

**Edwardsday, Inc.  
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December 3, 2001

**Via Facsimile and Messenger**

Zoning Commission For The District of Columbia  
Government Of The District Of Columbia  
Office of Zoning  
441 4<sup>th</sup> Street, N.W.  
Suite 210  
Washington D.C. 20001

RE: Case No. 01-07C (Consolidated PUD and Air Rights at 1700-1730 K Street, N.W.)

**Members of the Board:**

As representative for the Property Owner of 910 17<sup>th</sup> Street (Barr Building), we appreciate the opportunity to respond to the Applicants submittal of November 27, 2001.

Further, we appreciate the Board's careful and through consideration of this PUD application. We recognize the challenging task which this Board undertakes as it attempts to balance the impact of development on the Community - against the desire to have "First Class" development in Washington, D.C.

As we have consistently communicated from the beginning, we feel the development will be an asset to the neighborhood, but the development can accomplish the "Public Benefit" and "Project Amenities" requirements set forth in the PUD Regulations without exceeding FAR Guidelines contained therein. The Applicant's request for an increase above those guidelines comes at a direct burden to the contiguous neighbor. Of the 0.08 FAR increase requested, 0.06 FAR comes as of a direct encroachment into an existing light-well We continue to object to this Encroachment into Public Air Space.

We believe if you read the minutes of the November 9, 2001 hearing, you will notice two interesting substantive changes in the Applicants testimony, as it compares to the November 27, 2001 submittal:

- 1.) The Applicant's legal counsel originally indicated that the encroachment into public air space was a "minor" portion of this project. It appears this encroachment has now taken on new meaning. Utilization of words like essential, successful functioning and critical, etc., make it now appear "Mission Critical". Why the change in opinion? Has the design changed from

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the original design presented to the Board or is this argument now more persuasive?

- 2.) The Applicant's architect originally indicated the encroachment into public air space was for the "sole" purpose of improving the leaseable condition of the project. Pursuant to the current submittal, it now appears it is necessary to allow the Applicant to offset the "significant" setback along K Street. Are the conditions of the setback along K Street now different?

Given the conflicting testimony, it is very difficult to judge the parameters of the Applicant's request.

Further, as they relate to impact upon the Barr Building, the Applicant makes only conclusory statements without substantive back-up including the following:

- 1.) "5.5 foot projection of the PUD has **no impact** on its direct sunlight";
- 2.) "Consequently, the modest use of public airspace **will not** impinge upon the Barr Building in **any** way";
- 3.) "projection will have **zero** net impact on the Barr Building"; and finally,
- 4.) "The setback area and projection into public space are achieved at **no cost** to the Barr Building **whatsoever**".

A review of Applicant's Posthearing Submission, pages A-13.1 – A-13.3 (Sun Angle Diagrams), demonstrates the Barr Building is directly burdened by the Encroachment into Public Air Space. During critical light seasons, overlaying pages A-13.2 and A-13.3 (With and Without) demonstrates the impact to floors 5,6 and 9. The Applicant's bold statements above, do not seem to be supported by their own Sun Diagrams. We have a difficult time understanding how a "modest" gain in primary reflected sunlight outweighs the impact to three floors of the Barr Building!

During your November 19, 2001 work session, Mr. Peter May noted the Applicant's request may affect the neighbor's light and noted there is no real basis for the extra five feet. He further indicated he was not asking the Applicant to redesign the core, but the Applicant must respond to the Barr's submission and show a "balanced" resolution. **As of this date, we have not been contacted directly or indirectly!**

It would appear given the newfound significance of the encroachment into public air space, as stated herein, and the admonishment of a member of the Board, the Applicant would have approached the ownership of the Barr Building to seek a balanced resolutions.

The Applicant's characterization of the impact to the Barr Building, bold unsubstantiated statements and continued lack of regard for the impact its development will have on the Barr Building appears to "fly-in the-face" of the "spirit" and "letter" of PUD guidelines.

Finally, the Applicant correctly states the Barr Building will not lose any gross floor area by this encroachment. What the Applicant fails to address is the impact the reduction in light has on a mid-block building. As previously stated, a mid-block building heavily depends on light in the rear of its floors to remain competitive in the marketplace. Any reduction in light can have a significant impact on lease-up time and rental rate. Given the Barr Building is only eleven (11) stories tall and its floor plates are approximately 8,500 square feet, any impact is severely felt by Ownership.

There is no doubt the project will have a positive effect, but exceeding the PUD Guideline FAR is not necessary. It only benefits the Applicant and burdens contiguous neighborhoods.

In summary:

- 1.) It is our contention the Applicant continues to burden the Barr Building and has not demonstrated any desire to seek a balanced resolution.
- 2.) Has not demonstrated the public benefit and meritorious aspects of the proposal, which result in granting additional height or floor area over and above the PUD guidelines.
- 3.) The utilization of public air space, which does not provide a public benefit, would appear to set a dangerous precedent for future development.
- 4.) The Applicant does not own or have to lease the Barr Building. It costs the applicant nothing to disregard the impacts on the Barr Building. Let the facts stand for themselves!

Again, we appreciate your thoughtful diligence and we stand ready to address any questions the Board may have and welcome the opportunity to further discuss our position.

Best regards,

David M. Brooks  
Chief Investment Officer  
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