

Outline of Testimony before the Zoning Commission

Case No. 06-46
55 M Street, S.E. (Square 701)

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I. Site location and description

A. Location

1. East side of Half Street between M and N Streets, S.E.
2. Project site consists of lots 3, 98 – 118, 144-147, 161, 162, 167, 815 and 824 and portions of public alleys now closed in Square 701
3. Also fronts on Cushing Place (30 foot wide public alley) on the east
4. Site located in the Near Southeast area of the Anacostia Waterfront area, immediately north of the new baseball stadium now under construction

B. Size

1. Total site area is approximately 102,494 square feet
1. Frontage of approximately 584 feet on Half Street, 161 feet on M Street and 251 feet on N Street

C. Existing site condition:

1. Western entrance to the Navy Yard Metrorail Station at southeast corner of Half and M Streets
2. Surface parking lot
3. Vacant land and some vacant buildings formerly occupied by small scale industrial and warehouse uses

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II. Description of surrounding area

- A. Near Southeast area, part of the Anacostia Waterfront Initiative, immediately north of the new baseball stadium
- B. Area in transition
- C. Older development
 - 1. WMATA Southeast Bus Garage and related facilities
 - 2. Predominantly low rise buildings devoted to warehouse, storage, automotive repair, light industrial uses and fast food restaurants
 - 3. Churches
- D. Newer development
 - 1. High rise office, including new headquarters building for the U.S. Department of Transportation
 - 2. High rise residential and hotel
- E. Future development
 - 1. Continued redevelopment of the Capper/Carrollsborg public housing sites
 - 2. Southeast Federal Center
 - 3. Florida Rock property (south of baseball stadium)

III. Existing zoning: CG/CR

- A. CR
 - 1. Uses (§601)
 - a. Commercial use permitted as a matter-of-right, including retail, service and office use
 - b. Hotel
 - c. Residential

2. Height - maximum of 90 feet (§630)
 3. Density - maximum of 6.0 FAR, with nonresidential uses limited to 3.0 FAR (§631.1)
 4. Lot occupancy – residential uses limited to 75% (§634.1)
 5. Rear yard – for residential buildings, minimum of 3 inches per foot of height, not less than 12 feet (§636)
 6. Side yard - not required (§637)
 7. Private residential recreation space - minimum area equal to 15% of the gross floor area devoted to residential use (§635)
 8. Public space at ground level – minimum area equal to 10% of total lot area
 9. Parking (§2101.1)
 - a. For apartment house use, minimum of 1 space for each 3 units
 - b. For retail use, minimum of 1 space for each 750 square feet of gross floor area in excess of 3,000 square feet
 - c. For office use, minimum of 1 space for each 1,800 square feet of gross floor area in excess of 2,000 square feet
 - d. For hotel use, minimum of 1 space for each 4 rooms usable for sleeping plus 1 space for each 300 square feet in the largest function room or exhibit space
- B. Capitol Gateway (CG) Overlay District (Chapter 16)
1. Adopted regulations
 - a. Guest room areas in hotels not counted as residential FAR (modified §631.2)
 - b. Additional bonus FAR of 1.0 for residential use (§1601.1)
 - c. Height up to the maximum permitted under the Act of 1910 for building using bonus residential FAR (§1601.2)
 - d. Combined lot development allowed to allocate commercial and residential uses (§1602)

- e. **Requirements for buildings fronting on M Street**
 - (1) **Zoning Commission review and approval required (§1604.1)**
 - (2) **Streetwall set back 15 feet for its entire height from curb on M Street (§1604.3)**
 - (3) **Minimum of 35% of gross floor area of ground floor devoted to retail, service, arts and entertainment uses (§1604.4)**
 - (4) **Minimum of 50% of surface area of street walls devoted to low-E glass or entrances (§1604.6)**
 - (5) **No driveway from M Street to required parking or loading (§1604.7)**

- 2. **Proposed regulations**
 - a. **Combined lot development limited to a maximum of 8.0 or 8.5 FAR on each individual parcel (§1602.1(a))**
 - b. **In addition to other M Street provisions, minimum 14 foot floor to ceiling height on ground floor retail (§1604.7)**
 - c. **Requirements for buildings fronting on Half Street**
 - (1) **Minimum setback of 20 feet in excess of 65 feet in height, with Commission able to grant relief up to 15 additional feet in height and 8 additional feet in depth (§1607.2)**
 - (2) **Minimum of 75% of gross floor area of ground floor devoted to retail, service and arts uses (§1607.3)**
 - (3) **Preferred uses to occupy all of street frontage along Half Street (§1607.4)**
 - (4) **Minimum 14 foot clear ceiling heights on ground floor retail (§1607.5)**
 - (5) **No driveways from Half Street to parking or loading (§1607.7)**

(6) Public space at ground level not required for buildings providing preferred uses (§1607.8)

d. Zoning Commission review and approval required for all proposed uses, buildings and structures on lots abutting M and Half Streets, in Square 701 and receiving density through combined lot provisions (§1610.1)

IV. Proposed development

A. New development consisting of 9, 10 and 11 story mixed use buildings containing ground floor retail across the entire site with office, hotel and residential use above

B. Uses:

1. North building:

a. Retail on the ground floor (optional on portions of the second floor)

b. Office above

2. South building:

a. Retail on the ground floor (optional on portions of the second floor)

b. Hotel on the northeast portion (facing Cushing Place and east-west cross drive)

c. Two residential towers, one facing Half Street and the other facing N Street

C. Height: maximum of 110 feet (number of stories varies) plus roof structures with maximum height of 18 feet, 6 inches above the roof

D. Density:

1. North building:

a. Retail = 13,880 square feet of gross floor area

b. Metro = 8,410 square feet of gross floor area

c. Office = 277,600 square feet of gross floor area

2. South Building:

a. Retail = 37,130 square feet of gross floor area

b. Hotel = 105,560 square feet of gross floor area

c. Residential = 320,100 square feet of gross floor area

3. Total:

a. Retail = 51,010 square feet of gross floor area (0.50 FAR)

b. Metro = 8,410 square feet of gross floor area (0.08 FAR)

c. Office = 277,600 square feet of gross floor area (2.71 FAR)

d. Hotel = 105,560 square feet of gross floor area (1.03 FAR)

e. Residential = 320,100 square feet of gross floor area (3.12 FAR)

f. Total residential FAR = 3.12

g. Total nonresidential FAR (including Metro and hotel) = 4.32

h. Nonresidential density received by combined lot development from property in Square 700 = 135,097 square feet of gross floor area

i. Total density = 762,680 square feet of gross floor area (7.44 FAR)

E. Parking:

1. 3 level garage under both buildings accessed via two driveway ramps from Cushing Place containing 412 conforming spaces and 543 spaces including vault parking

2. Residential

a. 110 spaces required

b. 139 conforming spaces provided

c. 131 additional vault spaces

- d. 270 total spaces
- 3. Non-residential (hotel, retail, office)
 - a. 273 spaces required
 - (1) Office = 154
 - (2) Retail = 65
 - (3) Hotel = 54
 - b. 273 conforming spaces provided

F. Loading

- 1. North building: 3 loading berths @ 30 feet
- 2. South building:
 - a. 1 berth @ 55 feet
 - b. 3 berths @ 30 feet
 - c. 2 service/delivery loading spaces @ 20 feet

V. Relief required

- A. Approval of development on a lot fronting on M Street, on Half Street and in Square 701 (§1610)
- B. Special exception for roof structure setback requirements (§§630.4 and 411)
 - 1. Required 1:1 from exterior walls (18 feet, 6 inches)
 - 2. Provided: various distances from 12 feet to as little as none
- C. Special exception for Half Street setbacks
 - 1. Normal requirement is to setback a minimum of 20 feet above a height of 65 feet
 - 2. Regulations allow Zoning Commission to approve a minimum setback of 12 feet above a height of 80 feet

3. Provided: 12 feet above a height of 80 feet, except for 17 linear feet (out of 584 feet) at the front of the hotel, which are set back only 4 feet from the street line (variance requested; see below)

D. Variance from private residential recreation space requirements

1. Minimum required: 15% of the area devoted to residential use (48,015 square feet)
2. Proposed: 4,500 square feet
3. Variance: 43,515 square feet

E. Variance from the loading requirements

1. Total required:
 - a) 2 berths @ 55 feet
 - b) 5 berths @ 30 feet
 - c) 4 service/delivery loading spaces @ 20 feet
2. Total provided
 - a) 1 berth @ 55 feet
 - b) 6 berths @ 30 feet
 - c) 2 service/delivery loading spaces @ 20 feet
3. Variance
 - a) Size of 1 berth (30 feet provided vs. 55 feet required)
 - b) 2 service/delivery loading spaces @ 20 feet

F. Variance from the ground floor preferred use requirements

1. Required: 75% (67,923 square feet)
2. Provided: 56.3% (51,010 square feet)
3. Variance: 18.7% (16,913 square feet, of which 11,400 square feet are devoted to Metrorail Station entrance and extension of Cushing Place through the building to N Street)

- G. Variance from the preferred use street frontage requirements
 - 1. Required: 100% along Half Street
 - 2. Provided: 79%
 - 3. Variance: 21% (of which about 17% is the Metrorail Station entrance)
- H. Variance from the first floor clear ceiling height
 - 1. Required: 14 feet
 - 2. Provided: 11 feet and 13 feet
 - 3. Variance: 3 feet and 1 foot
- I. Variance from the Half Street setback provisions
 - 1. Required: minimum setback of 20 feet above a height of 65 feet
 - 2. Allowed with Zoning Commission approval: minimum setback of 12 feet above 80 feet
 - 3. Provided: 4 feet for approximately 17 feet of the total frontage (584 feet) along Half Street
- VI. Standards for approval of the project under the CG Overlay (§1610)
 - A. Help achieve objectives of Overlay
 - B. Help achieve desired mix of uses, with residential, hotel, cultural, entertainment, retail and service uses identified as preferred uses
 - C. In context with surrounding neighborhood and street patterns
 - D. Minimize conflicts between vehicles and pedestrians
 - E. Minimize unarticulated blank walls adjacent to public spaces through façade articulation
 - F. Minimize impact on environment
 - G. Safe and active streetscapes
 - H. Safe and convenient movement

- I. Openness of views toward the Capitol dome, the ballpark and the waterfront
- VII. Compliance with standards for approval under CG Overlay
- A. Achieving objectives of Overlay
 - 1. Provides mixed use (retail, residential, hotel, and office)
 - 2. Innovative modern design by Shalom Baranes Associates
 - 3. Provides street front ground level retail uses in all locations not occupied by building lobbies, circulation and Metro access
 - B. Desired mix of uses provided
 - C. Context of neighborhood and street patterns
 - 1. Buildings define street edge on all three streets
 - 2. Height is lower than what is permitted on the properties to the east and west
 - D. Conflicts between vehicles and pedestrians are minimized; all parking and loading access is from Cushing Place (alley) on the east side of the property
 - E. Blank walls – none; facades are animated
 - F. Streetscape has been designed with active use and pedestrian circulation in mind
 - G. Project includes enhanced circulation and access to Metrorail station
 - H. Views to Capital Dome from street level are blocked by other existing buildings to the north
- VIII. Standards for the roof structure special exception (§411.11)
- A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area
 - B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable
 - C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

- D. 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.
- IX. Compliance with the special exception standards for roof structures
- A. Size of lot and other conditions
 - 1. Required setbacks from Half Street
 - 2. "J" shaped footprint on South building
 - 3. Three separate cores (hotel and two different residential wings)
 - B. Compliance is unreasonable: if met all setbacks, would not have sufficient room to accommodate all necessary rooftop functions
 - C. Intent and purpose
 - 1. All setbacks from street frontages are met
 - 2. No relief required for North building
 - 3. Deviations are all along interior court walls and Cushing Place (alley)
 - D. Light and air – overall height is lower than permitted as a matter-of-right on the sites to the east where roof structure setback is less than required
- X. Standards for special exception for deviation from Half Street setback requirements
- A. None specified other than compliance with §3104
 - B. §3104
 - 1. In harmony with general purpose and intent of the Regulations and Map
 - 2. Not tend to affect adversely the use of neighboring property
- XI. Compliance with standards for special exception for Half Street setbacks
- A. Drawings show impact is minimal (see Sheet V-1)
 - B. No impact on any other property

XII. Standards for a variance (§ 3103.2)

- A. 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,
- B. [>] The strict application of any regulation adopted under D.C. Code §§ 5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;
- C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

XIII. Compliance with the variance standards

- A. Exceptional or extraordinary situation or condition
 - 1. Shape of the site
 - 2. Location of Metrorail Station entrance
 - 3. Combination of uses on the site
 - 4. Setback requirements imposed by the Regulations
- B. Practical difficulty
 - 1. Inability to achieve program
 - 2. Loss of first floor preferred retail space
 - 3. Unable to continue and expand Metrorail station entrance and access
- C. No detriment to the public good
 - 1. Careful balancing of design elements
 - 2. Continuing and expanding Metrorail station entrance and access is positive for the site and the area as a whole

XIV. Conclusions

- A. Overall design is consistent with intent and specific requirements of the CG Overlay for the site connecting the northern edge of the new baseball stadium to the closest Metrorail station
- B. Mixed use project with all of the usable space on the ground floor devoted to retail and with the biggest single component devoted to residential is exactly in keeping with the Overlay
- C. Application meets the standards for approving deviations from the 1:1 roof structure setback requirements
- D. Site has combination of exceptional and extraordinary conditions that create practical difficulties for the owner in complying with the Regulations as to residential recreation space, loading and CG overlay design requirements
- E. The application should be granted