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January 5, 2012

VIA HAND DELIVERY

Meredith Moldenhauer, Chairperson
D C Board of Zoning Adjustment
441 4th Street, N.W.
Second Floor
Washington, D C 20001

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18289
EXHIBIT NO. 38

**Re: EQR-EYE Street, LLC – BZA Application No. 18289 for 443 – 459 I
Street, NW – Square 516, Lots 812 – 815 and 876 (the “Property”) –
Post-Hearing Submission**

Dear Chairperson Moldenhauer and Members of the Board

On behalf of EQR-EYE Street, LLC (the “**Applicant**”), the applicant in BZA Case No. 18289, this letter is intended to provide further information on the Applicant’s community involvement and the post-hearing submissions requested by the Board

I. Applicant’s Community Involvement

The project proposed by this Application is based on a similar project that was initially proposed in 2006. The prior developer of the Property, Walnut Street Development (“**Walnut Street**”) obtained concept approval from the Historic Preservation Review Board (“**HPRB**”) for the initial project in HPA Order No. 06-064 (“**HPRB Order**”) on March 23, 2006. The Applicant then purchased the Property and made minor changes to the originally-proposed plan. The plans have always required BZA relief.

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In order to extend the approval of the HPRB Order, members of the Applicant's development team returned to the HPRB and Historic Preservation Office ("HPO") in early 2011. The Applicant's development team also presented the project to the ANC 6C's Planning, Zoning and Environment ("PZE") Committee on March 2, 2011 and the entire ANC 6C on March 9, 2011. At such meetings, the community reviewed the project and both the PZE and the full ANC voted unanimously to support the extension of the HPRB Order. At the time of those meetings, the Applicant's development team also announced that the development team would be returning to the ANC to present the BZA case later in 2011. The HPRB Order was extended by the HPRB on March 24, 2011 for a period of two (2) years.¹

The Applicant presented the BZA application and project plans to ANC 6C's PZE Committee on November 2, 2011 and the entire ANC on November 9, 2011. The Applicant's BZA application received unanimous support at both steps of the ANC 6C review. As required, the Applicant worked with the ANC that has jurisdiction over the Property, ANC 6C. The ANC 6C letter of support is to be given great weight.

As a courtesy, the Applicant also presented the project to ANC 2C on October 5, 2011 and the Mount Vernon Square Neighborhood Association ("MVSNA") on November 15, 2011. Since the Property is not located within ANC 2C's jurisdiction, the ANC did not take an official position. Since the MVSNA meeting on November 15, 2011 was not an official meeting, the MVSNA also did not take an official position. The

¹ Subsequently, the Applicant met with the Office of Planning, which was supportive of the project.

Applicant has also been in contact with the Mount Vernon Square Business Improvement District. All such groups have been supportive of the project.

Throughout these community meetings no one expressed opposition to the project or contacted the Applicant. The most common concern of the members of these community groups was that the project would not begin expeditiously.

II. Applicant's Communications with Tenants and Users of Property

Similarly, the Applicant team has been in consistent contact with the tenants of the Property, all of which are non-residential entities. The Applicant has informed the tenants that the proposed project, similar to the project proposed in 2006, will require the termination of the tenancies at the Property. The renovation and construction on the Property would require that the tenants vacate the premises for at least two (2) years. All tenants at the Property have been under month-to-month tenancies under such advisement. Throughout such communication, the tenants and other users of the Property did not express opposition to this Application.

At the December 13, 2011 hearing, two (2) musicians, Aaron Martin and Luke Stewart, testified in opposition to the application because they would lose practice space if the project proceeds. Since the hearing, the Applicant team has been in communication with Mr. Martin and Mr. Stewart. The Applicant has worked with these musicians to locate alternative practice and performance space. Letters of support from Mr. Martin and Mr. Stewart are attached as Exhibit A.

Attached as Exhibit B, please find letters from Cycletopia and Michael Abrams (d/b/a "Gold Leaf Studios") – tenants on the Property. Applicant is working with Cycletopia and Mr. Abrams on their relocation from the Property.

The three (3) other tenants at the Property listed on Tab 8 of the Applicant's application packet, Kimberly Mahia Stenerson, Modern Day, and Menz Corporation, have all moved out of the Property or are in the process of doing so and will be out of the Property by the end of January 2012

III. Submission of 2006 HPO Staff Reports

At the hearing, the Board requested that the Applicant file additional documentation relating to the historic approvals received at the Property. The HPO recommendations that were adopted by the HPRB in the HPRB Order are attached as Exhibit C. As described above, the Applicant's project is based upon the same design that was approved under the HPRB Order. Such prior design, showing a similar closed courtyard configuration behind the two historic rowhouses, is attached as Exhibit D.

As detailed in the application statement and during the hearing at the BZA, the historic preservation review process resulted in the restoration of the historically-contributing portions of the Property, namely the majority of the two rowhouses and the entirety of the two-story garage. These elements were to be incorporated into the new project on the Property. As recommended by the HPO, the core of the new construction is set back from the front of the historic buildings and "ample space" is created where possible – such as in the courtyard space.

Specifically, the HPO recommendation from the February 2, 2006 HPRB meeting, states that "The proposal is successful in disposing the basic mass of the building so that the maximum amount of open space is retained around the most important and most delicate historic structures, namely the two rowhouses and the blacksmith's shop." That report continues "The architects have responded directly to the

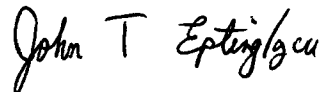
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Board's initial comments by pushing the new construction as far back to the alley as possible . stepping back from the west side of the rowhouses so that their mansard roofs remain free-standing ” After revisions to the original Walnut Street plans, the HPO recommendation from the February 23, 2006 HPRB meeting states that “The large mass is disposed so that the maximum amount of open space is retained around the Second Empire rowhouses and the blacksmith's shop ”

IV. Conclusion

We appreciate the opportunity to complete the record We believe that the Project will be beneficial to the Mount Vernon Triangle and the District and ask for your approval. If you have any questions, please do not hesitate to contact John at (202) 721-1108 or Jeff at (202) 721-1132 Thank you for your attention to this application

Sincerely yours,

Handwritten signature of John T. Epting in black ink.

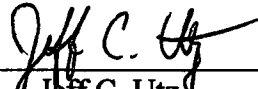
John T. Epting

Handwritten signature of Jeff C. Utz in black ink.

Jeff C. Utz

Certificate of Service

I certify that on January 5, 2012, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below



Jeff C. Utz

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