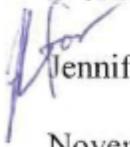




MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM:  Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: November 24, 2009

SUBJECT: BZA Case No. 18002, 900 New York Avenue, NW (Square 474, Lot 45)

I. SUMMARY RECOMMENDATION

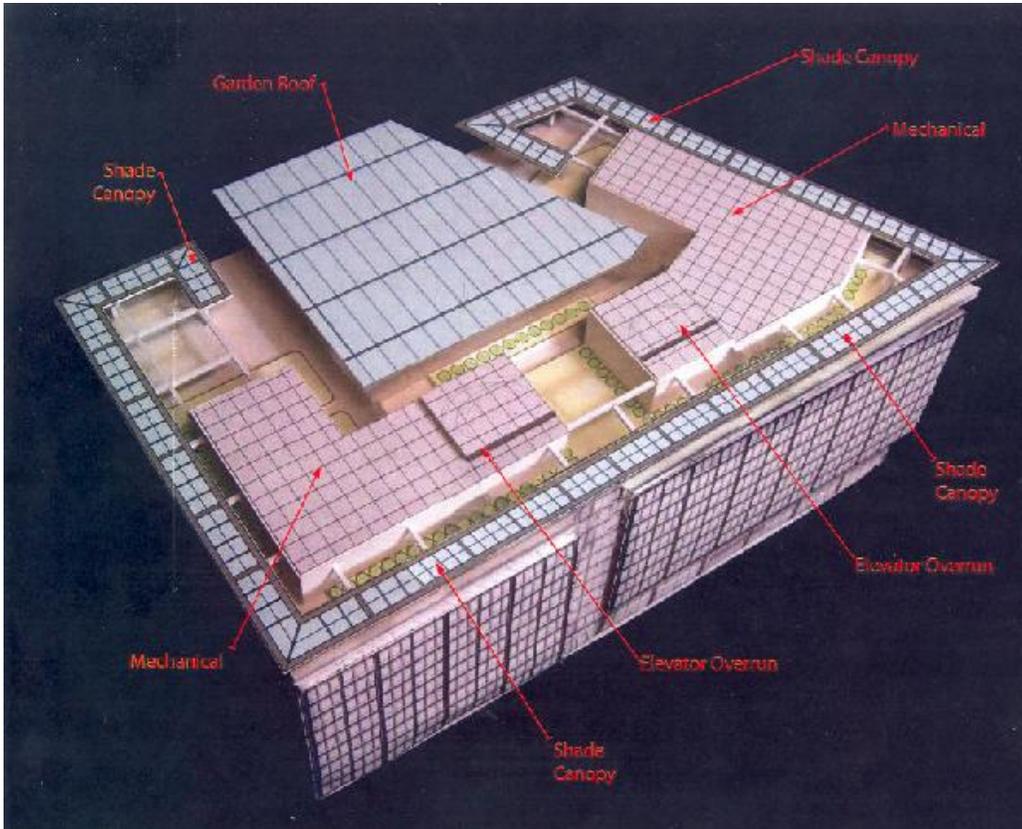
The Office of Planning (OP) recommends approval of:

- Area variance relief per § 3104 from §§ 777.1, 411.2, and if needed, from § 400.7 (c), to permit two 22’6” high roof-top elevator-enclosures;
- Special Exception relief per §§ 411.11 and 3104; from §§ 411.5, 777.1 and, if necessary, §411.4, to provide roof structures of varying heights
- Special Exception relief per §§ 3104 and 2202.2, from § 2201.1 and 2204.9, to permit a non-dedicated service/delivery space.



II. AREA AND SITE DESCRIPTION

Address:	900 New York Avenue, NW (Southwest corner of 9 th St. and NY Ave., NW)
Legal Description:	Square 474, Lot 45
Ward:	2
Lot Characteristics:	Located in northwest corner of planned “City Center” development. Slopes downward north to south. Subject to parking and loading restrictions on NY Ave., on re-opened I Street and on pedestrian passage on west side of proposed building.
Existing Development:	Surface Parking Lot
Zoning:	DD/C-3-C
Adjacent Properties:	Rest of site to be developed atop a common below-grade parking and loading deck that will <i>not</i> be shared with the applicant’s development.
Surrounding Neighborhood Character:	Mixed use, predominately office and hotel high-density development, with exception of Mount Vernon Square itself.



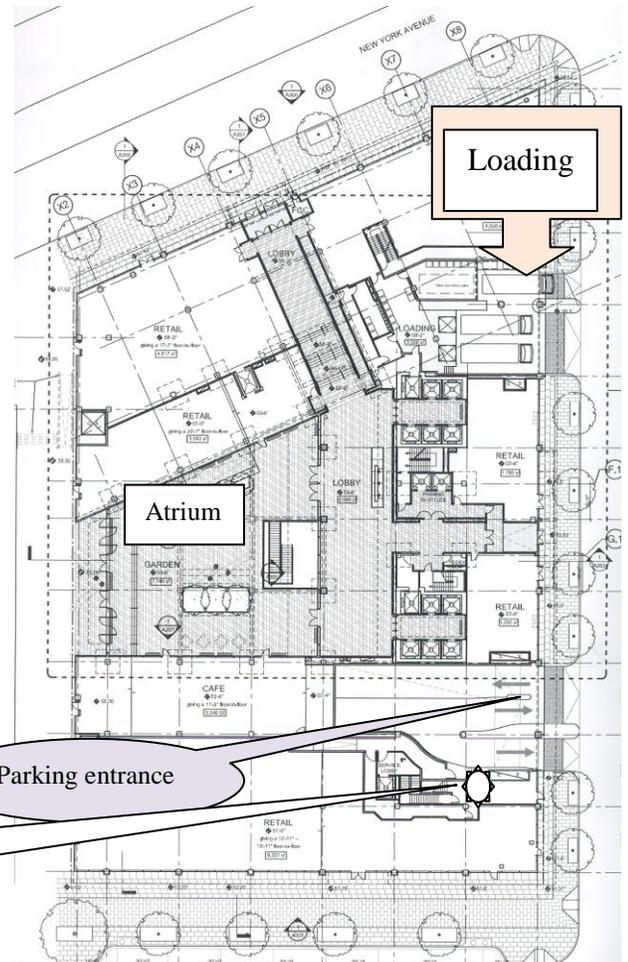
III. APPLICATION IN BRIEF

The applicant proposes to construct a 130-foot tall, 10 FAR, 577,490 square foot LEED-gold office and retail building with 361 - 376 underground parking spaces.

The structure would be organized around a large atrium rising from the ground floor to the roof and visually open to the pedestrian-way on the building's west side. The roofscape would contain recreational space, mechanical penthouses, plantings and green elements. The applicant proposes to provide direct access to the roof from every elevator. To

enable this, the applicant states that it would need taller-than typical roof elevator enclosures to make all of the elevators ADA compliant, by bringing each one directly to the roof. There would be no need change to a special elevator, or to walk up from the top floor. Accordingly the applicant is requesting variance relief to permit taller roof structures to accommodate the over-runs, and special exception relief to reduce bulk by varying the height of the roof structures

The building would have retail spaces and/or atrium/office building entrances on every side except I Street. Because the master plan for the former convention center site encourages extensive retail and prohibits parking and loading entrances on three sides of the building, the applicant would locate all parking and loading entrances on the west side of 9th Street. The entrance/exit to the loading dock would be towards the north of the building; the two-lane parking access would be towards the south. The applicant is seeking a special exception to place a non-dedicated service and delivery space on the south side of the parking garage access lanes, and to have the access for that space be useable as a third lane for the garage in hours, when deliveries would be prohibited.



Non-dedicated service-delivery space and part-time exit lane to 9th St.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

Item	Minimum Permitted or Maximum Required	Proposed	Relief Requested
Lot Occupancy (§ 772.1)	100% max	100%	None
FAR	10.0 max	10.0	None ¹
Height	130' max	130' to roof atop office	None ²
Roof Structure- Absolute Height § 400.7(c)	18'6" max	22'6"	Variances –from §§ 777.1, 411.2, and 400.7(c) <i>per</i> §§ 3103.2
Roof Structure Setback	≥ 1:1 setback from wall	≥ 1:1	None
Roof Structure- Relative Height (§ 411.5)	Uniform	varied	SE from §§ 411.5 and 777.1 <i>per</i> §§ 411.11 and 3104
Elevator Enclosure and Roof Structures – number of (§ 411.4)	> 1 permitted if > 1 elevator core	2	None
Rear Yard (§774.1 and 774.11)	27'	27'	None ³
Side Yard	None	None	None
Parking Spaces	321 min	361 ⁴	None
Loading Berths	3 min @ 30'	3 @ 30'	None
Service Delivery Spaces ⁵	1 @ 20', dedicated and unobstructed,	1 @ 20', non-dedicated and obstructed,	SE from §§ 2201.1 & 2204.9, <i>per</i> §§ 2202.2, 3104.1

V. OFFICE OF PLANNING ANALYSIS

A. ROOF STRUCTURE RELIEF

1. Height Variance from Sections 777.1, 400.7 (c) and 411.2

The applicant requests relief from the zoning regulations that limit the height of an roof structure or elevator enclosure to be no more than 18'6" high, in order to be able construct two 22'6" high elevator enclosures.
 400.7 Housing for mechanical equipment or a stairway or elevator penthouse

¹ The DD's 3.5 FAR housing requirement would be met through Combined Lot Development covenants.

² Applicant considers atrium to be a tower per § 770.3, and sunshades, pergolas, etc. to be serving as architectural embellishments.

³ As a through-lot building on three corners, yard may be measured from I Street per § 775.11.

⁴ Applicant's parking consultant cites a figure of 400 to 410 on four levels in memo to DDOT dated September 3, 2009.

⁵ Retail uses would occupy 28, 975 GSF. Under § 2201.2, the office building loading facilities also suffice for the retail space.

To grant the variance the Board must find that the applicant has demonstrated the requests meets the tests of § 3103.2:

1. Because of exceptional narrowness, shallowness, topographical conditions, shape of property, or exceptional situation or condition of a specific piece of property,
2. the strict application of any [zoning] regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property;
3. and, to relieve the difficulties or hardship; relief can be granted from zoning regulations 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."

Uniqueness:

The applicant's property is governed by the *Masterplan Design Guidelines Old Convention Center Site Washington DC 18 September 2006*. This Plan, approved by the City Council, set forth the guidelines and development pattern for the properties that were formerly developed with the old convention center. The Plan establishes restrictions on curb cuts along New York Avenue and requires that the alley along the western edge of the property be developed as an active pedestrian alley.

Sustainability is one of the Plan's core principles:

The project goal is to design and construct buildings and common areas to meet the future LEED criteria. The project should be example for development in Washington DC for the twenty-first century (p.79), with carbon neutrality being cited as the ultimate benchmark (p.75).

To further sustainability, the Plan encourages taller-than-average ceiling heights -- "9'6" or greater to allow for stratification of interior air where possible (p.78)-- as well as green and active uses of roofs:

Terraces and Green Roofs

The Masterplan includes several levels of both public and private elevated terraces... Extensive green roofs are being investigated for large portions of the development (page 65).

Roof gardens that can be occupied may ...activate the urban environment and increase the amenity value of the open space (Page 77).

The City Center is the premier District-owned downtown property available for mixed-use development. The applicant has demonstrated that the degree of emphasis on sustainability and utilization of rooftop space for quasi-public purposes is unique among downtown properties.

Practical Difficulties:

The difficulty stems primarily from complying with the Masterplan's emphasis on achieving both a high degree of roof sustainability and a high degree of access to the roof. Providing convenient access to the roof with every elevator providing full accessibility under the ADA is an integral part of meeting these objectives. The applicant has provided OP with materials that demonstrate the difficulty of using standard elevators or "side-slung" elevators, rather than less typical, but more efficient "machine roomless" elevators, to provide access to the green spaces on the roof. For a standard elevator to provide access to the roof, it would be necessary for the elevator and its machinery to extend approximately 26 feet above the roof. A "side slung" elevator could reach the roof with 18'6" projecting above the roof. However, a side-slung elevator is much slower than the proposed elevators and its usage would be limited in order to allow most elevators to provide quicker access to the occupied floors of a building. The "machine roomless" elevator would provide ADA-compliant roof access from every elevator, at a speed almost twice as fast as a standard elevator, and with a 21' to 22'6" projection above the roof. This would be approximately four feet lower than would be needed for a standard elevator that would go to the roof.

The secondary difficulty is related to the overall City Center project's stress on developing extremely high quality buildings. The developer plans to make each floor approximately 10 inches taller than the standard downtown office building's 10 foot floor to floor height. This building would have only 12 floors where most commercial buildings have 13.

Substantial Harm to the Public or the Zoning Regulations:

There would be no substantial harm to the public good. As the axonometric view on page 2 shows, the 40 foot wide, 30 foot deep and 22' 6"-high elevator overruns would be only a small portion of the otherwise 18'6" high mechanical penthouses. They would occupy only 4% of the overall roof. The elevator enclosures would be set back from the building face at a 1:1 ratio, making them almost invisible from a close viewpoint. With the required setbacks and clean design of the elevator overruns they would not be noticed or unattractive from medium and long distance viewpoints along 9th Street, New York Avenue, or Mt. Vernon Square.

2. Special Exception Relief from Section 777.1, Per Sections 400.7 (c) and 411.2

The applicant requests relief from the following zoning regulations, to be able to accommodate the requested height for the elevator enclosures, without having to increase the height of the rest of the roof structure to the 22'6" height that is being requested for the elevator enclosures.

Under § 777.1, the provisions of § 411 regulate roof structures in the Commercial Districts. Generally there shall be one enclosure for the mechanical equipment and elevators (§ 411.3) with walls of equal height (§ 411.5), although the number of elevator enclosures may be increased if there is more than one elevator core .

The applicant is providing two elevator cores and may not even require relief from § 411.3. However, the need for relief from § 411.5 is clear. To grant relief from that section, the Board must find that the applicant meets the special exception criteria of § 3104.1:

- Harmony with the general purpose and intent of the zoning regulations and map;
- No tendency to adversely affect the use of neighboring property as permitted by the regulations.

A summary of the specific criteria in § 411.11, and OP's analysis of the applicant's compliance with those criteria, follow.

THERE ARE OPERATING DIFFICULTIES, BUILDING LOT ISSUES, OR CONDITIONS RELATING TO THE BUILDING OR SURROUNDING AREA THAT WOULD MAKE IT IMPRACTICAL TO HAVE ALL ROOF STRUCTURE TOPS BE AT THE SAME HEIGHT.

- As discussed above, most if not all of the elevators must go directly to the roof level; there would be two elevator banks; and, the energy-efficient and ADA compliant elevator technology would require an enclosure height that is four feet taller than would be necessary for other portions of the roof structures.

THE INTENT AND PURPOSE OF THE ZONING REGULATIONS SHALL NOT BE MATERIALLY IMPAIRED BY THE PROPOSED ROOF STRUCTURE.

- Absent the requested special exception relief, and given the height required for the elevator penthouses, the applicant would be required to construct all of the roof structures higher than is functionally necessary. This would be impractical, aesthetically intrusive and contrary to the intent of the zoning regulations' emphasis on minimizing the visibility of roof structures.

THE PROPOSED STRUCTURES WILL NOT ADVERSELY AFFECT THE LIGHT AND AIR OF ADJACENT BUILDINGS.

- The elevator enclosures will be setback approximately twenty-three feet west of the 9th Street face of the building. The building nearest these structures is across 9th Street, at least one hundred feet to the east.

B. Dedicated Service/Delivery Space Special Exception Relief from Sections 2202.1 and 2204.9

Under § 2201.1, the applicant's greater than 200,000 gross square foot building is required to provide three thirty-foot deep loading berths, three loading platforms of at least 100 square feet and one 20-foot deep service/delivery loading space.

§ 2204.9 stipulates that the service delivery space may not be shared with any other use. The applicant wishes to use the access lane for the space as an additional exit lane from the garage during hours when loading would be restricted and when parking would be at a peak.

To grant relief from the restriction the Board must find that the applicant meets the general special exception criteria of § 3104.1 and the particular criteria specified in § 2202:

2202.2 Within the Downtown Urban Renewal Area, the Board of Zoning Adjustment is hereby authorized in accordance with the conditions specified in § 3104 for special exceptions to reduce or eliminate the required amount of loading berths and service/delivery loading spaces and to approve the use of off-site loading facilities, including joint loading berths and service/delivery loading spaces; provided:

The property is within the boundaries of the Downtown Urban Renewal Area:

(a) Other adopted public law, policy, or municipal regulation require or recommend that the street not be broken with a curb cut and there is no other alternative access to the lot through a street or alley;

New York Avenue is a "special street" and an arterial. The District's transportation policies seek to minimize the presence of curb cuts on such streets. The *Masterplan Design Guidelines: Old Convention Center Site* call for I Street to be a primary shopping and pedestrian-oriented street; and the north-south alley connecting New York Avenue to I Street via the Central Plaza to be: "24' wide with vehicular access restricted to emergency vehicles and off-hour service and delivery vehicles" (Page 23). 9th Street is, therefore, the only street on which curb cuts could be permitted.

(b) The reduction, elimination, location, or consolidation would not adversely affect traffic conditions or use of other public space;

The ability to supplement the two lanes serving the parking garage during peak garage hours, by using the access lane serving the loading dock as an additional egress lane for the garage, would improve traffic flow and reduce impacts on the public space by reducing garage back-ups within that public space. The loading dock hours of operation would be restricted to enable this type of operation. The lack of negative impact has been demonstrated in the Wells and Associates traffic studies included in the applicant's August 27, 2009 and September 3, 2009 reports.

(c) There would be no adverse effects on adjacent properties or topography;

The loading dock and access lane would be entirely within the applicant's property. Its access point would be separated from other properties by I Street, New York Avenue or 9th Street, and would not be graded below the adjacent sidewalk level until the access lane is inside of the private property line;

(d) The Board may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting alleys, or any other requirement it deems necessary to protect adjacent or nearby property and promote the public health, safety and welfare;

Neither OP nor DDOT are recommending the Board impose any condition on an approval;

and, (e) Before taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

The application has been referred to the District Department of Transportation (DDOT).

VI. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT and the applicant have had extensive discussions about the curb cuts on 9th Street, and their width; the ability of loading and parking to be accomplished in traffic gaps created by existing traffic signals; and the ability of loading to be accomplished with a minimum number of turning movements. DDOT has reviewed the information in the applicant's August 27, 2009 submission to the Board, and in the September 3, 2009 submissions from the Gould Property Company and its Wells & Associates traffic consultants. The Department has filed no objections to the requested relief.

No other District agency comments have been received.

VII. COMMUNITY COMMENTS

ANC 2F voted unanimously on October 7, 2009 to support the requested relief, and anticipates submitting a letter of support to the Board

VIII. CONCLUSION AND RECOMMENDATION

The applicant has demonstrated that the requested relief fulfills the tests for granting the requested variances and meets the criteria for approval of the requested special exceptions. OP recommends the Board approve all of the requested relief.

JS/slc
Stephen Cochran, Project Manager