



Pillsbury
Winthrop
Shaw
Pittman LLP

RECEIVED

D.C. OFFICE ZONING

2007 FEB -2 PM 2:10

2300 N Street NW
Washington, DC 20037-1128

Tel 202.663.8000
Fax 202.663.8007
www.pillsburylaw.com

February 2, 2007

Carol Mitten, Chairperson
District of Columbia Zoning Commission
441 4th Street, Room 210
Washington, DC 20001

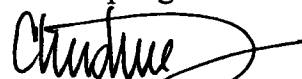
**Re: Z.C. Case No. 06-41 – Camden Development, Inc. Pre-Hearing
Statement**

Dear Chairperson Mitten and Members of the Commission:

Enclosed please find an original and twenty copies of the pre-hearing statement of Camden Development Inc. (“**Applicant**”) for design review pursuant to Chapter 16 of the Zoning Regulations. This case is scheduled for a public hearing on Thursday, February 22, 2007. We look forward to presenting this application at that time.

Sincerely yours,


John T. Epting


Christine A. Roddy

Enclosures

cc: Ginger Ackiss, Camden
Eric Schlegel, WDG

ZONING COMMISSION
District of Columbia
CASE NO. 06-41
EXHIBIT NO. 24

**BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION**

**Application of Camden Development, Inc. for
Zoning Commission Review of
Square 653, Lot 111**

**Case No. 06-41
ANC 6D**

**PRE-HEARING STATEMENT FOR ZONING COMMISSION REVIEW OF
STRUCTURE WITHIN CAPITOL GATEWAY OVERLAY DISTRICT**

I. Nature of Relief Sought

This is the pre-hearing statement of Camden Development, Inc. (the “Applicant”) for Zoning Commission design review of its proposed residential building along South Capitol Street in Square 653, pursuant to proposed Section 1610.1(d) of the Zoning Regulations. The Applicant also seeks variance relief from the height requirements set forth in 11 DCMR Section 770.1, and the court requirements of 11 DCMR Section 776.3. Finally, the Applicant seeks a special exception for the number, location, and differing heights of the rooftop structures pursuant to 11 DCMR Section 411.11. The Applicant initially sought relief from the residential recreation space requirements set forth in 11 DCMR Section 773.3; however, the Zoning Commission eliminated this requirement with Zoning Commission Case No. 05-02.

II. Description of the Property and the Project

Property

The property that is the subject of this application is located in Square 653, Lot 111 (the “Property”) and is known by the address 1325 S. Capitol Street, SW. Square 653 is bounded by South Capitol Street to the east, Half Street, SW to the west, N Street, SW to the north, and O Street, SW to the south. Plats of the Property are attached as Exhibits A and B. The Property is located in the C-2-C Zone District and is a site to which the Zoning Commission is currently considering applying the Capitol Gateway Overlay pursuant to Case No. 06-25. See Zoning Commission Order attached as Exhibit C and Office of Planning proposal attached as Exhibit D.

Project

The proposed structure will be located immediately across South Capitol Street from the Washington Nationals’ baseball stadium. The Property is adjacent to rowhouses to the west. The Applicant is proposing to construct an 11-story residential structure on the site. The building will be at its greatest height of 110 feet along South Capitol Street. As the building reaches back to the adjacent rowhouses, the height will gradually step down to 70 feet and 8 inches (70’8”). The stepping down of the height breaks up the massing of the structure and it respects the adjacent rowhouses by reducing the immediate presence of the structure. The proposal includes 3 levels of below-grade parking and the applicant is considering approximately 2,390 square feet of retail for the ground floor. The project is depicted in further detail in the plans attached as Exhibit E.

The building façade presents a modern asymmetric frontage above South Capitol Street, which honors, in its distribution of architectural elements, the historic Washington division of building base, middle, and top. The single level building base, which encloses residential amenity spaces and potential retail space at the southwest corner, maintains the designated setback line, and is sheathed in a combination of oversized masonry units, glass and metal, with cast stone accents. The setback line is held above by the full height entry bay, as well as projecting bays and balconies at floors three through ten. The top floor and the second floor are set back to provide clarity, rhythm, and hierarchy to overall façade composition. The building enclosures at these planes consist of a variety of sizes and colors of masonry units, in concert with glass, metal, and cast stone.

In addition to a distinctive design, the project will incorporate several elements of green design. Its location encourages public transportation as it is located only blocks away from the Navy Yard and the Waterfront-Southeastern University Metrorail stations. The Applicant is also including bicycle storage areas in its garage to encourage the use of bikes as a mode of transportation. In addition to these features, the building will include the following:

- Use of landscaping on rooftop and around the building to reduce heat island effect;
- Water efficient landscaping (drip irrigation and drought resistant landscaping);
- Use of recycled content and regional materials in construction of the building;
- Efficient stormwater filtration design, quality control reduces stormwater flow;
- Use of low-emitting materials such as paints and coatings; and
- Provision of daylight and views for each unit.

III. Procedural History

The Applicant initially pursued this project as matter-of-right construction with the understanding that relief from the Board of Zoning Adjustment (“BZA”) may be necessary for certain design features (namely rooftop and courtyard requirements). Approximately one month before submitting its plans to the BZA for a special exception and variance relief, the Office of Planning submitted a proposal to extend the Capitol Gateway Overlay to the west of South Capitol Street to include this site. The Zoning Commission set the Office of Planning’s proposal down for a public hearing six days later on May 25, 2006. The Commission took proposed action on the case at its January 8, 2007, meeting date. At the same meeting, the Commission took final action on Zoning Commission Case No. 05-10, which establishes the Zoning Commission’s design review authority for sections of the Capitol Gateway Overlay. The Applicant filed this application pursuant to the proposed regulations set forth in Zoning Commission Case No. 06-25.

Similarly, this Property was not included on the Office of Planning’s initial inclusionary zoning map. It wasn’t until the Applicant had purchased the property and had developed its plans that the Office of Planning issued its report indicating that the C-2-C zoned areas of

southwest would be included within the Overlay. The Applicant is proposing to provide affordable units with this development as provided in further detail below.

III. Jurisdiction of the Zoning Commission

The Zoning Commission has jurisdiction to review the design of structures constructed along South Capitol Street within the Capitol Gateway Overlay pursuant to the proposed Section 1610.1(d) of the Zoning Regulations. Section 1610.7 of the proposed revision of the Capitol Gateway Overlay regulations provides that the Commission may hear and decide any additional requests for special exception or variance relief needed for the property. Accordingly, the Applicant simultaneously files for additional special exception and variance relief. In the event that the Commission has not taken final action on Case No. 06-25 by the time of this hearing, the Applicant would ask that the Commission issue a determination that it complies with the regulations so as not to cause unnecessary delay for the Applicant in securing permits.

IV. Burden of Proof for Design Review

Section 1605 sets forth several requirements with which construction on the proposed site must comply. As demonstrated herein, the Applicant fully complies with each design requirement.

1. Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet, with the exception of buildings within Squares 649 and 651.

The plans attached as Exhibit E demonstrate that the building is set back 15 feet from the property line. The Applicant is proposing balconies that project into the fifteen foot setback; however, the core of the building remains sufficiently set back, which respects the intent of the regulations. The Office of Planning proposed mandating a 15 foot setback to establish a "consistent, 'monument' character to South Capitol Street." (OP Report dated May 19, 2006, p. 1.) The design the Applicant proposes comports with the intended effect of establishing consistency along South Capitol Street. The Applicant is proposing open balconies only on floors 3-10 of its project; it is not proposing any projection at the ground floor, second floor, or eleventh floor levels.

The projection into the open space is minimal and will not undermine the intended effect of the setback. There are six tiers of balconies composed of an aluminum rail system with wire mesh that project 3'-5" beyond the setback line. The railing system is designed to be a transparent system, thus diminishing any risk that the balconies will disrupt the flow of South Capitol Street. To the contrary, the balconies will activate the streetscape at levels other than the ground floor level. They also break up the building's massing and make the building more architecturally interesting.

Moreover, the location of the residential building lends itself to including balconies. The balconies afford views of the surrounding area, including the waterfront. Similar to residential buildings along other monumental boulevards, such as Massachusetts Avenue, these balconies will allow residents to appreciate views that are quintessentially D.C.

2. For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line.

The attached plans show that 59.43% of the building is constructed to the setback line, including the balconies. Approximately 16,752 feet of the South Capitol Street façade meets or exceeds the setback line. Again, the Applicant meets the intent of the regulations because its design pulls the bulk of the building to the setback line and supports the intended effect of establishing the building's mass at a consistent distance from South Capitol Street. The Applicant is incorporating alternating bays into the building's design to articulate the façade and create a building that is more architecturally interesting, which supports the grand character of South Capitol Street and complements the proposed baseball stadium across the street. Breaking down the façade in such a way enhances the aesthetics of the building, but decreases the frontage that is constructed at the setback line.

3. Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one step back from the building line along South Capitol Street, with the exception of buildings within Square 649.

The Applicant is not proposing to construct this building to a height greater than 110 feet; therefore, this section is inapplicable.

4. No private driveway may be constructed or used from South Capitol to any parking or loading berth areas in or adjacent to a building or structure constructed after the effective date of this section.

The attached plans show that there is no driveway access to parking or loading berth areas from South Capitol Street. All access is provided via O Street.

V. Requested Relief

A. Special Exception

The Applicant is also seeking special exception relief pursuant to Sections 1610.7 and 411.11 from 11 DCMR Section 411.3 for 4 roof top structures on the roof of the proposed building, and from Section 411.5 because the roof top structure in the northeast section of the roof does not have a uniform height. In order to obtain relief, the special exception must be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and must not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps. 11 DCMR § 3104.1.

1. The Requested Relief is in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps

The general purpose and intent of the zoning regulations and zoning maps is to promote the public health, safety, morals, convenience, order, prosperity, and general welfare. 11 DCMR § 101.1. Specifically, the requested relief must take into consideration the character of the respective districts as well as the suitability of each district for the uses permitted; and must be designed to encourage the stability of districts and of land values. *Id.* at § 101.2. The relevant

sections of the Zoning Regulations provide guidelines, which are described in more detail below, by which to evaluate whether a special exception should be granted.

Number of Enclosures

Pursuant to 11 DCMR section 411.3, "all penthouses and mechanical equipment shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material and color." The Zoning Regulations further provide that "[w]here impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the ... location, design, number, and all other aspects of such structure..., even if such structures do not meet the normal setback requirements...; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." 11 DCMR § 411.11.

The Applicant is proposing four rooftop structures: two elevator overruns and two stairways. The four structures are located in the northwest, northeast, southwest, and southeast areas of the roof. The Applicant is providing two elevator banks because of the length of the building. At its greatest length, the building is 249 feet long. Given the long and relatively narrow nature of the lot and in order to make access to the residential units convenient, the Applicant must provide elevators for each wing of the building; thus, two elevator cores are necessary.

The Building Code requires the Applicant to provide two stairways, which creates additional difficulty in trying to enclose all rooftop structures within one enclosure. The Applicant has located a stairway on each wing to provide, *inter alia*, a means of egress for residents in the event of a fire. Again, the length of the building and its "u-shape" design require the stairways to be located on separate wings of the building in order to be effective as points of egress for all building tenants.

The four structures are located on opposite corners of the roof; requiring them to be enclosed within one structure would result in a penthouse that would encompass a large portion of the roof and would be unnecessarily large. One of the primary reasons for staggering the height of the building is to diminish the size of the structure as it nears the adjacent rowhouses; establishing such a large roof structure would undermine the Applicant's efforts to reduce any impact its construction may have on neighboring properties.

Uniform Height of Rooftop Structure

Section 411.5 requires enclosing walls for a rooftop structure to be of equal height. The elevator overrun on the northeast portion of the roof has varying heights. The rooftop structure encloses two elevator overruns, as well as mechanical equipment, the elevator machine room, and pool equipment. In an effort to diminish the presence of the rooftop structures wherever possible, the Applicant reduced the height of the portions of the structure that were used as storage or mechanical space. The elevator overruns, however, are required to go to a height of

18 feet in order to provide access for all residents (including disabled residents) to the residential recreation space on the roof. If the elevator overruns are reduced, the Applicant would have to provide a complicated ramping system to allow access for all residents to the roof. In light of this alternative, providing rooftop access via the elevators minimizes the impact of the roof top structures. Moreover, the height of the elevator overruns is within the 18'6" permitted under the Zoning Regulations. Reducing the height of the penthouse, where possible, minimizes the overall impact of the roof structure, further ensuring there will be no adverse impact on adjacent properties.

2. The Requested Relief Will Not Adversely Affect the Use of Neighboring Property

The fact that the penthouses are not set in one structure will not adversely affect the use of neighboring property, but will in fact minimize the impact of the rooftop structures. The penthouses will be no taller than eighteen feet tall, which is within the permissible height of eighteen feet and six inches. The Applicant designed the proposed roof structures to avoid providing structures that are unnecessarily large or tall. The structures that are provided have been minimized as much as possible while maintaining their functionality: the overall massing has been reduced by not trying to enclose them within one structure and the height has been reduced by keeping as much of the structure below 18 feet as possible.

B. Variance

The Applicant seeks variance relief pursuant to section 1610.7 of the Zoning Regulations from the height requirements of Section 770 and the court requirements of Section 776. Section 770 limits buildings in the C-2-C Zone District to a height of 90 feet; and Section 776 requires the width of a court to be a minimum of four inches per foot of height. In order to satisfy the standards for area variance relief, the Applicant must satisfy a three part test:

- (1) the property must be subject to an extraordinary or exceptional situation or condition;
- (2) a practical difficulty will result if the applicant is required to satisfy the strict application of the Zoning Regulations; and
- (3) no harm to the public or to the zone plan will occur as a result of the approval of the variance application.

See Gilmartin v. District of Columbia Bd. of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990). As detailed below, the Applicant meets this test.

1. An Extraordinary Or Exceptional Situation Or Condition Is Inherent To The Property

The D.C. Court of Appeals held in Clerics of St. Viator v. D.C. Board of Zoning Adjustment, 320 A.2d 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that "....property generally includes the permanent

structures existing on the land [footnote omitted].” *Id.* at 293-294. The Court held that the exceptional situation standard of the variance test may be met where the required hardship inheres in the land, or the property (i.e., the building on the land).

Height

The Applicant is seeking variance relief from the height prescribed for the C-2-C Zone District. The CG/C-2-C Zone District imposes a maximum height restriction of 90 feet. The configuration of the Applicant’s property, however, justifies the needs for a variance from this requirement to allow a height of 110 feet.¹

The Property is long and narrow. As noted above, the property is approximately 250 feet long with a depth of as little of 135 feet. In addition to this condition, the Property is subject to two opposing setback requirements which serve to squeeze the building into the middle of the Property: a 15 foot setback from South Capitol Street in the front and a 15 foot setback from the rear lot line. Both of these setbacks are required along the Property’s greatest length, limiting the footprint of the building and condensing construction in the center of the Property.

Additionally, the Applicant has the burden of providing affordable units pursuant to the pending inclusionary zoning regulations. The configuration of this lot compounded with the setbacks required by the Capital Gateway Overlay and rear yard requirements make it extremely difficult to accommodate this requirement and nearly impossible to capture bonus density to offset the cost of this requirement. In the Office of Planning’s report regarding inclusionary zoning dated September 25, 2006, OP noted “consideration is needed for permitting additional height instead of greater lot occupancy for the C-2-C and SP-2 zones.” (OP Report dated September 25, 2006, p. 3.) OP went even further and found that those sites in the CG/C-2-C Overlay “receive[s] no bonus from CG, but would require a 15 foot setback along South Capitol Street. This, combined with rear yard requirements, would make it difficult to use the IZ bonus density, so *OP recommends a height of 110 feet be permitted.* All CG/C-2-C property fronts onto South Capitol Street, where a consistent 110-130 foot height is anticipated, so this height is in character with plans for the area.” (*Id.* at p. 67, emphasis in the original).

The additional height will allow the Applicant to absorb more bonus density than it could otherwise capture without the additional height along South Capitol Street. However, even still, the Applicant is reducing the height of its building in the rear to accommodate the neighboring rowhouses and can only capture less than half of the bonus density provided by IZ. The Applicant can only capture 22,500 square feet of the 49,223 square foot bonus density the IZ regulations provide. Accordingly, the Applicant is providing a proportionate amount of affordable housing -- 11,250 square feet of the development will be reserved for affordable units. A basic tenet of the inclusionary zoning hearings was that the IZ requirement would not apply where the bonus density could not be captured. See excerpts from transcripts of the inclusionary

¹ The Applicant has met with the District Department of Transportation (“DDOT”) to discuss this project as well as proposed improvements to South Capitol Street. DDOT indicated that South Capitol Street will be undergoing two separate improvement projects: the rehabilitation of the Frederick Douglass Bridge and near term improvements. In light of the effect these projects may have on the elevations of the existing curb, the Applicant is measuring the height of its building from the Applicant’s property line at a grade of 32’10”. This is consistent with the existing elevation of the curb.

zoning hearings attached as Exhibit F. Accordingly, the Applicant is providing affordable housing in proportion to the amount of bonus density that it can capture pursuant to 11 DCMR Section 2606.1. It is clear that in light of the Capitol Gateway Overlay requirements and as evidenced by the other relief that the Applicant is requesting: height relief and court relief, the Applicant is maximizing its use of the site. Regulatory requirements such as the Overlay and site conditions such as the front and rear setbacks, length of the site, and adjacent uses, preclude the Applicant from securing additional bonus density and as a consequence, more affordable housing. To require the Applicant to provide at least 8% of its matter-of-right density for affordable housing would unfairly demand reserving 19,689 square feet of the development for affordable housing, leaving only 2,811 square feet of bonus density for market-rate residential, which is not sufficient to offset the cost of the affordable housing. There is a strong likelihood that this project will not be financially feasible for the Applicant if it is required to provide 8% of the its matter-of-right density for affordable housing.

The Applicant will locate those affordable units it does provide on the second, third and fourth floors of the building and will not cluster the units in any one area. The Applicant will also provide a mix of affordable unit sizes that is comparable to the mix of market-rate unit sizes.

In order to reconcile the amount of density needed to create a feasible project within a limited amount of space, the Applicant considered several alternatives. It proposed reducing ceiling heights on each floor, which allowed the addition of another floor within the 90 feet height requirement. Reducing ceiling heights, however, made the residential units less attractive and made the potential retail space nearly unmarketable because portions were below-grade. The Applicant also proposed designs requiring greater lot occupancy, which resulted in deep units, and compromised the available light and air of existing and future adjacent buildings as well as for the tenants of the proposed residential project.²

After review of the Applicant's plans and in light of the effect of the IZ regulations and the Capital Gateway Overlay on the property, the Office of Planning proposed that the Applicant design the building with a height of 110 feet along South Capitol Street with stepping down toward the rear of the building. South Capitol Street is 130 feet wide in front of the Property. A height of 110 feet creates a continuity along South Capitol, particularly with the baseball stadium directly across South Capitol. Moreover, reducing the height of the rear of the building below 90 feet, which is what is permitted as a matter of right, better integrates the building with the adjacent rowhouses. This compromise breaks up the massing of the building and better integrates the building with the surrounding uses. It also permits more attractive and marketable floor to ceiling heights, better units, less lot occupancy and increases the Applicant's ability to meet the IZ requirements.

The Applicant purchased the property and had almost finalized its plans for submission to the Board of Zoning Adjustment for penthouse and residential recreation space relief before the extension of the Capitol Gateway Overlay was proposed and before the property was included in the Inclusionary Zoning overlay maps distributed by the Office of Planning; therefore, it has

² The Applicant studied the possibility of reducing the height of the building even further along its western elevation. Because of the site constraints cited previously, the Applicant would not be able to reduce the height further and create a financially viable project.

become especially important for the Applicant to capture as much of the density that it believed would be permitted as a matter-of-right, while minimizing any impact on adjacent properties.

Court

Pursuant to the Zoning Regulations, the court along the northern edge of the Property would be required to be 36'8" wide; the Applicant is providing a courtyard that is 31'7" wide. Though the lot is long, it abuts another lot directly to its north. Because the lot is immediately adjacent to another lot to the north, the Applicant established a courtyard to provide green space and to remove some of the residential units from the lot line in order to create attractive residential units along the northern edge of the Property. The regulations mandating that the building be set back from the front and rear lot lines reduces the Applicant's flexibility in developing a design with green spaces that are in compliance with the Zoning Regulations. Development has been relegated to the center of the lot which competes with the area needed for additional green space. Unfortunately, because of the circumstances of this case, as described in greater detail above, the Applicant is not able to narrow the building to increase the width of the northern courtyard. Nevertheless, the Applicant and OP agree that of the various designs created by the Applicant, the proposed design offers the best use of space and still allows for two generous courtyards.

The Applicant also must consider the position of the rowhouses to the west of the Property. To lessen the impact on the adjacent rowhouses, the Applicant is proposing to align the courtyards with the rowhouses. This way, the rowhouses are adjacent to additional green space and the area where the rowhouses abut the proposed building are minimized. See the site plan attached as Exhibit E. This further lessens the impact the building has on the adjacent property.

2. A Practical Difficulty Exists in Satisfying The Strict Application Of The Requirements Of The Zoning Regulations

The DC Court of Appeals defined "practical difficulty" in Palmer v. D.C. Bd. of Zoning Adjustment, 287 A. 2d 535, 542 (D.C. 1972) as the following: "[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case." In area variances, applicants are not required to show "undue hardship" but must satisfy only "the lower 'practical difficulty' standards." Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1365 (D.C. 1992), citing Gilmartin v. D.C. Bd. of Zoning Adjustment, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider "... a wide range of factors in determining whether there is an 'unnecessary burden' or 'practical difficulty'". Gilmartin, 579 A.2d at 1171, citing Barbour v. D.C. Bd. of Zoning Adjustment, 358 A. 2d 326, 327 (D.C. 1976). See also, Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1367 (D.C. 1992). Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with the regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

Height

Constructing a building with a uniform 90 foot height would require the Applicant to make internal changes to the building that would render the potential retail and residential space undesirable. The building would require an additional floor to make the project financially viable; however, the additional floor would create a particularly dense building with unappealing floor to floor heights that would neither be practicable nor marketable. Squeezing an additional floor into a 90 foot building would also result in an awkward configuration of some of the units and limit some unit's access to light. If the Applicant expanded the footprint of the building to capture additional square footage, the units would be deep and have little access to natural light.

Limiting the height of the building would create a sub-par structure that would be difficult to market and would detract from the monumental nature of South Capitol Street. The Applicant purchased the property prior to the extension of the CG Overlay and the IZ Overlay and, therefore, did not appreciate the repercussions those requirements would have on its residential development. It was only after the Applicant had purchased the property and expended considerable funds in developing plans did OP propose including the site within both overlays. The Applicant is left in a position of trying to recoup as much of the square footage it believed it could achieve when it purchased the site as possible. Permitting a building height of up to 110 feet along South Capitol Street creates flexibility for the Applicant in designing the project and allows the Applicant to create attractive and marketable units, while stepping down to adjacent properties.

Similarly, the Office of Planning acknowledged in its report regarding inclusionary zoning that competing setbacks create difficulty for lots in the C-2-C/CG Zone District to capture bonus density. Permitting the height variance will afford the Applicant an opportunity to capture this density.

Court

To require a wider court would necessitate shifting the northern arm of the building further south, which would diminish the size of the central court. The Applicant is not able to narrow the northern arm because that would create sub-par units in that portion of the building, and as has been explained above, the Applicant is in a position of trying to recoup all available square footage for this project in order to make it financially feasible. Instead, the entire arm would have to shift southward and the attractiveness of the central open space would be compromised. Keeping the width of the central court is important to the Applicant because it does not want to create a situation where residents feel that they are intruding on the privacy of other residents, which may occur with a more narrow court. The Applicant also wants to be sure that it retains the attractiveness of the central court to ensure that it will be a space that can be used by residents in light of the fact that it is simultaneously requesting relief from the residential recreation space requirements.

Shifting the arm of the building southward would also increase the amount of the building directly east of the adjacent rowhouses. Per the suggestion of the Office of Planning, the Applicant has tried to stagger the building design in conjunction with the neighboring

rowhouses, the idea being to minimize the area where both structures extend closer to the property line (it should be noted that both structures maintain a setback from the rear lot line). The northern building arm was designed to balance the need for an attractive courtyard along the northern portion of the property and the need to avoid adverse impacts on the adjacent property owners. If the arm were to shift southward to enlarge the northern courtyard, the arm of the building would no longer be staggered with the adjacent property and both buildings would extend to the rear set back line directly adjacent to each other. The court the Applicant is proposing in fact minimizes the impact of the building on adjacent property owners.

3. No Harm To The Public Good Or To The Zoning Plan Will Occur As A Result Of The Approval Of The Variance Application

Relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan. The proposed building height will benefit the neighboring properties as the varied height relates to the immediately adjacent uses. The adjacent rowhouses will not be overwhelmed with a 90 foot structure that is flush with the rear setback line and the front of the building will be consistent with the long term goals and future development for South Capitol Street. The varied heights also break up the massing of the building and diminish the "box-like" appearance that pervades many of the District's buildings.

Finally, permitting a reduced courtyard width along the northern edge of the property does not compromise the open space that is available to tenants, as described above. The courtyard, as provided, will be 31'7" wide, falling approximately 5 feet short of the regulatory requirement. It is important to note that the northernmost court will be over 78 feet long, while the central court will be over 84 feet long. Though the northernmost court may not meet the width requirements, it is a substantial area given that it runs over half the length of the entire width of the building. This is significant since side yards are not required in the C-2-C Zone District, yet more than half of the units along the northern edge of the property will be set back from the property line over thirty feet.

VI. WITNESSES

The Applicant anticipates that it will need one hour to present its application. Two witnesses will testify on behalf of the Applicant: Ginger Ackiss will testify as a representative of Camden and Eric Schlegel, WDG, will testify as an expert in architecture. Outlines of witness testimony are attached as Exhibit G and Schlegel's resume is attached as Exhibit H.

VII. EXHIBITS

In support of this application, the following exhibits are attached to this document:

Exhibit A. Surveyor's Plat of the Property;

Exhibit B. Sanborn Plat of the Property;

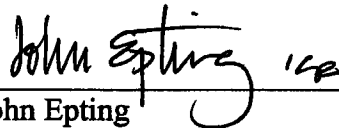
Exhibit C. Zoning Commission Order rezoning the Property;

- Exhibit D. Office of Planning Proposal to Add Site to Capitol Gateway Overlay;
- Exhibit E. Architectural plans, elevations, and sections;
- Exhibit F. Excerpts from Transcripts from hearings for Zoning Commission Case No. 04-33;
- Exhibit G. Outlines of Witness Testimony
- Exhibit H. Resume of Expert Witness

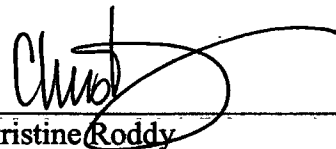
VIII. CONCLUSION

In light of the superior materials and quality of design, the Applicant asks that the Zoning Commission approve the design of the proposed building. The Applicant also asks that the Zoning Commission approve its request for variance and special exception relief in light of the regulatory restrictions imposed upon this property.

PILLSBURY WINTHROP SHAW PITTMAN LLP



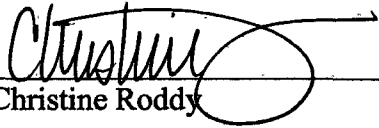
John Epting



Christine Roddy

Certificate of Service

I certify that on February 2, 2007, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below.


Christine Roddy

Joel Lawson
Matt Jesick
Office of Planning
801 N. Capitol Street, NE
Suite 4000
Washington, DC 20002

Natasha Goguts
District Department of Transportation
64 New York Avenue, NE
Washington, DC 20002

ANC 6D
25 M Street, SW
Washington, DC 20024