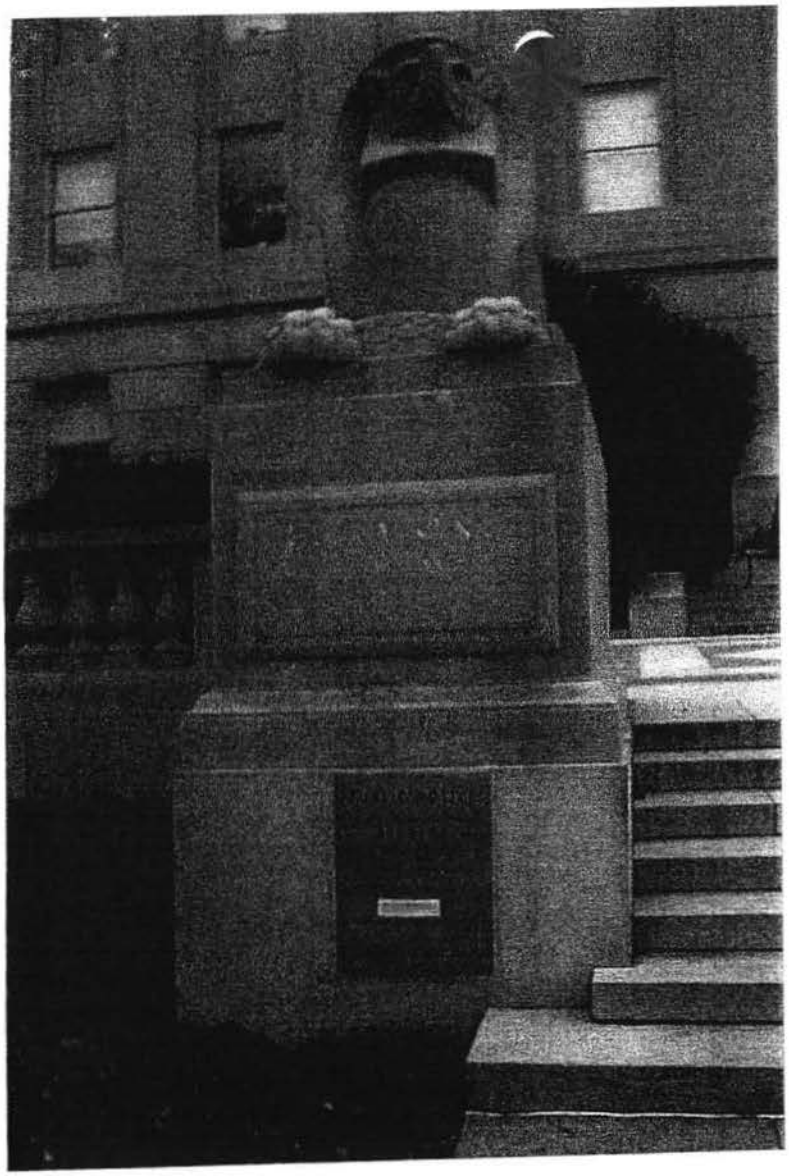
Jerrily R. Kress, FAIA – Director
District of Columbia Office of Zoning

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

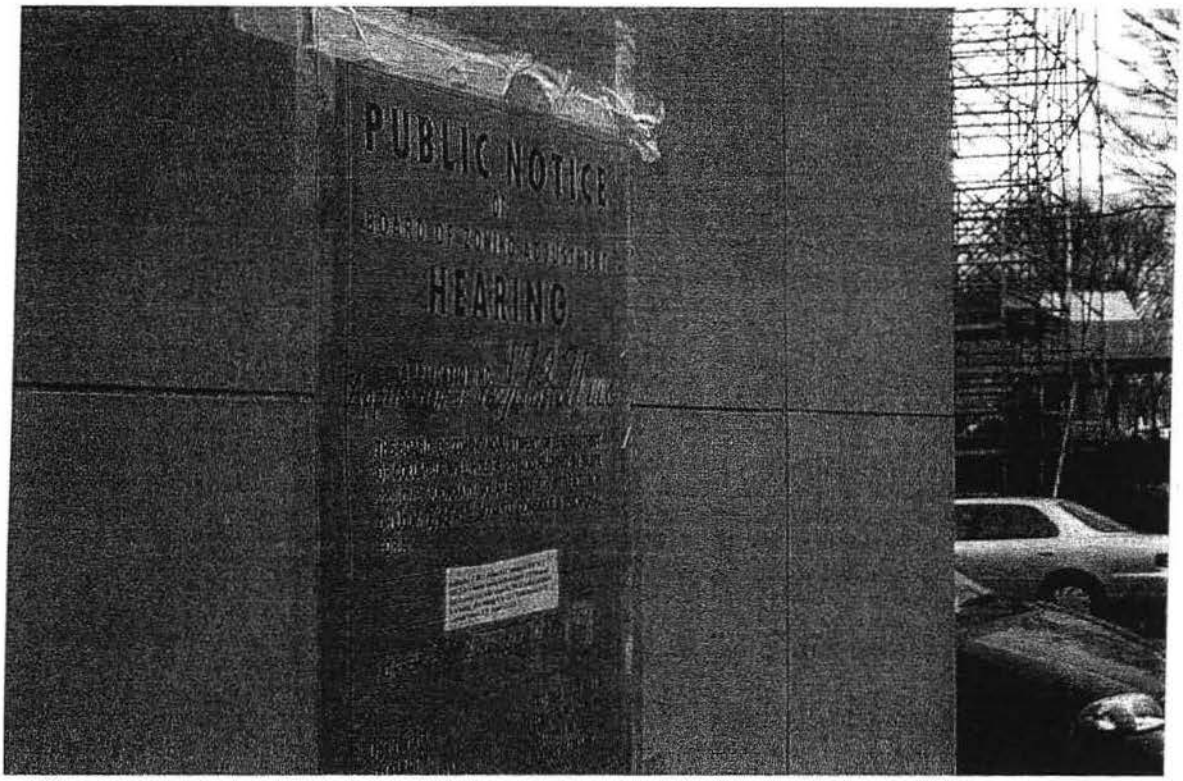
Print Preview Clear Form

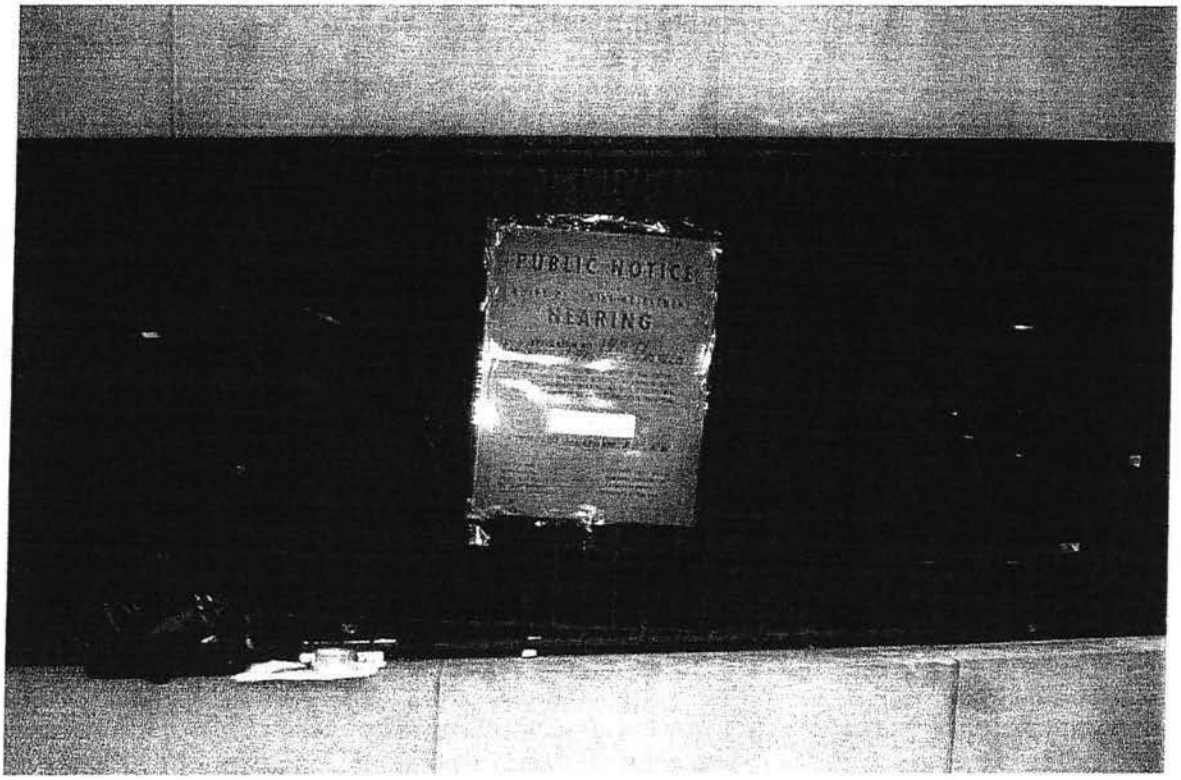
BZA
Case No. 17271
Exhibit No. 23

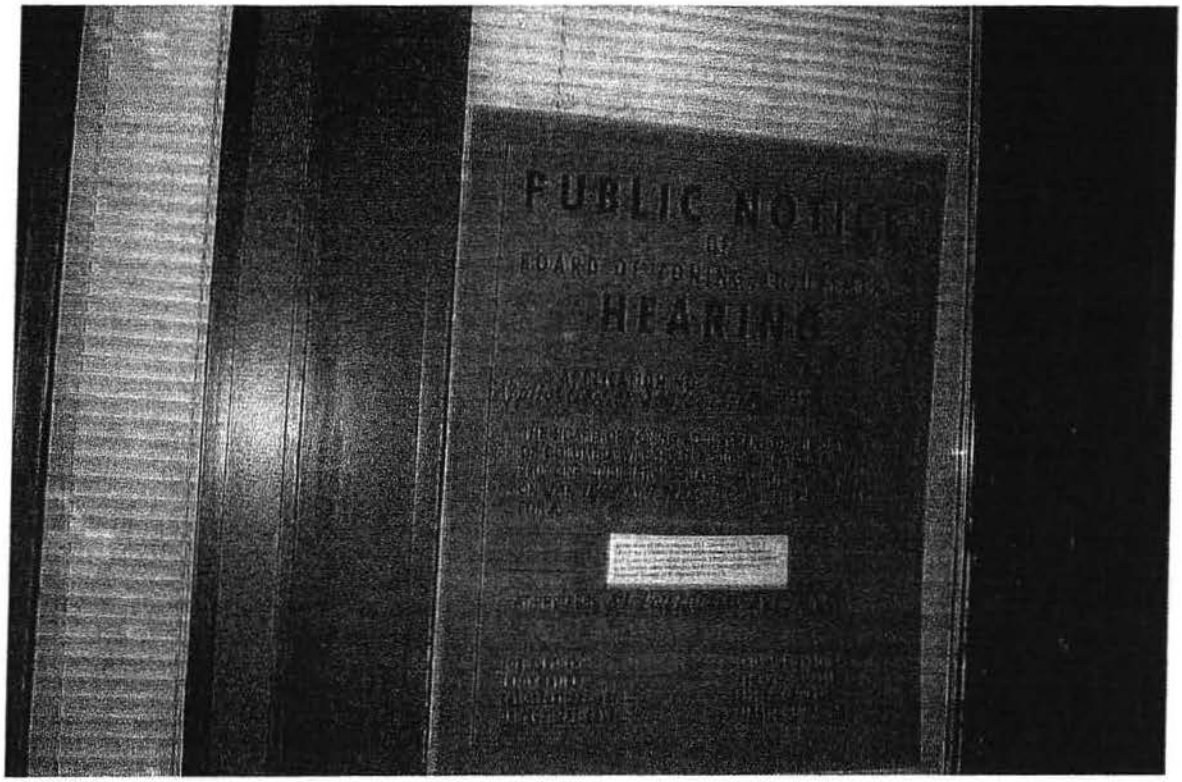

PUBLIC NOTICE
HEARING



3




PUBLIC NOTICE
HEARING


PUBLIC NOTICE
HEARING

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

ATTORNEYS AT LAW

2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
TEL: 612-349-8500 FAX: 612-339-41
www.rkmc.com

RICHARD B. NETTLER
JEANNINE RUSTAD

January 4, 2005

RECEIVED
D.C. OFFICE OF ZONING
2005 JAN -4 PM 2:39

BY HAND
Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Room 210
Washington, DC 20001

Re: **PREHEARING STATEMENT FOR JBG/LOUISIANA AVENUE, L.L.C.**
BZA APPLICATION NO. 17271
OUR FILE NO.: 092218.0013

Dear Mr. Griffis:

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

Thank you for your attention to this matter.

Sincerely,

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

Richard B. Nettler
Richard B. Nettler
Jeannine Rustad

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

#22

Word 45666727.1

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

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

PREHEARING STATEMENT OF THE APPLICANT

I.
Introduction

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

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

II.
Jurisdiction of the Board

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

III.
Background Information

A. The Applicant.

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

B. Property and Surrounding Neighborhood.

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

a. The Existing Improvements.

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

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

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

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

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

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

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

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

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

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

2. The Surrounding Neighborhood.

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

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

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

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

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

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

C. Zoning.

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

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

D. The Proposed Addition.

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

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

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

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

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

---

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

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

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

IV.

Area Variance Considerations

The standard for obtaining an area variance is well settled. In the leading case of *Palmer v Board of Zoning Adjustment*, 287 A.2d 535 (D C 1972), the Court interpreted D C Code, §§ 5-420, 5-424(g)(3) and the corresponding provision of the Zoning Regulations, 11 D.C.M.R. § 3103 2, which permits the Board to grant variances, pursuant to the following:

> Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zoning plan as embodied in the zoning regulations and map

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

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

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

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

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

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

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

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

A. Uniqueness and Practical Difficulty.

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

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

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

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

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

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

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

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

As illustrated, the task of designing an addition for the Acacia building presented many challenges First, as indicated above, the historic nature of the existing improvements and the stand-still agreement with DCPL leave little room for any additional development of the Property, which currently only uses 3 5 FAR of the 6 5 to 9 0 available on-site In addition to being precluded from adding additional floors to the existing buildings, any addition must be

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

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

	Existing Conditions	C-3-C Matter of Right	Matter of Right with TDRs	Proposed
FAR	3.30	6 5	9 0	5 98
Gross Floor Area	300,997[2]	591,636	819,189	544,583[3]

Thus, even with the height variance, it is not possible to develop the Property to its full potential of 6 5 FAR With transferable development rights, one is only able to develop approximately sixty-six percent (66%) of the available 9 0 FAR.

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

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

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

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

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

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

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

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

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

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

it was not relevant to the uniqueness issue *Id* at 1365-1366. In *Tyler*, the court held that the Board had failed to demonstrate how the admittedly unique factors applicable to the property in that case also created practical difficulties. Rejecting petitioners' claim that the Board could not rely on economic factors, the court merely stated that it could not determine whether the decision was based on non-economic or economic factors where, in its decision, the Board had rejected the economic justification. *Id.* at p 1365-1366. With regard to economic considerations, the court said that it eliminated, in its decision in *Gilmartin v Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D C 1990), "any doubt that '[e]conomic use of property' may properly be 'considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in [area] variance cases . . ' " *Id.* at 1367, s*ee also Wolf v Board of Zoning Adjustment*, 397 A 2d 936, 943 (D C 1979) (Board properly granted area variance to permit conversion to three-unit apartment where "marketability" of property would otherwise be "unfeasible" and investment would yield loss rather than profit) *See generally* Arden H Rathkopf & Darren A Rathkopf, *The Law of Zoning & Planning* § 38 04, at 38-48 to 38-53 (1991) (discussing need to prove "significant economic injury" in order to show practical difficulty)

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

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

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

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

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

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

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

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

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

4 Project Approvals and Modifications

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

V.
Witnesses

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

VI.

Exhibits In Support of the Application

1 Zoning Self-Certification

2 Plans

3 February 5, 1993 Stand-still Agreement with DCPL

4 Resume & outline of testimony of architect

5 Resume and testimony of traffic consultant

6 Resume and outline of testimony of David Orr

7. Resume of Sir Richard Rogers and Ivan Harbour of Richard Rogers Partnership

8 Zoning Map

9 Map of Capitol Grounds and surrounding area

10 Letter from the Commission on Fine Arts

VII.

Conclusion

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

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI L.L P

Richard B Nettler

Richard B Nettler

Jeannine Rustad

Jeannine Rustad

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

Form 135 – Side 1
(Revised 03/15/02)

Case No. _____

ZONING SELF-CERTIFICATION FORM

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

CERTIFICATION

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

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

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

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

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

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

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

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

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

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

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

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

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

Signature		Date	

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

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

Form 135 – Side 1
(Revised 03/15/02)

Case No. _____

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Signature		Date	

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District of Columbia Office of Zoning

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(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov

Side 2

INSTRUCTIONS

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

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

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