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2099 Pennsylvania Avenue, N.W., Suite 100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.3556
Holland & Knight LLP | www.hklaw.com

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Am

Christine Moseley Shiker
202.457.7167
christine.shiker@hklaw.com

March 20, 2012

VIA HAND DELIVERY

D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: Board of Zoning Adjustment Application 18330 (2337 Champlain Street, NW)
Prehearing Submission

Dear Members of the Board:

On behalf of FCP Champlain, LLC, enclosed please find an unbound original and twenty copies of the prehearing submission in support of the above-referenced application for special exception and variance relief.

Should you have any questions regarding this matter, please do not hesitate to have staff contact me.

Sincerely,

HOLLAND & KNIGHT LLP



Christine Moseley Shiker

Enclosures

cc: Maxine Brown Roberts, Office of Planning
Advisory Neighborhood Commission 1C

(Via Hand Delivery; w/enclosure)
(Via US Mail; w/enclosure)

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18330

EXHIBIT NO. 30

Board of Zoning Adjustment
District of Columbia
CASE NO.18330
EXHIBIT NO.30

March 20, 2012

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bcc: Charlie Kehler, Altus Realty Partners (Via UPS Overnight; w/enclosure)
Jeff Goins, PGN Architects (Via UPS Overnight; w/enclosure)
Steven E. Sher, Director of Zoning and Land Use Services (w/enc)

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**BEFORE THE BOARD
OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

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**APPLICATION OF THE
FCP CHAMPLAIN, LLC
2337 CHAMPLAIN STREET, NW**

**BZA APPLICATION NO. 18330
HEARING DATE: APRIL 3, 2012
ANC 1C**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the FCP Champlain, LLC (the "Applicant") in support of its application to the Board of Zoning Adjustment for the following special exception and variance relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3103.2 and 3104.1: (i) a special exception to increase the maximum permitted height from 40 feet to 48 feet, 9 inches in the Reed-Cooke ("RC") Overlay District pursuant to Section 1403 of the Zoning Regulations; and (2) a variance from Section 402.4 of the Zoning Regulations to increase the permitted FAR by 0.25 FAR (or 3,463 square feet of gross floor area). The requested relief will permit the construction of a residential building at 2337 Champlain Street, N.W., (Lot 887, Square 2563) (the "Site"), as shown on the attached Exhibit A. The proposed development is appropriate for the Site, fully compatible with the surrounding area, and not inconsistent with both the Comprehensive Plan and the Zoning Regulations.

**II.
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the variance and special exception relief requested herein pursuant to Sections 3103 and 3104 of the District of Columbia Municipal Regulations ("Zoning Regulations"). 11 DCMR §§ 3103 and 3104.

III. **BACKGROUND**

A. Description of the Site

The Site is located at Lot 887 in Square 2563. Square 2563 is bounded by Euclid Avenue to the north, Champlain Street to the west, Kalorama Road to the south, and Ontario Road to the east. The Site is located on the east side of Champlain Street in the central portion of the square and abuts a north-south alley to the east that has a width ranging from 11 to 13 feet as it abuts the site, but generally being approximately 15 feet. The Site is zoned R-5-B and is located within the RC Overlay District. The Site is currently used as a parking lot.

B. Description of Surrounding Area

The Site is located in the heart of the Reed-Cooke/Adams Morgan area, which contains a wide variety of uses, including residential, retail, commercial and industrial. Champlain Street has seen much redevelopment for residential use over the last twenty years, and the Site is the last ground up development project on Champlain Street. The property directly to the south of the Site is the Brass Knob building, which has been approved by the Board of Zoning Adjustment ("BZA") for residential development with a maximum height of 50 feet and maximum FAR of 2.64 (BZA Case No. 18167/17431-B). Further to the south is a residential building that was constructed following approval by the BZA in BZA Case No. 16931 for a maximum height of 50 feet and FAR of 2.75. Immediately to the north of the Site is a residential building that was built as a matter of right, is zoned R-5-B and is outside the RC Overlay District.

The R-5 Districts are designed to permit flexibility for all types of urban residential developments along with those institutional and semi-public buildings that are compatible with adjoining residential uses. The R-5-B District permits developments of a moderate height and

density. The primary purpose of the RC Overlay District is designed to protect existing housing and provide for new housing development. 11 DCMR § 1400.2(a)(1).

The Future Land Use Map of the Comprehensive Plan designates the Site and generally the east side of Champlain Street from Euclid Street to Kalorama for Moderate Density Residential, as shown on the attached Exhibit B. The west side of Champlain Street is designated Mixed Use for Moderate Density Residential and Low Density Commercial. The east side of Champlain Street and the area generally surrounding the Site is zoned R-5-B, with some properties included in RC Overlay District and some properties, including the property immediately to the north of the Site and immediately across the street from the Site, excluded from the RC Overlay District. Across the street, the properties are zoned C-2-B, again with some properties included in the RC Overlay and others excluded. A copy of the Zoning Map showing the boundaries of the RC Overlay is attached as Exhibit C.

C. Project Description

The Applicant proposes to replace the existing surface parking lot with a new residential building ("Residential Building"). The Residential Building is positioned mid-block, bound by Champlain Street and a public alley with existing buildings on the north and south sides. The Residential Building has been designed to a maximum height of 48 feet, 9 inches and a maximum FAR of 2.41, both as further discussed below. Access to the partially below-grade parking is from the alley to the east.

The layout of the Residential Building has been broken into two bars separated by a private courtyard, with the bar adjacent to Champlain Street having a double-loaded corridor and the bar adjacent to the alley having a single-loaded corridor. The separate bars are connected by a bridge on each level. The courtyard design allows for maximum light and air for the proposed

forty units. The courtyard incorporates both hardscape and softly shaped green spaces, allowing for outdoor, gathering spaces for the residents.

The Residential Building's façade on Champlain Street is composed of two interlocking sliding planes of concrete panels and glass. The concrete panel plane slides past the glass plane creating depth and clear delineation of the two opposing materials. The projecting concrete panel plane will be accented by punched window openings allowing for a dramatic visual effect of the glass continuing behind the heavy concrete plane.

The overall design will be similar to the Brass Knob in materials and similar in height. The design intent was to continue the continuity of Champlain Street's mass and materiality. The Residential Building is setback off the property line allowing for pedestrian friendly experience but also aligning with the Erie building to the north and similar with the Brass Knob to the south. The design will have masonry-like materials and panels, which is in keeping with the materials for both abutting buildings.

The Residential Building is subject to Inclusionary Zoning. As such, Section 2603.1 requires the Residential Building to devote the greater of 10% of the gross floor area devoted to residential use or 75% of the bonus density utilized for inclusionary units¹. Based on this requirement, the Residential Building will include a total of 3,740 square feet devoted to affordable housing, with approximately 1,870 square feet of affordable housing for low income households and approximately 1,870 square feet of gross floor area of affordable housing for moderate income households.

¹ This analysis assumes that the primary method of construction does not employ steel and concrete frame structure for the Residential Building. If steel and concrete frame structure was used, the Inclusionary Zoning requirements set forth in Section 2603.2 would apply.

IV.
THE APPLICANT MEETS THE TEST FOR
SPECIAL EXCEPTION RELIEF TO PERMIT ADDITIONAL HEIGHT IN THE RC
OVERLAY DISTRICT PURSUANT TO 11 DCMR § 1403

A. Description of Special Exception Relief Requested

The RC Overlay District permits the Board to grant a special exception from the requirements set forth in Chapter 14 subject to the criteria set forth in Section 1403.1(a) through 1403.1(g). Although the R-5-B District permits a maximum height of 50 feet, the RC Overlay District restricts the maximum height to 40 feet. In order to fulfill the stated objectives of the RC Overlay and to create a building that is appropriate for the neighborhood, the Applicant requests a special exception to permit a maximum height of 48 feet, 9 inches as permitted in Section 1403 of the Zoning Regulations.

B. Standard for Approving Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

C. Standard of Review for Additional Height in the RC Overlay District

Section 1403 provides that a special exception from the RC provisions shall be permitted if approved by the Board of Zoning Adjustment, subject to the following criteria:

§ 1403.1(a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the RC Overlay District.

Section 1400.2 of the Zoning Regulations states that the purposes of the RC Overlay District include the following:

- Protection of current housing in the area and the provision for the development of new housing
- Maintenance of heights and densities at appropriate levels.
- Protect adjacent and nearby residents from damaging traffic, parking, environmental, social, and aesthetic impacts.

The requested increase in height furthers these goals. The Residential Building provides new housing at an ideal location, near new and existing residential uses. The removal of the parking lot and the increase in the number of residential units in the neighborhood will further improve the surrounding area. In fact, the Site is the final site on the southern half of Champlain Street to seek entitlement approval for development of residential uses, consistent with the RC Overlay District.

Furthermore, the height of the project will be compatible with the surrounding area, being appropriate to both buildings immediately adjacent on the north and south sides as well as the overall area. Since filing the application, the Applicant has lowered the height over two feet in order to be virtually identical in height to the project to the north. With this reduction, the Residential Building will now be only 5 inches above the top of the parapet for the adjacent building to the north and within 11 inches of the roof of the proposed Brass Knob building to the south. As can be seen on Sheet A1.1 of the Plans, the Residential Building is an appropriate structure designed to fit the context of the street and complete the urban, residential development along the east side of Champlain Street.

Finally, the Residential Building will protect nearby residences from adverse impacts by converting the existing parking facility to an attractive residential development. As noted further below, the parking is sufficient and there will be no adverse impacts to the transportation systems.

§ 1403.1(b) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition.

The existing parking facility is currently accessed by a curb cut from Champlain Street. This existing curb cut will be removed. The Residential Building will provide all access from the existing north-south alley abutting the east boundary of the Site. The location of this access is consistent with the District Department of Transportation's ("DDOT") policies for access and will result in an enhanced and superior streetscape. Similarly, the Applicant has designed a building that is set back in some places as much as 4 feet from the property line in order to provide a wider pedestrian way in front of the building.

In addition, the location of the parking spaces and access to the same will minimize conflicts with pedestrian traffic and will create no dangerous or otherwise objectionable traffic condition. In its report dated March 5, 2012, and in the official record at Exhibit 26, DDOT stated that it has no objection to the relief requested because it "sees no potential adverse impacts on the transportation network as a result" of the application.

§ 1403.1(c) Adequate off-street parking shall be provided for employees, trucks, and other service vehicles.

Parking will be provided in compliance with the Zoning Regulations. The Residential Building includes 40 residential units. In the R-5-B District, parking is required at a rate of one space for every two dwelling units. In accordance with zoning, the Residential Building includes 11 parking spaces and one van parking space in a partially below-grade parking structure and 9

spaces in the rear yard, all accessed from rear alley. According to the DDOT report, the proposed parking is an acceptable ratio. In addition, given the small size of the proposed residential building, no loading facilities will be required.

§ 1403.1(d) If located within a C-2-B District, the use shall not be within twenty-five feet of a Residence District, unless separated by a street or alley.

Because the Site is zoned RC/R-5-B, this criteria is not applicable.

§ 1403.1(e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences.

The Residential Building incorporates only residential uses. Therefore, there will be no noise associated with the operation of the residential use which would adversely affect adjacent or nearby residences.

§ 1403.1(f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted.

The Residential Building does not propose any outdoor storage of materials nor outdoor processing, fabricating or repair.

§ 1403.1(g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working or visiting in the area.

The Residential Building provides an important development of new residential units in a well-designed building for this residential area. This Project will not adversely affect adjacent or nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working or visiting the area. The Residential Building replaces an existing surface parking lot that accommodates more than 50 cars each night during the weekend. Thus, the Residential Building will serve to eliminate that additional traffic and replace it with a new building designed to match the scale and use of adjacent and nearby developments.

The proposed increase in height over that permitted by the RC Overlay District is consistent with the height of the neighboring buildings to the south, which both received special exception approval from the BZA for additional height, as well as the building across the street, which was approved with additional height by the Zoning Commission. The Residential Building is also consistent with the building immediately to the north, for which the difference in height is now only five inches based on the changes made to the application. The penthouse is set back approximately 18 feet from the north lot line and over 13 feet from the south lot line. Because the Residential Building sits on the lot line, no setback is required. However, the Applicant has set the low-scale penthouse - which is only 8 feet above the parapet - as far as possible from each adjacent building. The architecture of the Residential Building allows light and air to the adjacent buildings and in no way will adversely impact those adjacent buildings. Furthermore, the Residential Building includes an appropriate amount of parking for its residents and therefore will not adversely impact the parking availability in this area.

Finally, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring properties. The Residential Building provides for sensitive in-fill development in a location appropriate for residential use. It furthers the stated objectives of the RC Overlay District and will serve to benefit the area.

V.
THE APPLICANT MEETS THE TEST FOR
VARIANCE RELIEF TO REDUCE THE PARKING REQUIRED PURSUANT TO 11
DMCR § 2101.1 AND TO INCREASE THE PERMITTED FLOOR AREA RATIO
PURSUANT TO 11 DCMR § 531.1

A. Standards for Granting Area Variances

Under D.C. Code §6-641.07(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is unusual because of its size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, the Site and development of the Residential Building with the variance requested meet all three prongs of this test.

B. Exceptional Conditions or Situations

The Site is affected by several exceptional conditions due to its unique shape and size. First, the Site is very deep. The depth of approximately 130 feet creates significant challenges for creating residential units given the light and air required for the units and the need for certain dimensions to create either a single or double-loaded corridor. Second, the Site is irregular in shape. Specifically, the Site's property line shifts to the south, creating an extended piece along the alley, and resulting in complexities relating to access to the partially below-grade space.

Similarly, the Site slightly bends at its center along Champlain Street, which creates a pinched dimension at the rear of the building

Third, the topography of the Site creates a further challenge and constraint. Specifically, the Site has significant slope, generally rising from south to north. This slope creates a high point at the northeast corner (near the alley) and a low point at the southwest corner (at Champlain Street) and has a difference of more than 9 feet. At the same, the Site slopes along both the alley and Champlain Street facades. Along the alley façade, the elevation changes by almost 2.5 feet, while the elevation change almost 4.75 feet along Champlain Street. All of these conditions create a practical difficulty for the strict application of the FAR requirements.

C. Variance from FAR Requirement of Section

Section 402.4 of the Zoning Regulations limits development on the Site to 1.8 FAR. The RC Overlay District does not provide for additional density for preferred uses stated therein. With the use of bonus density from Inclusionary Zoning, the Site may include up to 2.16 FAR. The Applicant proposes to develop the Project with 2.41 FAR, which is only 0.25 FAR greater than permitted.

To maintain a pedestrian friendly streetscape in keeping with the goals of the RC Overlay and to provide access in accordance with the policies of DDOT, the Applicant is providing access to the parking facility from the alley; however, this access point creates a challenge for the Residential Building. Specifically, a garage entry would normally be located at the low point of the lot allowing for ease of entry and construction. However, the unique topography and irregular shape of the lot requires the garage entry to be located at the highest point of the Site (i.e., at the northeast corner of the Site). In order to provide access and comply with code requirements, the overall structure of the Residential Building therefore must be raised

approximately five feet because there is insufficient travel distance for the ramp to be able to get under the building at grade and for the garage to be entirely accommodated below-grade. This results in the underground parking facility being partially above-grade and partially counted within FAR. The raised structure also results in a raised first level for development at the rear of the Site that otherwise would not be counted as FAR.

Moreover, the Applicant has placed three residential units at the street wall at grade along Champlain Street and pushed the parking away from the street, which is in keeping with accepted urban design principals and the goals of the RC Overlay District. Similarly, given the narrow public space and the goals for an activated and walkable community, the entire Residential Building has been set back from the property line up to four feet to create a wider, more appropriate pedestrian walkway.

Neither the parking area or the portion of the first level of development at the rear of the building would be included in FAR if access could be taken from the street similar to the building to the north or from the southeast corner of the development from the alley (i.e., the low end of the Site), similar to the approved development to the south. This amount of FAR is 3,182 square feet of gross floor area, which is almost identical to the requested FAR variance of 3,463 square feet of gross floor area. It should be noted that this additional gross floor area does not provide any additional residential units than that which could have been provided within the permitted FAR if the practical difficulties associated with the Site and access did not exist.

The confluence of all these factors results in a slight increase of 0.25 FAR (or 3,463 square feet). Thus, the Applicant must request relief to account for that extra FAR necessary to accommodate the requisite code parking, maintain design excellence and compliance with the RC Overlay goals.

The FAR variance can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The project will maximize residential uses of the Site, as encouraged by the RC Overlay District. See 11 DCMR Â§ 1400.2(a)(1) ". . . provide for the development of new housing . . . " Furthermore, the RC Overlay District requires that adjacent and nearby residences are protected from damaging traffic, parking, environmental, social and aesthetic impacts. The development of this project will improve the aesthetics of this area. The streetscape is activated and widened. In addition, the additional gross floor area associated with the variance increases the overall amount of gross floor area being provided for low and moderate income affordable housing. Accordingly, there will be no detrimental impact on the public or on the Zone Plan.

VI. COMMUNITY SUPPORT

The Applicant presented the project to the Advisory Neighborhood Commission 1C ("ANC 1C") multiple times, including to the Planning Zoning and Transportation subcommittee on November 5, 2011, and February 15, 2012, and to the full ANC at its meetings on December 7, 2011, and March 7, 2012. At its regularly-scheduled public meeting on March 7, 2012, at which a quorum was present, ANC 1C voted 4-1-1 to support the application. A copy of that letter is attached as Exhibit D.

VII. EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

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|-------------------|---|
| <u>Exhibit A:</u> | A portion of the Zoning Map showing the Site; |
| <u>Exhibit B:</u> | Generalized Land Use Plan and Interpretive Legend; |
| <u>Exhibit C:</u> | A portion of the Zoning Map showing the boundaries of the RC Overlay; |
| <u>Exhibit D:</u> | Letter of Support from Advisory Neighborhood Commission 1C; |

- Exhibit E: Outline of Testimony of Charlie Kehler, representative of FCP Champlain, LLC.;
- Exhibit F: Outline of Testimony and Resume of Jeff Goins, PGN Architects;
- Exhibit G: Outline of Testimony and Resume for Steven E. Sher, Land Planner; and
- Exhibit H: Updated Architectural Plans and Drawings for the Residential Building.

VIII.
WITNESSES

- A. Charlie Kehler, representative of FCP Champlain, LLC
- B. Jeff Goins, PGN Architects
- C. Steven E. Sher, Land Planner

IX.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for special exception and variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: Christy Shiker
Christine Moseley Shiker, Esq.

2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000