Preliminarily Statement Outlining How The Application Meets The Required Burden of Proof

The Applicant is seeking the following relief from the Board of Zoning Adjustment: special exceptions to construct a new residential development (§ 353) and for multiple buildings considered as a single building (§ 410.12) and variances from the floor area ratio (FAR requirements (§ 402.4) and the minimum lot area requirements (§ 401.5). The Applicant will establish through its Statement of the Applicant to be filed no fewer than fourteen days prior to the hearing on the subject application, as well as at the public hearing, that the subject application meets the burden of proof for the granting of the requested special exception and variance relief. A preliminary summary of how the application meets the required burden of proof follows.

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I. Special Exception for New Residential Development

The Applicant proposes to meet the criteria for new residential development as follows:

A. The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the number of students that can be expected to reside in the project. (§353.2)

The application will be referred to the D.C. Board of Education. There are existing D.C. public schools in the area, including Leckie Elementary and the rebuilt Patterson Elementary (currently under construction), both adjacent to the site.

B. The Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects. (§353.3)

The application will be referred to the D.C. Departments of Transportation and Housing and Community Development. The property fronts primarily on, Danbury Street, but it runs from Martin Luther King, Jr., Avenue on the west to South Capitol Street on the east, with South Capitol Terrace intersecting Danbury Street to the south. The entrances to the dwellings will front on the streets or on mews-like front courts. Access to parking will be from driveways off Danbury Street and, on the southern site, from a sixteen foot wide public alley. The buildings will occupy less than forty percent of the total site. All areas not devoted to the building or parking will be appropriately landscaped. Grading will meet all acceptable

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standards to prevent soil erosion. There will be passive open spaces provided on the subject site, there are playground areas at the two public school sites nearby and there are other park areas in the vicinity.

C. The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood. (§353.4)

See the comments on ¶B, above.

D. In addition to other filing requirements, the developer shall submit to the Board with the application, four (4) site plans and two (2) sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements. (§353.5)

All the required plans have been submitted.

II. Special Exception for Multiple Building considered as a single building

The Applicant proposes to meet the criteria for groups of row dwellings to be considered a single building as follows:

A. No rear or service entrances of the group shall abut a street, front yard or front court unless below the main floor. (§410.4)

The rear entrances to the dwellings are garage entrances on the first floor. None of those entrances abuts a street, front yard or front court.

B. No exterior stairway shall be constructed above the level of the joists of the main floor unless located entirely within the building area. (§410.5)

The dwellings are all constructed slab on grade, with the front and rear entrances located on the first floor. There are no exterior staircases.

C. The erection of the group of buildings shall not affect adversely the present character or future development of the neighborhood. (§410.12(b)

In all cases, the dwellings front on either a street or a front court, and vehicular access is provided by twenty foot wide driveways at the rear. The front courts and the driveways will be owned by a homeowners association, in which the owner of each dwelling will have a common undivided interest. There is a minimum

of twenty-five feet between walls of the dwellings with windows, more than the sixteen feet that would result from two eight foot side yards. The dwellings are two to three stories with a height not to exceed forty feet above the first floor. In all cases, the dwellings will be within the height permitted for the R-5-A District. In the immediate vicinity of the site, to the north and south of Danbury Street, most of the dwellings are single-family detached semi-detached and community houses. There are other apartment buildings, particularly west of Martin Luther King. Jr., Avenue and east of South Capitol Street. Converting the property from apartments to single family houses would not adversely affect the preset character and would have a positive effect on the future development of the area.

IV. Variance from the floor area ratio and minimum lot area provisions

In order to obtain approval of the requested variances, the Applicant must show that: 1) the subject property suffers from an extraordinary or exceptional condition; 2) strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty to the Applicant; and 3) 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. The Applicant proposes to meet its burden as follows:

A. Extraordinary or Exceptional Condition

The subject property is affected by a combination of conditions: (1) the existence of apartment houses built in the mid-1940's, in an area otherwise devoted to one-family dwellings; (2) an unusually proportioned site, long (almost 1,300 feet from east to west) and relatively shallow (100 feet at the west end and 150 feet at the east end) for its length; (3) the presence of a fifteen foot building restriction line along Danbury Street, which further limits the buildable depth of the site and which renders more than ten percent of the site unbuildable; and (4) the substantial change in grade up from east to west and a further change up from south to north.

B. Strict Application Would Result in a Practical Difficulty to the Owner

The R-5-A District permits a floor area ratio of 0.9. For the total site, this would allow 173,899 square feet of gross floor area. Pursuant to §402.5, parking areas within a building can be excluded from FAR if not more than fifty percent of the perimeter of the space is enclosed. The Applicant proposes to enclose the first floor parking areas as garages. Leaving the parking areas open would create difficulties for the unit owners, because vehicles would be exposed to the elements, the buildings themselves would be more difficult to insulate and weatherproof and the appearance of the project would be less visually satisfying.

The Applicant is further trying to develop new units, creating up to three bedrooms per unit, which would be priced consistent with the market in Far Southeast/Southwest. The Department of Housing and Community Development is working with the Applicant to try and reduce the price of a percentage of the units. Limiting the gross floor area or the number of units would compromise the Applicant's ability to meet the city's goals in this area.

C. No Detriment to the Public Good Nor Impairment to the Intent, Purpose and Integrity of the Zone Plan

Approval of the variances will cause no detriment to the public good. The number of units on the site will be reduced from the current 169 apartments to the proposed 119 row dwellings (a reduction of almost thirty percent). The new dwellings will be for sale, rather than for rent, consistent with planning goals and policies for the area. The dwellings will meet all other bulk and setback requirements, including lot occupancy, yards and courts.