

**Application of Georgetown Strategic Capital
14th and U Streets, NW**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The Subject Property includes Lots 70, 71, 73, 830 and 831 in Square 205. Square 205 is bounded by U Street on the north, 14th Street on the east, T Street on the south, and 15th Street on the west. The Subject Property is located in the eastern portion of Square 205 and is included in the ARTS/C-3-A and ARTS/CR zone districts.

The Applicant, Georgetown Strategic Capital, proposes to redevelop the Subject Property with a multiple dwelling residential building with ground level commercial uses. The Subject Property is in the Greater U Street Historic District. The site is occupied by several structures, and those structures that contribute to the historic district will be retained with the redevelopment. In order to proceed with the development, the Applicant seeks approval by the Board of Zoning Adjustment (hereinafter "Board") of: 1) variance relief from the height requirements (§770.1); 2) variance relief from the floor area ratio requirements (§771.2); 3) variance relief from the lot occupancy requirements (§772.1); 4) variance relief from the rear yard requirements (§774.1); 5) variance relief from the loading requirements (§2201.1); and 6) variance relief from the prohibition of driveways that provide access from a pedestrian street to required parking spaces or loading berths (§1903.2).

Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. In said Statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested variance relief. Following herein, as required by the Board's application process, is a statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning

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Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

(A) Exceptional Condition or Situation:

The Applicant will demonstrate that the Subject Property is irregularly shaped and narrow in width, having a frontage of approximately 169 feet along U Street and over 350 feet along 14th Street. The Subject Property is also occupied by several structures, including ones that contribute to the historic district. These buildings must be retained with any redevelopment and are located throughout the site. The Subject Property occupies a prominent space at the intersection of 14th and U Streets, a location that will benefit significantly from a high-quality residential and commercial development.

In addition, this project has been designed in the period after adoption but before implementation of the Inclusionary Zoning regulations. As the Inclusionary Zoning regulations as adopted will be applicable to residential projects of this size in these zones, the Applicant has followed the adopted regulations with regard to inclusion of affordable units and achievement of bonus density. Because the Inclusionary Zoning regulations have not yet been implemented, additional relief – including that for height, FAR, and lot occupancy – under the existing zoning is necessary.

(B) Resulting Practical Difficulty:

The Applicant will demonstrate that the strict interpretation of the Zoning Regulations will result in a practical difficulty upon the Applicant.

1. Building Height (§770.1)

Strict adherence to the Zoning Regulations would require a maximum height of 65 feet in the C-3-A zone or 75 feet under the ARTS overlay not to exceed 83.5 feet total with a roof structure and 90 feet in the CR zone. The proposed development will be constructed to a height of 75 feet in the C-3-A zone with a 12-foot roof structure – a total height of 87 feet – and 100 feet in the CR zone.

The proposed development incorporates affordable housing units pursuant to the regulations set forth by the recently adopted Inclusionary Zoning program. Although the Inclusionary Zoning regulations have not yet been implemented through rules adopted by the Mayor and the zoning provisions are thus not in effect, the Applicant has designed this project to incorporate the zoning modifications that the new regulations permit along

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with the provision of affordable units. Once the Inclusionary Zoning regulations are implemented, the Applicant will remove its request for relief with regard to building height since the proposed height would then be permitted as a matter of right.

The new regulations permit a maximum building height of 75 feet in the C-3-A zone with no additional restrictions on roof structure height and 100 feet in the CR zone. If the Applicant only built to a total height of a 65 feet in the C-3-A zone and 90 feet in the CR zone, affordable units would not be provided.

2. Floor Area Ratio (§771.2)

Strict adherence to the Zoning Regulations would require a maximum FAR of 4.5 in the C-3-A zone and 6 in the CR zone. The proposed development will have a density of 4.13 in the C-3-A zone and 6.54 in the CR zone.

The Inclusionary Zoning regulations permit up to 20 percent more gross floor area than that permitted as a matter of right. This would equate to a FAR of 5.4 in the C-3-A zone and 7.2 in the CR zone. As noted above, without this additional density affordable units would not be provided.

3. Lot Occupancy (§772.1)

Strict adherence to the Zoning Regulations would require a maximum lot occupancy of 75 percent in both zone districts. The proposed development has a lot occupancy of 61.6 percent in the C-3-A portion and 88.7 percent in the CR portion, with an overall lot occupancy of 79.6 percent.

The Inclusionary Zoning regulations permit a lot occupancy of 80 percent in both zone districts. The need to retain the structures that contribute to the historic district constrain the lot occupancy of the site. The lot occupancy of the site is further constrained by the ARTS overlay requirement to occupy at least 50 percent of the ground level of buildings that front on either 14th or U Streets with retail and services uses and arts and arts-related uses.

4. Rear Yard (§774.1)

The Zoning Regulations require a minimum rear yard of 15.6 feet in the C-3-A district and 25 feet in the CR district. The proposed development provides no rear yard.

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As the front of the building faces 14th Street, the rear of the building would be adjacent to Treto Way, the public alley on the west side. Setting the building back from this alley between 15.6 and 25 feet would severely constrain the project layout, eliminating not just interior space but also a large portion of the loading area. Even if this was possible, the existing Utopia Restaurant and Bar, one of the historically contributing structures, is located within what would be considered a rear yard. It is therefore not feasible to provide a rear yard within the existing development.

5. Loading (§2201.1)

The proposed development is required to provide two loading berths – one at 30 feet and one at 55 feet. The proposed development provides for two loading berths – one at 30 feet and one at 45 feet. In addition, the proposed development does not provide for the one required service delivery space.

As noted above, this site is significantly constrained by its size and the existence of historically significant structures. Access to the loading area will be from the adjacent public alley and only two loading berths can be accommodated, one 30 feet in length and one 45 feet in length. As shown on the attached plans, this is the maximum of what can be provided in a challenging configuration. Providing additional loading areas would impact the core of the building and/or the new retail space provided on either side of the residential lobby.

6. ARTS Prohibition of Driveways that Provide Access from a Pedestrian Street to Required Parking Spaces or Loading Berths (§1903.2)

Section 1903.2 of the Zoning Regulations prohibits driveways that provide access from a pedestrian street to required parking spaces or loading berths from either 14th or U Street.

The proposed development includes a ramp to the parking garage that is accessed from 14th Street. Fourteenth Street, U Street, and the public alley to the west are the only points of access to the site. Given the regulation, the only acceptable access to the garage would be from the public alley, an option that is not desirable. Accessing the garage from the alley would be a highly circuitous and indirect process that would rely on alleys that narrow to only 15 feet to both U and T Streets. The applicant is continuing to work with DDOT on this issue.

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(C) No Harm to Public Good or Zone Plan:

The Applicant will demonstrate that requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. With respect to the public good, the redevelopment of this site will further enhance the community while providing residential and retail uses. The project provides affordable housing units under the adopted Inclusionary Zoning regulations – a substantial benefit to the surrounding neighborhood and city.

The integrity of the Zoning Regulations will be maintained as follows:

1. Building Height (§770.1)

The building height will meet the maximum permitted heights set forth in the Inclusionary Zoning regulations. As noted above, the additional height will permit the provision of affordable housing units.

2. Floor Area Ratio (§771.2)

The floor area ratio will meet the maximum permitted densities set forth in the Inclusionary Zoning regulations. As above, the additional density will permit the provision of affordable housing units.

3. Lot Occupancy (§772.1)

The lot occupancy of the proposed development is significantly under the maximum lot occupancy permitted in the C-3-A zone district under both matter of right zoning and the Inclusionary Zoning regulations. The total lot occupancy for the proposed development – 79.6 percent – meets the requirement for lot occupancy set forth in the Inclusionary Zoning regulations.

4. Rear Yard (§774.1)

The rear yard would be provided along the alley to the west of the development. The 30-foot wide alley itself will provide an adequate separation between the proposed development and the properties to its west.

5. Loading (§2201.1)

The two loading berths included in the proposed development will provide adequate loading for the residential and retail uses. Deliveries may be staggered so that the service/delivery functions can use the space provided for the loading berths.

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6. ARTS Prohibition of Driveways that Provide Access from a Pedestrian Street to Required Parking Spaces or Loading Berths (§1903.2)

The curb cut on 14th Street is positioned so as to present as minimal disruption as possible with regard to traffic and turning conflicts. The site includes over 350 feet along its 14th Street frontage, and the curb cut is located approximately 330 feet away from the intersection with U Street. Furthermore, there is an existing curb cut in approximately the same location as that proposed which has operated for many years.

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