BZA CASE NO. 18375
FLORIDA AVENUE RESIDENTIAL, LLC
APPLICANT'S SUPPLEMENTAL STATEMENT ON
PRACTICAL DIFFICULTIES IN MEETING LOT OCCUPANCY REQUIREMENTS

1. WMATA: The presence of the WMATA tunnels beneath the site imposes both design and cost constraints on the development.

   a. *Design implications:* the shallow depth of the WMATA tunnels, as well as the need to use a mat slab foundation versus the traditional spread footings, limits the ability to put service elements, including loading facilities, in below grade space. That results in significantly more ground floor space being devoted to building-function space and less room for the most valuable retail/services uses required or promoted by the ARTS Overlay. As noted in the Applicant's Prehearing Statement dated June 26, 2012, the widening of the sidewalk at Florida Avenue also reduces the amount of ground floor retail space. The irregularly shaped lot also restricts use of the ground floor. The amount of valuable retail square footage lost is approximately 3,200 square feet. HPRB design constraints have also limited the placement of square footage on the site. In order to recoup the loss of valuable retail space, the Applicant is increasing the square footage on floors 2-4 to 90 % and to 82.6% on the fifth floor. This results in an increase of approximately 4,500 square feet of residential space, which is less valuable and only helps make up for a portion of the lost revenue. Retail space in this neighborhood is expected to command rental rates of approximately $4.00/sf per month, while residential rates generate approximately $2.24/sf per month. That represents a net loss of approximately $2,700/month, even with the increase in lot occupancy. The rate of return for residential units would be even lower if the Applicant were required to comply with the 80% lot occupancy limit, because the unit mix and layout would likely command lower rents.

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   b. *Cost implications:* This "re-balancing" of square footage is critical for the project's success given the additional construction costs imposed by WMATA constraints. As previously noted, there is a 150% premium for the specialty construction methods and materials required by WMATA. The rebalancing of the square footage from the ground floor to the upper floors, with a commensurate increase in lot occupancy, helps sustain the minimum return of 20% on costs demanded by investors. Here, if the Applicant were required to meet the 80% lot occupancy on the upper floors, the project would generate a return of less than 14%, which makes the project unviable for investors and financiers.

2. Inefficient and Reduced Unit Count: If the Applicant were required to meet the 80% lot occupancy requirement, it would result in inefficient layouts and a reduced unit count, in contravention of the District's housing goals and inclusionary zoning (IZ) regulations. In order to maintain a continuous building wall along the street frontages, the only place to accommodate open areas on the lot is at the rear of the building. However, by narrowing

the 8th Street bar portion of the building, eight of the one-bedroom units on a typical floor would need to be converted to studio apartments, and the overall number of units would need to be reduced. In order to minimize the number of lost units to only five, the project would require a 90% increase in studios (from 20 to 38); a 27% decrease in one bedroom units (from 59 to 43); and a 58% decrease in two-bedroom units (from 12 to 5). The ability to house families, as well as individuals, would be dramatically reduced. Additionally, the elevator core would need to be shifted to the west, which would negatively affect the garage layout and result in inefficient and wasted retail space on the ground floor.

3. *Lot Occupancy Relief Consistent with other BZA Decisions:* The BZA has granted lot occupancy relief for other similar projects. For example, in BZA Case No. 17850, the Board recognized that the street design requirements of section 1903.3, together with the loss of development resulting from the preservation of historic buildings, made compliance with the lot occupancy impractical. The Board noted that

> [c]ompliance with the 75-percent lot occupancy maximum on the second and third floors would require a decrease of approximately 500 square feet of floor area per floor on the second through seventh floors of the building (or 3,000 square feet), resulting in a decrease of approximately four dwelling units and jeopardizing the financial feasibility of the project. Strict compliance with the Zoning Regulations would require the Applicant to construct a smaller addition that would jeopardize the Applicants ability to pursue the redevelopment project.

BZA Order No. 17850 (April 1, 2009) at 10.

Similarly, this project's compliance with the 80 percent lot occupancy maximum on the second, third, fourth and fifth floors would require a decrease in approximately 4,500 square feet, resulting in approximately five fewer units or conversion of 24 one-bedroom units to studios. This reduction would jeopardize the financial feasibility of the project. *See, also,* BZA Order No. 17831 (Georgetown Strategic Partners), November 5, 2008 (granting relief from the lot occupancy requirements due to practical difficulties with historic preservation constraints and site configuration).

4. *Conclusion:* Together with the arguments already advanced in the Applicant's prehearing statement, these practical difficulties support relief from the lot occupancy requirement.