

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application of FCP Champlain, LLC
2337 Champlain Street, NW

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The subject property consists of Lot 887 in Square 2563 (the "Site"). 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 in the central portion of the square and abuts a north-south alley that has a width of approximately 15 feet as it abuts the eastern boundary of the Site. The Site is zoned R-5-B and is located within the Reed Cooke ("RC") Overlay District. The Site is currently used as a parking lot.

The Site is located in the heart of the Reed-Cooke/Adams Morgan area. This area contains a wide variety of uses, including residential, retail, commercial and industrial. Champlain Street has seen much redevelopment for residential use. 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 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. Because this property is outside the RC Overlay District, it has a permitted height of 50 feet and was constructed to approximately 48 feet.

In keeping with the adjacent developments, the Applicant seeks to construct a residential building on the Site. The project will consist of 40 residential units, with a partial underground parking garage. In order to proceed with the proposed development, the Applicant is seeking a special exception to increase the maximum permitted height from 40 feet to 50 feet in accordance with Section 1403 and a variance from the floor area ratio requirements of Section 402.4.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than fourteen days prior to the public hearing for the present application. In this 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 and special exception relief.

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Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

II. Burden of Proof - Special Exception

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. The Applicant requests a special exception as permitted in Section 1403 to permit a height of 50 feet and meets the standard as follows:

A. The Use, Building, or Feature at the Size, Intensity, and Location Proposed Will Substantially Advance the Stated Purposes of the Reed-Cooke Overlay District.

Section 1400.2 of the Zoning Regulations states that the purposes of the Overlay District include the protection of current housing in the area and the provision for the development of new housing as well as the maintenance of heights and densities at appropriate levels. The requested increase in height furthers these goals. The Project 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. 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.

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. The new project will provide all access from the existing north-south alley abutting the east boundary of the Site. This location will minimize conflicts with pedestrian traffic and will create no dangerous or otherwise objectionable traffic condition. In addition, the location of this access is consistent with the District Department of Transportation's ("DDOT") policies for access.

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. In addition, given the small size of the proposed residential building, no loading facilities will be required.

- D. If Located Within a C-2-B Zone, 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.

- E. Noise Associated with the Operation of a Proposed Use Will Not Adversely Affect Adjacent or Nearby Residences.

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

- F. No Outdoor Storage of Materials, nor Outdoor Processing, Fabricating, or Repair Shall Be Permitted.

The Project does not propose any outdoor of materials nor outdoor processing, fabricating or repair.

- 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 Project 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. In fact, serves only to benefit the area, while furthering the stated goals for this area.

III. Burden of Proof - Variances

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 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 Site is very deep and irregular in shape. The topography of the Site creates a further challenge and constraint. Specifically, it has significant slope, generally rising from south to north. This unique slope creates a high point at the

northeast corner (near the alley) and a low point at the southwest corner (at Champlain Street).

(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. Specifically, the Site may be developed with a maximum of 1.8 FAR devoted to permitted uses. 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 providing 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 project. 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 building therefore must be raised. This results in the underground parking facility being partially above-grade and 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, in order to activate the street wall of the proposed building at grade along Champlain Street, in keeping with accepted urban design principals and the goals of the RC Overlay District, it is necessary to push the parking away from the street. This activation is accomplished by placing three dwelling units along Champlain Street. The confluence of all these factors results in a slight increase in FAR. 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.

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

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 § 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 and continue the positive trend of residential development in this area, including for the provision of approximately 1,870 square

feet of affordable housing for low income households and approximately 1,870 square feet of affordable housing for moderate income households.