DISTRICT OF COLUMBIA
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BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA

Re: Application No. 98-14C
The Solar Building

Hearing Dates: December 17, 1998
March 25, 1999

Motion to Reopen the Record
and Schedule a Further Hearing

For the reasons set forth herein, JBG/6006 Limited Partnership, the Applicant in Zoning Commission Case No. 98-14C, hereby requests that, pursuant to 11 DCMR 3025.1, the Zoning Commission, on its own motion, reopen the record and schedule a further hearing to consider design changes to the proposed project.

I. Background

The subject application involves the renovation and expansion of the Solar Building, located at the northwest corner of the intersection of 16th and K Streets, NW. The proposed redevelopment of the Solar Building property has a long and complex history that is summarized in a document entitled "Project Milestones" that is attached as Exhibit A. The Applicant began to review options for the redevelopment of the site over two years ago in December of 1997. On June 26, 1998, the Applicant filed a request with the Zoning Commission for consolidated review and approval of a Planned Unit Development ("PUD") and a related map amendment rezoning the entire site, which is now split-zoned SP-2 and C-4, to C-4. After the Zoning Commission scheduled the case for hearing, the Applicant revised

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the plans to retain a 20 foot wide strip of SP zoning along the site's 16th Street frontage to address concerns about the introduction of C-4 zoning to the 16th Street corridor. The design also involved a setback of the upper stories from 16th Street an average of 27 feet and a minimum of 20 feet.

In the months before the filing of the application and those prior to the hearing, the Applicant met numerous times with the Office of Planning, affected neighbors and Advisory Neighborhood Commission ("ANC") 2B. On December 17, 1998, the Zoning Commission held a hearing to consider the application. There was support for the application from the Office of Planning, the Department of Public Works and over 20 adjacent and nearby property owners. The primary opposition to the application was expressed by ANC 2B and the residents of the Presidential Cooperative Apartments located north of the Solar Building at 1026 16th Street. The opponents argued for: (1) the retention of more of the SP zone; (2) an increase in the setback above the 90-foot level from 16th Street; and (3) the elimination of the 16th Street garage entrance.

At its public meeting held on January 11, 1999, the Commission requested that the Applicant restudy specific aspects of the design including the possibility of an increased setback above 90 feet from 16th Street. On March 25, 1999, the Zoning Commission held a further hearing to consider the revised design which included an increase in the building setback from 20 feet to 25 feet, a reduction in the building mass and a reduction in the overall building height from 130 feet to 125.5 feet. At the March 25th hearing Commissioner Anthony Hood requested that the Applicant make a further effort to reach a settlement with the community.

Accordingly, the Applicant held a community settlement meeting on April 1, 1999, which resulted in three areas of agreement while two issues remained outstanding. The community recognized that the Applicant had made responsive modifications in the plan but remained opposed to the location of the garage entrance on 16th Street and the limited amount of SP-zoned property.

On May 10, 1999, the Zoning Commission took proposed action to approve the revised application by a vote of 3-2 (Commissioners Herb Franklin, Angel Clarens and Jerrily Kress in favor; Commissioners John Parsons and Anthony Hood opposed). Those in favor supported the revitalization of the corner, the project design and the proposed amenities. They found that with the proposed setback, the project would not have an adverse visual impact on 16th Street. On August 7, 1999, the National Capital Planning Commission ("NCPC") voted to adopt its staff report finding that there would be no adverse federal impact as a result of the approval of the PUD and rezoning.

The Zoning Commission was scheduled to take final action on September 13, 1999. After the proposed action and prior to final action, Commissioner Jerrily Kress, who had voted in favor of the application, resigned from the Commission. As a result of her resignation, the Commission was be unable to take final action to approve or deny the application, due to a 2-2 deadlock in the vote. At the request of the Applicant, the application was placed on hold to allow an opportunity for the appointment of a replacement Commission member, additional meetings with the community and the filing of revised plans. Mr. Clarens subsequently was replaced by Commissioner Carol Mitten and Commission Kwasi Holman replaced Ms. Kress.

II. Basis for the Reopening of the Record and Further Hearing.

The Applicant, the affected community and the Zoning Commission have expended considerable time and energy on this application. All parties agree that the site is prominent, that the Solar Building, which is over 40 years old, requires renovation and that the continuation of its existing use as offices is appropriate. The successful conclusion of this matter is in the collective interest of the parties.

When faced with the deadlock on the Commission, the Applicant determined that a significant redesign of the project architecture would be required in order to break the community impasse. The Applicant retained a new Project Architect and design team at RTKL to complete the redesign of the project. The plans showing the new design are submitted as Exhibit B. Through the fresh perspective of the new design team, the plans now address a major community concern that was unresolved in the earlier design. Specifically, the plans now respond to the community's request to increase the SP zoning boundary from 16th Street beyond the originally proposed 20 feet. In order to address this concern, the project, as redesigned includes 30-foot deep strip of SP zoning; a 50% increase from the previous submission. The upper stories of the building above 90 feet are set back from 16th Street a minimum of 35 feet on floors 9 and 10, as compared to 20 feet in the previous design. The 11th floor is setback an additional 10 feet to 45 feet. The zoning boundary line cannot align with the 35-foot setback because the resulting total FAR would be insufficient for the project.

In addition, the project architecture is now more traditional in its design and massing. Through the use of granite, limestone and metal panels, the building is highly compatible with many of the older buildings along 16th Street. In addition, the revised setback of the building along 16th Street results in two separate and distinct building masses, one along 16th Street and one along K Street, each of which responds to the scale and character of its respective street frontage. The access to the parking garage for the project remains on 16th Street, a location that was supported by the Applicant's traffic expert and by the Department of Public Works. The revised design incorporates a residential scale for the garage entrance.

The Applicant has had recent discussions with representatives of the community including ANC 2B to discuss the proposed design changes. The Applicant will appear before Advisory Neighborhood Commission 2B on March 8, 2000. In light of the substantial redesign of the project, the expansion of the SP-zoned land area and the substantial increase in the setback from 16th Street, the Applicant is optimistic that the redesign will be regarded as a significant and positive change.

All of the original project amenities will remain:

1. Exemplary architecture

2. Financial Assistance to the Marshall Heights Community Development Organization in the amount of $100,000 to facilitate the construction of affordable housing in Ward 7.

3. Contribution of $100,000 to Ross Elementary School at 1730 R Street, NW, for use on specific projects such as audio-visual equipment, books and other resources for the teachers.

4. Revenue for the District. The provision of additional commercial office space and below grade parking will generate additional tax revenue for the District. Employment, sales and other revenue sources will further add to the District's income.

5. Local Business Opportunities and First Source Employment Agreements. The Applicant has entered into a memorandum of understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, a goal of 35% participation by small, local and disadvantaged businesses in the contracted development costs associated with the project. Further, the Applicant has executed a First Source Agreement to achieve the goal of utilizing the District of Columbia residents for at least 51% of the jobs created by the project.

In a summary of concerns that the community prepared in connection with the April 1, 1999, settlement meeting, five issues were identified. The proposed plans address each of the issues with the exception of the garage location. The zone boundary line has been set back 30 feet resulting in a 50% increase from the previous design. There will be only one retail entrance to the building from 16th Street in addition to the main lobby. The proposed materials are highly consistent with the 16th Street corridor and the immediate area and the signage has been restricted to address the community's concerns. The garage entrance was the subject of extensive discussion and testimony at the two hearings before the Zoning Commission. The Applicant maintains that the proposed entrance on 16th Street is both reasonable and appropriate and that the option of garage access through the existing alley system is unacceptable from both a traffic engineering and a marketing perspective.

Accordingly, the Applicant requests that the Commission reopen the record, accept into the record the drawings that are submitted with this Motion as

Exhibit B, conduct a further hearing to consider the revised plans and take final action on the application based on the revised plans. Pursuant to §3025.2, the hearing may be held upon fourteen days notice to the parties. The Applicant will provide the revised plans to the parties with this submission, and requests the scheduling of the hearing as soon as possible thereafter. The Applicant will file any additional supplemental materials no later than 14 days prior to the hearing.

Very truly yours,

WILKES, ARTIS, HEDRICK & LANE,
CHARTERED

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February 28, 2000

CERTIFICATE OF SERVICE

I hereby certificate on this ____ of February, 2000, copies of the foregoing Motion for the Reopening of the Record and the Scheduling of a Further Hearing were sent by hand to:

Andrew Altman
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Washington, DC 20002

Carol J. Mitten
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ANC 2B
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Allison C. Prince

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180684

The Solar Building PUD and Rezoning Application
Project Milestones

	December 1997	JBG begins to review options for the redevelopment of the Solar Building site.
	December 23, 1997	JBG and its architects, RTKL, meet with David Colby of the Office of Planning ("OP") to discuss redevelopment possibilities for the site. This meeting occurs five months before the PUD and rezoning application is filed.
	January - March 1998	Further meetings and discussions with the architects as they develop a plan for the renovation and expansion of the Solar Building and incorporation of the adjacent site (1010 16th Street, NW) into the Solar Building property. Continued discussions with OP.
	March 1998	JBG and architects agree on an approach to the project involving a rezoning of the entire site to C-4 in conjunction with a PUD.
	March - April, 1998	JBG develops the project amenities which ultimately include the construction of affordable housing in Ward 7 through a partnership with the Marshall Heights Community Development Organization, a $100,000 contribution to Ross Elementary School in ANC 2B (at the suggestion of Kyle Pitsor, the ANC 2B Chairman) extensive public space improvements and several other items.
	May 1998	The architects continue to develop the plans further and meet with OP to discuss the approach to the project.
Month 1 (Start of formal appl'n process)	May 29, 1998	Applicant's counsel, Allison Prince of Wilkes, Artis, contacts Meredith DeHart (the Single Member District Commissioner of ANC 2B) and offers her an opportunity to review the plans with the architect. Ms. DeHart is not familiar with the site and indicates that ANC 2B generally is interested in projects involving the residential area immediately surrounding Dupont Circle.

	June 16, 1998	JBG files a Notice of its intent to file a PUD Application with ANC 2B and all property owners within 200 feet of the site.
	June 26, 1998	JBG files Application for a PUD and Rezoning with the Zoning Commission. Plans involve rezoning the entire site to C-4.
	June 26, 1998	JBG and architects meet with David Colby of OP. OP remains highly supportive of the design of the project.
Month 2	July 1998	JBG follows up with several neighbors who expressed an interest in the application as a result of the Notice of Intent. Copies of the application are sent to three residents of the President, a cooperative at 1026 16th Street, N.W. (Gordon Tanner, Bea Brickel, and Des Foynes)
	July 27, 1998	Allison Prince speaks to Kyle Pitsor, Chairman of ANC 2B to express JBG's interest in appearing before the ANC. Kyle indicates that there is no need to appear before the ANC until October. He later suggests that the November meeting would be most appropriate. Kyle indicates that he is not aware of any significant concerns about the project.
Month 4	September 2, 1998	OP files its Report recommending the scheduling of a hearing for the application.
	September 14, 1998	The Zoning Commission votes 4-1 to set the application for a hearing. (Franklin, Clarens, Kress and Hood to set down; Parsons - opposes set down) Parsons expresses concern about C-4 zoning along 16th Street frontage of site.
Month 5	October 22, 1998	Applicant files Pre-Hearing statement and detailed plans and exhibits. Plans now preserve a strip of SP zoning along 16th Street in response to concern expressed by Parsons.
	October 29, 1998	Applicant meets with OP. OP continues to support the application, particularly the retention of the SP zoning along 16th Street.
Month 6	November 11, 1998	Applicant appears before ANC 2B. ANC has several concerns and questions about the application and defers its vote until the December 9 meeting.

	November 23, 1998	Applicant holds a "zoning workshop" with several members of the community and representatives of ANC 2B to review concerns and issues raised by Commissioners at the November 11 meeting.
Month 7	December 9, 1998	Applicant appears before ANC 2B. ANC 2B votes unanimously to oppose the application.
	December 10, 1998	OP files report recommending approval of application.
	December 16, 1998	The Department of Public Works files a report expressing no objection to the project.
	December 17, 1998	Hearing before the Zoning Commission with four Commissioners present. (Franklin, Clarens, Parsons and Kress) There is extensive support of the application. There are over 20 support letters in the record from nearby property owners. The primary opposition to the application was expressed by Carol Mitten and Des Foynes, residents of the Presidential cooperative.
	December 23, 1998	Applicant files a Post-Hearing submission including draft order. The revised plans in the submission provide further detail of the street level of the building in response to the request of the Commission members at the hearing.
	January 4, 1999	The Parties file Draft Orders.
Month 8	January 11, 1999	Application is considered by the Zoning Commission at its public meeting. The Applicant was asked to restudy certain aspects of the design including possibility of an increased setback along 16th Street.
	January 29, 1999	Applicant files a Motion for Further Hearing to provide an opportunity to present revised drawings to the Commission in the context of a hearing. The revised drawings include an increased setback from 16th Street.
Month 9	February 11, 1999	Applicant files submission in connection with Further Hearing.

Month 10	March 25, 1999	Further Hearing before the Zoning Commission. All five Zoning Commission members participate in the hearing. Although Hood had not participated in original hearing, he read the record to allow his full participation in the Further Hearing. At the close of the Further Hearing, Hood requests that the Applicant make a further attempt to reach a settlement with the community.
Month 11	April 1, 1999	The Applicant meets with several community representatives in a settlement discussion. Certain areas of agreement are reached as a result of that discussion. Other areas remain unresolved.
	April 28, 1999	Parties file Draft Orders.
Month 12	May 1999	The Zoning Commission takes preliminary action to approve the application by a vote of 3-2. (Kress, Clarens and Franklin to approve; Parsons and Hood to deny)
Month 13	June 14, 1999	Zoning Commission reaffirms its earlier action in a public meeting.
Month 14	July, 1999	Jerrily Kress resigns from the Zoning Commission. Four Commission members remain - Clarens, Hood, Franklin and Parsons. Clarens' term expired in February, 1999 and he is "holding over".
Month 15	August 7, 1999	NCPC votes to support its Staff Report indicating that there would be no adverse federal impact as a result of the granting of the PUD and Rezoning Application.
Month 16	September 1, 1999	Carol Mitten, opponent to the Solar Building application, and Kwasi Holman are nominated to the Zoning Commission.
	September 13, 1999	Zoning Commission considers final action for the application. With the resignation of Kress, the Commission is unable to take action to approve or deny the application due to a 2-2 deadlock in the vote. (Clarens and Franklin to approve; Parsons and Hood to disapprove) The appointment of Holman and Mitten is not likely to resolve the deadlock because Mitten will not be permitted to vote due to her earlier involvement. Accordingly, a 2-2 deadlock may continue indefinitely.