

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

JULY 23, 2002

+ + + + +

The Public Meeting convened in Room 220 South, 441  
4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at  
9:00 a.m., Geoffrey Griffis, Chairperson, presiding.

PRESENT:

GEOFFREY GRIFFIS	Chairperson
JOHN PARSONS	Member
CURTIS ETHERLY, JR.	Member
DAVID ZAIDAN	Member
COREY BUFFO, ESQ.	Office of Corporation Counsel

P-R-O-C-E-E-D-I-N-G-S

9:06 a.m.

CHAIRPERSON GRIFFIS: On the record. Good morning, ladies and gentlemen. Let me call to order our 9:00 a.m. of July 23, 2002. We do have one decision in our meeting. We will get that. We will then recess for a few short moments and then call to session our public hearing. With that, why don't we announce the first case for our meeting.

MS. PRUITT: Good morning, Mr. Chair.

CHAIRPERSON GRIFFIS: Good morning.

MS. PRUITT: First case for your meeting is 16892, Application of Jamals Ford, LLC, pursuant to 11 DCMR 3103.2 for a variance of the floor area ratio requirements under Section 771, the variance from the downtown development district parking and loading access restrictions under subsection 1701 4c, a variance from the residential recreation space requirements under section 773, and pursuant to 11 DCMR 3104.1a a special exception from the roof structure provision under section 411 and 770.6 to allow the construction of a ten-story mixed-used building in the DD/C4 District at 920 and 942 F Street, Squares 377, Lots 35, 819, 820, 821, 852, 853 and a portion of the public alley to be closed.

The Board heard this case on July 9. At that time it did vote on several issues. There was a motion to approve the FAR not to exceed 8.2 and the residential recreation space and a special exception for roof structure. Those were all approved at

1 that time. What is left for you to look at is actually the issue  
2 concerning the parking. That is before you today. I believe you  
3 also have a submission from Holland in reference to the requested  
4 information you asked for.

5 CHAIRPERSON GRIFFIS: Good. Thank you very much.  
6 I'm not sure if I heard you correctly. We do have the parking  
7 access loading but we have the residential rec.

8 MS. PRUITT: Correct, sir. Yes.

9 CHAIRPERSON GRIFFIS: Okay, good. Board members,  
10 it should be fairly fresh in our minds as we have gone through  
11 this certainly the new submissions and just coming off the public  
12 hearing itself. I would like to start with the residential rec  
13 space and all the cumbersome varieties that we have been offered  
14 on this and see if we can bring some clarity in a decision. If  
15 that is acceptable to people we could take discussion on that  
16 first.

17 I think if you remember the building, clearly it's  
18 a small amount of square footage within the larger commercial  
19 development. I think one of the positives in terms of this  
20 application is the fact that is not looking to do away with the  
21 requirement but rather to request the flexibility with how and  
22 where to provide it.

23 The Office of Planning has submitted an additional  
24 report or an addition to their original submission that outlines  
25 several of the conditions which they would like to see present.

1 It gives an opportunity of one to provide the 6,000 new square  
2 feet of new residential space at the subject property or at 919  
3 F Street or at some other location within a two block radius  
4 north and southeast of the subject property. It seems to give an  
5 awful lot of latitude there.

6 However, I think the other important point in their  
7 issues regarding this was the fact that they think it is logical  
8 to provide the residential recreation with the residential space.

9 I would agree with that logic as it seems that the residential  
10 rec would be provided to the residents itself. So I think they  
11 should travel together is my point. Let me hear from ours on  
12 that additional information or thoughts.

13 MEMBER ZAIDAN: Mr. Chair, I would agree. I think  
14 my only concern is we're getting into a situation where we are  
15 offering flexibility to the developer and everything in meeting  
16 these requirements. It's almost as if we're writing a zoning  
17 commission order and we're overstepping our bounds.

18 It just seems to me that this should really be  
19 coming in under the PUD regulations but the Applicant has the  
20 legal right to apply for the variance. I do think it's met the  
21 test. I think my only concern is that we're moving into an area  
22 that is over and beyond what a BZA order can accomplish.

23 I don't know if there's any way to address that  
24 concern or not. I would agree with you that the recreation space  
25 should follow the residential. It seems it's logical to me and

1 that's what the intent of a zoning regulation is.

2 CHAIRPERSON GRIFFIS: So your point is that this  
3 probably would have been more efficiently or somewhat more  
4 effectively done as a PUD from the beginning of that and then  
5 coming in as that.

6 MEMBER ZAIDAN: I would absolutely agree. This  
7 whole project would be a model PUD.

8 CHAIRPERSON GRIFFIS: That's an interesting comment  
9 and hopefully will be heard. How do we remedy it in terms of  
10 this situation though? Is it appropriate to talk about a  
11 timeline provision of providing the residential space and the rec  
12 space? Does that assist you?

13 MEMBER ZAIDAN: A timeline?

14 CHAIRPERSON GRIFFIS: In terms of if this is  
15 provided off-site. I'm trying to hear what your concern is in  
16 terms of the flexibility.

17 MEMBER ZAIDAN: I think just as long as we stick  
18 with the intent of the zoning regulations. I don't think a  
19 timeline is really established there. Just as long as the  
20 recreation space can function so it's compatible to the  
21 residential.

22 CHAIRPERSON GRIFFIS: But there's an implicit  
23 timeline in development if the residential units and rec space  
24 would built. If we give the flexibility that can be placed  
25 anywhere else, does it have to happen concurrently with the

1 development on the specific project or do they have another 100  
2 years to provide and build that?

3 MEMBER Z Aidan: If the developer is tying this in  
4 with another project.

5 CHAIRPERSON GRIFFIS: Do we know the timeline of  
6 the other project is my point.

7 MEMBER Z Aidan: That's my point too. I don't know  
8 how to answer your question. Correct me if I'm wrong but our BZA  
9 orders for any case don't expire. Correct?

10 CHAIRPERSON GRIFFIS: Right.

11 MEMBER Z Aidan: So I don't know how we could --

12 CHAIRPERSON GRIFFIS: Actually some do expire but I  
13 do understand your point.

14 MEMBER Z Aidan: If we're going for this whole issue  
15 of flexibility, I personally don't see an issue with timeframe.  
16 I think it's more location, making sure that the residential rec  
17 component function well with residential especially if this is  
18 being tied in with another project. We always hear how  
19 developers need everything so urgently, how everything is moving  
20 so fast so I can only assume that the project will move forward  
21 if he ties in with another one. Do you understand what I'm  
22 saying?

23 CHAIRPERSON GRIFFIS: I do and I don't agree with  
24 that but that's a small point. Others? Comments on residential?  
25 Move on to parking if none. Yes.

1                   MEMBER PARSONS: Don't we have to agree on some  
2 language? These bullets although somewhat redundant are -- Do we  
3 need to come up with a provision that will deal with that and  
4 seemingly the first bullet does that. It's specific to how many  
5 square feet it gives in a latitude to either build within the  
6 property at 919 or some other location.

7                   CHAIRPERSON GRIFFIS: Correct.

8                   MEMBER PARSONS: And if we added to that the second  
9 bullet, maybe we could craft a sentence that would do that. I  
10 don't mean us personally here today.

11                  CHAIRPERSON GRIFFIS: Indeed.

12                  MEMBER PARSONS: We struggle with the same issue of  
13 timing at the Zoning Commission. One alternative which I don't  
14 favor is have a cash payment made into a housing trust fund.

15                  CHAIRPERSON GRIFFIS: Right.

16                  MEMBER PARSONS: This is very directive and tells  
17 them they will build 6,000 square feet but it's almost impossible  
18 to say before you get a certificate of occupancy for this  
19 building you will have completed the other just because of the  
20 timing of the projects.

21                  CHAIRPERSON GRIFFIS: Right.

22                  MEMBER PARSONS: It seems to me that those two  
23 bullets would get us to where we would want to be.

24                  CHAIRPERSON GRIFFIS: Okay. I am not necessarily  
25 advocating for a timeline. I thought that it was something that

1 should be discussed because what I understood Mr. Zaidan saying  
2 in terms of a PUD was also an uncomfortableness with the large  
3 amount of flexibility. But I also think we need to put it in the  
4 perspective and I think we all do put it in the perspective of  
5 the actual amount, the monumentally of this which is small.

6 But, Mr. Parsons, do you take issue with any of the  
7 OP bullet point. I agree with you that we will have to reword  
8 these but I think the intent is there unless there are issues  
9 that we need to address.

10 MEMBER PARSONS: No.

11 CHAIRPERSON GRIFFIS: Okay, in which case would you  
12 like to start out a discussion overview on the parking  
13 alternatives or shall I?

14 MEMBER PARSONS: I'll be glad to. I think the  
15 Applicant has been very responsive at least to my concerns and  
16 has come up with two alternatives as you probably both know,  
17 Schemes A and B. While Scheme A is not favored by the Applicant  
18 which would provide parking access to 10th Street and the loading  
19 dock in the alley, the Office of Planning I think has given a  
20 good summary as to why that is preferable as a lesser impact on  
21 10th Street and Ford's Theater. So OP is favoring Option 6A. In  
22 reading the proposed findings of fact by the Applicant, they are  
23 favoring 6B and I concluded in reviewing this that 6A is preferable  
24 for the reasons stated by the Office of Planning.

25 CHAIRPERSON GRIFFIS: Good. Thank you. In

1 addition we had asked for the F Street study and looking at  
2 actually design. I think that would have been interesting to  
3 see. As I think I stated in the hearing, I think that it would  
4 be very difficult to accommodate that (1) based on the grade  
5 change and (2) based on the historic facade but be that as it may  
6 the Applicant and Office of Planning restated the fact that it  
7 would in fact not be an option based on historical preservation  
8 and the Mayor's agent. I believe that's why we did not see an  
9 actual plan study of that.

10 Others? Everyone clear on 6A? That is the loading  
11 three base in the rear alley that comes down 15 feet I believe  
12 into the 30. Then there would be the ingress and the egress of  
13 the parking off of 10th Street. This would in fact create a new  
14 curb cut. It would fill in the old, move the curb cut up. I  
15 think one of the other strong points of both options is that the  
16 it does move the vehicular traffic away from the Ford's Theater  
17 and provides some separation there.

18 Let me step back a second. The fact that we  
19 actually are discussing this is implicit in I think the Board's  
20 understanding that we will and do regulate this portion. I don't  
21 know that we need to speak much more on that. But in terms of --  
22 Let me set that aside for a quick moment. Other comments,  
23 questions.

24 To flush out all the issues, there was another  
25 piece about the pedestrian passageway in the back of the alley.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I think it was astutely put by a member this morning not on the  
2 record but I'll bring it out that we had no jurisdiction of that.

3 It was an interesting addition or embellishment on what was  
4 happening there. I think we may have actually had differences of  
5 opinions on the Board if we really were even regulating that.  
6 But that being said, we're not looking at that. It looks like it  
7 has come out of the plans. We can still obviously move forward  
8 with our charge. So other discussions?

9 MEMBER PARSONS: Did you want to get to the  
10 jurisdiction over parking?

11 CHAIRPERSON GRIFFIS: That would be next.  
12 Absolutely.

13 MEMBER PARSONS: I was pleased with Mr. Bergstein's  
14 memorandum. It certainly is my recollection that the intent of  
15 the Zoning Commission was to insure that real buildings, four-  
16 walled historic structures, should have relief. The concept  
17 expressed here about the intensification of use is okay. When  
18 you step over and you start to change the whole building and  
19 redesign and build a new building, you have these facades being  
20 held up, waiting for development and that was not the intent of  
21 the Zoning Commission.

22 However, this is a gray enough area that I think we  
23 ought to petition and I would be glad to do that at the Zoning  
24 Commission to clarify this aspect of the regulations. But  
25 certainly the intent was not to accommodate this kind of complete

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 redevelopment but rather to I guess woodies in the herring as an  
2 example of a structure that it was intended for. So I concur  
3 with Mr. Bergstein and disagree with I guess it was Mr. Sher who  
4 wrote that.

5 CHAIRPERSON GRIFFIS: Yes. If I follow your  
6 comments then we are in fact looking at the parking requirements  
7 and the loading for this project.

8 MEMBER PARSONS: Correct.

9 CHAIRPERSON GRIFFIS: Do we have that count in  
10 front of us in order for us to understand that?

11 MEMBER PARSONS: Do we have what in front of us?

12 CHAIRPERSON GRIFFIS: The actual count, the  
13 requirements that would be specific to this project.

14 MR. BUFFO: Mr. Chair?

15 CHAIRPERSON GRIFFIS: Yes.

16 MR. BUFFO: The Applicant represents that they do  
17 have enough. The issue arose because there was a driveway if you  
18 recall that said access to required parking. There was a  
19 question as to whether we had jurisdiction because we don't have  
20 jurisdiction where parking is required.

21 CHAIRPERSON GRIFFIS: I understand.

22 MR. BUFFO: At least that that's an interpretation  
23 of that regulation.

24 CHAIRPERSON GRIFFIS: Right. Here's my concern.  
25 Clearly we are talking about one specific case. I think Mr.

1 Parsons has adequately stated that there is not 100 percent  
2 clarity. So what I don't want us to do is to be taken as making  
3 large sweeping changes or interpretations of what we are doing.

4 But it's an excellent point. Mr. Parsons has  
5 clearly stated I think the importance of the regulations in  
6 making sure that we can accommodate historic buildings into the  
7 adaptive reuse for contemporary purposes. Clearly that is  
8 important and often impossible to provide parking.

9 Going to your point, I think that is also exact  
10 whether we actually had control over it or not. I think it is  
11 established that we do. I would concur with that thought. I  
12 believe that's exactly what Mr. Parsons is also saying but he can  
13 correct me if I'm wrong. So in that we have the fact that it  
14 does comply based on the percentage of increase and intensity.  
15 So we can move forward. Others? Anything else?

16 (No response.)

17 CHAIRPERSON GRIFFIS: Okay, we can prepare to move  
18 forward then. Why don't we have a motion to approve Application  
19 16892 in its request for a variance from relief for the  
20 residential rec space requirements. I will add to that point and  
21 also variance from the parking and loading access restrictions  
22 which would be under subsection 1701.4C if I'm not mistaken.

23 And in addition to that motion I think as the  
24 residential rec space as we have discussed it is important to  
25 adopt the intent and direction that the OP report illustrated. I

1 think our Board well put that on that record in the public  
2 hearing. Clearly their new residential space would be provided  
3 that the residential recreational space attendant to that square  
4 footage would also be provided. It would be accommodated either  
5 within the specific project under Application or at 919 F Street  
6 or as stated location two blocks north and southeast of the  
7 subject property. That they would be provided together.

8 I think we could add the fact that they could be  
9 located indoors also with the anticipation that this may go into  
10 historic structure. This is a smaller amount of square footage  
11 for residential rec space and it may be cumbersome as we've seen  
12 already in terms of rooftop or open area. I would also include  
13 in the approval of the parking/loading access. That would  
14 accommodate under Scheme 6a as put out by the Applicant. That  
15 does accommodate the loading in the alley and the car parking  
16 access on 10th Street.

17 MEMBER PARSONS: Second.

18 CHAIRPERSON GRIFFIS: Thank you, Mr. Parson. Any  
19 discussion, clarifications needed?

20 MR. BUFFO: Mr. Chairman, I would like to get a  
21 clarification here.

22 CHAIRPERSON GRIFFIS: Go ahead.

23 MR. BUFFO: What you are proposing is the very  
24 instrument variance 773 but not in its entirety. Is that what  
25 I'm understanding? So that if indeed the residential space is

1 provided on site, they have to provide recreation space. However  
2 it can be indoors which is variance 773.8.

3 CHAIRPERSON GRIFFIS: Correct.

4 MR. BUFFO: And I guess that's the only one. Is  
5 that correct?

6 CHAIRPERSON GRIFFIS: That would be correct and  
7 that's my understanding of the Board's thinking. That it would  
8 not be a reduction in the rec space.

9 MR. BUFFO: Okay, I just wanted to clarify that.

10 CHAIRPERSON GRIFFIS: Is that everyone's  
11 understanding?

12 MEMBER ZAIDAN: It seems like we are trying to  
13 incorporate the first five bullets in the OP report. That's the  
14 way I was looking at it. I think you've touched all those. I  
15 don't think we've gotten into the sixth one.

16 CHAIRPERSON GRIFFIS: Yes, the sixth one and Mr.  
17 Buffo has brought up an excellent point and that's what's so  
18 difficult about this, not in its complexity but in its undefined  
19 aspect which is we have a dimensional problem on the existing  
20 site if I am not mistaken on the roof terrace. We may not have  
21 that somewhere else. But I think the fact that they can provide  
22 it indoors actually takes care of that.

23 MR. BUFFO: Right.

24 CHAIRPERSON GRIFFIS: Certainly it's an amenity  
25 that a developer probably would want to provide a rooftop deck.

1 But we give them with the understanding of this flexibility we're  
2 getting into the ability to accommodate all it on the specific  
3 project. Does anyone have concerns on that issue? Corporation  
4 Counsel okay with that understanding?

5 MR. BUFFO: Yes, I think so. You're not permitting  
6 the recreation space be any other place then where the  
7 residential is.

8 CHAIRPERSON GRIFFIS: That is correct.

9 MR. BUFFO: They go together.

10 CHAIRPERSON GRIFFIS: Exactly. Any other  
11 discussions?

12 MEMBER ZAIDAN: No, I just think as long as that  
13 condition is clear. That clearly meets the intent of the zoning  
14 regulations on that issue.

15 CHAIRPERSON GRIFFIS: Perhaps when we write it, it  
16 will be bring additional clarity. Others? Then I would ask for  
17 all of those in favor say aye.

18 (Chorus of ayes.)

19 CHAIRPERSON GRIFFIS: And opposed?

20 (No response.)

21 MS. PRUITT: Staff will record the vote as four,  
22 zero, one to approve. Motion made by Mr. Griffis, seconded by  
23 Mr. Parsons. Mr. Zaidan, Mr. Etherly in support. Ms. Renshaw  
24 not present, not voting.

25 CHAIRPERSON GRIFFIS: Thank you very much. That

1 would conclude our morning meeting of July 23, 2002. For those  
2 here for the public hearing, we will start the public hearing in  
3 15 minutes. Off the record.

4 (Whereupon, the above-entitled matter concluded at  
5 9:30 a.m.)

6  
7  
8  
9  
10  
11  
12  
13