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November 20, 2012

VIA HAND DELIVERY

District of Columbia Board of Zoning Adjustment
441 4th Street, N W
Suite 210S
Washington, DC 20001

Re Application No 18453 - Prehearing Statement of the Applicant
1728 14th Street, N W (Square 207, Lot 120)

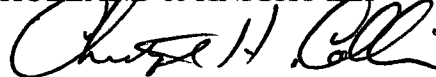
Dear Members of the Board

On behalf of 1728 14th Street, the Applicant in the above-referenced case, enclosed please find one original and twenty copies of the Applicant's prehearing submission in support of its application for zoning relief requested for the above-referenced property

We look forward to the Board's consideration of this application at the hearing on December 4, 2012

Very truly yours,

HOLLAND & KNIGHT LLP



Christopher H Collins

CHC/lis
Enclosures

cc Steve Mordfin, Office of Planning (w/encl , by messenger)
Lewis Booker, DDOT (w/encl , by messenger)
Matt Raymond, Advisory Neighborhood Commission 2F (w/encl., by U.S. Mail)

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18453
EXHIBIT NO. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.18453
EXHIBIT NO.25

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

**APPLICATION OF CLARK
ASSOCIATES, LLC, ON BEHALF
OF PERSEUS REALTY, LLC**

**BZA APPLICATION NO. 18453
HEARING DATE: DECEMBER 4, 2012
ANC 2F**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This Statement is submitted on behalf of 1728 14th Street, LLC¹ pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, and the loading berth, loading platform, and service delivery loading space requirements under subsection 2201.1, to allow the construction of a mixed use retail/service/office building in the ARTS/C-3-A District at premises 1728 14th Street, N.W. (Square 207, Lot 120)

Subsequent to the date that this application was filed and public notice was issued, the Applicant has determined to extend the elevator above the top story to serve a roof top deck above the fourth floor, which is described further below and in the attached drawings. Because the elevator penthouse will be attached to the stairway enclosure to the roof, which in turn will be attached to a roof top machinery enclosure (if necessary), all of these elements would need to be of the same height pursuant to Section 411.5 of the Zoning Regulations. Although that could be done as a matter of right, the Applicant respectfully requests an amendment to the Application, to add a special exception from the roof structure enclosure height requirements under § 770.6 and, by incorporation, the roof structure provisions of § 411.5 and 3104, to allow

¹ Since the time that this Application was filed, Clark Associates has relinquished its ownership interest in the property. Perseus Realty, the contract purchaser at the time of the BZA Application, transferred the contract to 1728 14th Street, LLC and is the managing member of that entity. Thus, the sole Applicant in this case is now 1728 14th Street, LLC.

the stairway enclosure and the roof top machinery enclosure to be of a lower height than the elevator penthouse

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

The property is zoned ARTS/C-3-A and is identified as Lot 120 in Square 207 (formerly Lots 72, 73 and 74) (the "Property") The Property is also located in the Greater 14th Street Historic District The Property fronts on the west side of 14th Street, NW, between R and S Streets The Property is rectangular in shape and measures 60 06 ft wide by 140 20 ft. deep, with 8422 sq. ft. of land area There is a 20 foot wide public alley in the rear

The Property is improved with a two-story warehouse building (the "Building") The Building contains approximately 9027 sq. ft. of gross floor area (1 07 FAR) and was built as a matter of right in the mid-1980's when the Property was zoned C-M-3 The Building has a flat unarticulated red brick façade, with very little fenestration, and replaced three 20-ft wide commercial row structures which are believed to have been destroyed in the 1968 riots The Building has been deemed to not contribute to the character of the historic district

The Property is flanked on the north by a three-story brick building with a two-story brick carriage house in the rear, and on the south by a two-story building which spans the entire depth of the property Both flanking buildings date back to the late 1800's/early 1900's. The existing north side wall of the Building directly abuts the side wall of the building to the north

Most all of the south wall of the Building is a common party wall serving both the Building and the neighboring building to the south. The remainder of the buildings in the immediate area of this block of 14th Street are two and three story historic buildings, and they contribute to the character of the historic district.

A Description of Project

The proposed building (the "New Building") is a four-story neighborhood retail and office building, which incorporates the former two-story warehouse. The existing brick street façade of the Building will be removed and a new façade along with 2 upper floors will be constructed as shown on the plans. The Applicant intends to retain the existing north and south side walls and the rear wall and the vertical steel structural column grid of the Building and to add two stories. Four surface parking spaces (including one handicapped parking space), and one 30 ft. deep loading berth (with a 100 sq. ft. loading platform) will be provided at the rear of the New Building.

The proposed design establishes an artfully composed masonry and composite panel skin contributing to its established commercial context. The front façade, formally composed and classically proportioned akin to its limestone and masonry 20's automotive era context, responds to both the two-story and three-story residential townhouses in the immediate vicinity that were previously converted to commercial use. At its center, a playful lattice of aluminum frames and glass establishes this as a building of its time and place and announces its commercial uses. The lattice is composed of two main vertical elements rhythmically marking the former lot lines of the three townhouses lost in the 1968 riots. Horizontally composed metal and glass spandrels "weave" their way through the façade and further relate the building to its modified context. The retail entries are placed within the center bay while the office entry is located at the left side of

the façade The plans indicate an option to add a second retail entrance on the right side as necessary, which would balance the office entry on the left side.

The Uptown Arts Overlay regulations provide for certain bonus density based upon the type of use in the building At this point, the Applicant does not know what type of "preferred" ground floor use from the list in Sections 1907 and 1908 of the Uptown Arts Overlay regulations will be located in the New Building, but the Applicant is targeting lease discussions with those uses listed in both Sections 1904 2(b) and (c). The amount of bonus density permitted in the New Building will depend upon the proposed use, which will be identified prior to construction.

The maximum permitted density in the ARTS/C-3-A zone is 4.5, utilizing bonus density. The maximum permitted height is 75 ft , with a maximum roof structure height of 83 5 ft above the measuring point of the building The three alternative matter of right density tenant scenarios for the New Building, as further explained on Sheet 2A of the drawings, are as follows

Scheme 1--3 0 FAR and 59 ft in height

- Ground floor---Section 1904 2(c)-6,506 sq ft of any Section 1907 or 1908 use.
- 18,760 sq. ft. of office use on floors 2, 3 and 4 Partial 4th floor footprint
- 25,350 sq ft of total gross floor area
- 11 retail/service parking spaces and 28 office parking spaces are required.
- One 30 ft deep loading berth and one 100 sq ft. loading platform are required

Scheme 2--3.42 FAR and 59 ft in height

- Ground floor---6,506 sq. ft of restaurant (or any other use listed in Section 1904 2(b))
- 22,260 sq. ft of office use on floors 2, 3 and 4. Full fourth floor footprint.
- 28,766 sq ft of total gross floor area
- (Section 1904 2(b) use on ground floor would generate a maximum permitted density of 4 03 FAR)
- 11 retail/service parking spaces and 34 office parking spaces are required
- Two 30 ft deep loading berths, two 100 sq. ft platforms, and one 20 ft service/delivery loading space are required

Scheme 3--3 42 FAR and 59 ft in height

- Ground floor and second floor---Section 1904.2(c)-13,595 sq ft. of any Section 1907 or 1908 use
- 15,171 sq ft of office use on floors 3 and 4. Full fourth floor footprint
- 28,766 sq. ft. of total gross floor area.
- (Section 1904.2(c) use on floors 1 and 2 would generate a maximum permitted density of 4 25 FAR)
- 34 retail/service parking spaces and 22 office parking spaces are required
- One 30 ft. deep loading berth and one 100 sq ft loading platform are required.

B Description of Required Zoning Relief

As summarized above and below, and as shown in more detail on Sheet 2A of the drawings, a variance from the number of parking spaces is required under all of the three Schemes listed above. A variance from the office loading requirement is required under Scheme 2 above. In addition, special exception relief is required pursuant to Section 411 11, in order to allow the stairway enclosure and rooftop machinery enclosure to be built to a lower height than the elevator penthouse.

IV.

THE APPLICANT MEETS THE TEST FOR VARIANCE RELIEF

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 variances requested meet all three prongs of this test

B The Property is affected by an exceptional situation or condition

There are a number of exceptional situations or conditions affecting this property, including the side and rear walls of the Building, which are directly adjacent to the fragile abutting historic buildings to the north and south and which will remain in the New Building, the existence and location of the interior structural steel column grid, which will be retained as much as possible, and the size, dimensions and physical constraints of the Property Moreover, this site is unlike any other in the vicinity, in that it is the largest single lot along 14th Street in the square, and is improved with the lowest-density building on that block (1.07 FAR) It is the only lot on that block with a non-contributing building that is ripe for redevelopment. Because the Building is non-contributing, and was built after May 12, 1958, the provisions of Sections 2100 7 and 2120 of the Zoning Regulations do not apply Thus, any redevelopment of the site, or any addition to the existing building, will require that both parking and loading be provided to the full extent in accordance with the Schedule of Parking and the Schedule of Loading.

C The strict application of the zoning regulations will impose a practical difficulty

The strict application of the Zoning Regulations would require between 39 and 56 parking spaces, depending upon the development scheme chosen, and a maximum of two 30 ft loading berths, two 100 sq ft loading platforms, and one 20 ft deep service/delivery loading space (but only for Scheme 2) The proposal is to include four surface parking spaces, one 30 ft.

loading berth and 100 sq. ft. loading platform in the rear of the New Building. It would be practically difficult to include any parking and loading in the New Building beyond that which is currently proposed at grade, at the rear of the New Building.

The Property is a non-contributing building that is located within the Greater 14th Street Historic District. The building is 60 ft. wide and contains only 1.07 FAR. The immediate context of the historic neighborhood, and the immediate neighboring buildings on both sides, are 20 ft. wide two-story buildings, interspersed with several 20 ft. wide three-story buildings. Although the overlay zoning regulations would allow a building with a height up to 75 ft. tall, the Historic Preservation Office ("HPO") design guidelines would not allow a building of that height. The HPO guidelines provide that new buildings are to be proportional to their neighbors. The proposed façade of the New Building was designed to relate to the adjacent two and three story townhouse structures to the north and south, with a fourth floor that is treated as an attic story. These proportions are a classic treatment shared with many of the original automotive and industrial buildings along 14th Street. Adding additional stories above the fourth floor would render the building out of context with its neighbors and create an almost insurmountable challenge to a grant of HPRB approval for the project. In fact, at least one prior development proposal for the site, at a height of greater than four stories, was rejected by the HPO.

As a result of these historic preservation restrictions, it is not possible to replace this historically insignificant and unattractive building with a new building that utilizes the permitted height and density provided in the A/C-3-A zone. Redevelopment of the site with a building of a lower height and density to address these restrictions affects the economics of the project, which is financially feasible only if development costs are minimized and as much of the existing structure is kept as is possible. In this case, the foundation, the footings, the existing side and

rear walls, and the existing structural steel column grid, are all structurally sound and are planned to be retained and incorporated into the project. This approach is also consistent with accepted principles of sustainability.

The existing foundation, structural footings and vertical steel structural column grid of the Building were designed and constructed in the 1980's without regard to any consideration for parking within the Building. The central column line of the Building is east/west, in the middle of the building, and the two flanking column lines to the north and south of the center column line were spaced and set back from the adjacent side walls of the two historic buildings to the north and south, so that the side walls of those two buildings would not need to be underpinned or otherwise structurally supported or disturbed. It is evident that this was purposefully done, in order to keep the vertical structural elements away from the fragile side walls of the adjacent historic buildings. As a result, the existing grid pattern and location of the structural footings and vertical columns does not have either the right location or the amount of spacing necessary to retrofit a parking garage in the building, even assuming that this could be physically done. The Applicant is proposing a minimally-sized cellar level for the required building utilities and building storage at the front of the New Building. The existing vertical columns that are above this small cellar will be supported by new load-bearing walls, sitting on a new foundation at the floor of the cellar level. A small portion of the cellar will necessarily abut the south party wall. Otherwise, the Applicant proposes to keep as much of the New Building foundation away from the abutting buildings as possible, so as to minimize any disturbance of those neighboring historic buildings.² This approach will of necessity preclude the ability to excavate a complete

² The Applicant has had a recent experience with construction involving adjacent historic buildings in this same neighborhood, which points to the importance of this approach for the New Building. Several blocks north at 14th and W Streets, NW in Square 234, the Applicant is constructing a mixed-use residential/retail building that includes the Anthony Bowen YMCA, and also incorporates several historic townhouse buildings facing 14th Street.

lower level in order to create below grade on-site parking. Even if the structural footings and foundation and vertical structural columns were removed in order to provide a more modern and appropriately-spaced and located 20 ft by 20 ft structural grid pattern for a garage, a building on the Property would still likely be limited to four floors for historic preservation purposes. However, the ability to reuse the existing side and rear walls and foundation, structural footings and vertical columns is what makes the project financially feasible.

Furthermore, assuming that the complete removal of the existing building and replacement with a new four story structure was financially feasible and would not threaten the continued existence of the flanking historic buildings, it would still be difficult to include an adequate functioning parking garage in the project. Such construction would require extensive underpinning and structural support of the adjacent existing historic structures on the north and south sides of the site. These buildings are fragile, and would require extensive and expensive measures in order to retain their structural integrity (See footnote 2)

The lot measures 60.06 ft wide. A maximum of two 12 ft wide, 30 ft. deep berths and one 10 ft wide, 20 ft deep service/delivery loading space (for Scheme 2) would consume a minimum of 34 ft of the lot width at the rear of the building. A two-way parking access driveway to/from a below-grade garage would consume at least another 14 ft of width, leaving at most 12 ft of width for rear egress from the building, and a trash receptacle area. If only one 12 ft wide loading berth was required, (for Schemes 1 and 3) then two 9 ft wide parking spaces

Despite extensive efforts to underpin and shore up the vacant historic townhouse buildings during construction, several of the townhouse walls collapsed during construction due to the fragile nature of those historic buildings. In that case, the townhouse buildings were vacant and were owned by the Applicant. For this project, however, the adjacent historic townhouse buildings are occupied. Such work would involve increased risk and increased expense to shore up and underpin those walls. For this reason, the Applicant is proposing to minimize the amount of construction directly adjacent to the abutting buildings.

would theoretically be provided on the surface, with a minimum 14 ft wide two-way driveway³ and at most 16 ft left for rear building egress and a trash receptacle area. The remaining required parking spaces would need to be located in a garage.

Assuming for discussion purposes that the removal of the entire structure and replacement with a four story building was financially feasible, and would not threaten the continued existence of the flanking historic buildings, the minimum required width of a garage is 59 ft, in order to provide the required 20 ft wide drive aisle around the perimeter of the garage, spiraling down to multiple garage levels, with a single row of 19 ft long parking spaces in the middle. The lot is just over 60 ft. wide, and a portion of the party wall on the south encroaches 0.4 ft. into the site. Therefore, given the 140 ft depth of the lot, a garage that covers the entire lot would be required to have four levels in order to accommodate 37 spaces, and five and one-half levels to accommodate 54 spaces. However, the location of the building core (which would need to be extended into the garage), would need to be shifted to the center of the building, in order to not interfere with the drive aisle around the perimeter of the garage. This would result in the loss of additional spaces in the center parking aisle, with a corresponding increase in the number of required parking levels to accommodate the amount of required parking.

The New Building is set back about 19 ft, 2 in from the rear lot line. Assuming that the garage ramp would begin at the property line, a substantial amount of the ground floor space in the building would be lost in order to accommodate the ceiling height of the ramp to the garage. The portion of the first floor above the minimum 14 ft. wide garage ramp would need to be recessed approximately 55 ft from the rear lot line, resulting in a loss of at least 500 sq ft of ground floor retail space. The relocation of the building core to the center of the building would

³ Twenty feet of width would be necessary for adequate two-way vehicle passage in and out of the garage

result in a less efficient floor plan on floors one through four and the loss of significant tenant space in the building. Such excavation and construction of a parking garage would also add to the economic infeasibility of the project.

D Relief can be granted without substantial detriment to the public good and without substantially impairing the intent, or integrity of the zoning regulations.

As further explained in the attached Wells & Associates report, the requested parking variance is appropriate and would not create adverse impacts. The building footprint and tenant spaces in the building are small, and will not likely attract a "destination retail" tenant. Rather, the tenant will most likely be a neighborhood-oriented retail or service use, and this is the Applicant's intended target market. Likewise, the upper level office space of between 15,000 and 22,500 sq. ft. will most likely attract one or two neighborhood-oriented tenants. The property is located within 2060 ft. of the U Street/Cardozo Metrorail station. The property has a walk score of 98% and a transit score of 90% on walkscore.com, with 50 bus routes and the U Street/Cardozo Metrorail Station in close proximity. There are bikeshare stations at 14th and U, 14th and R Streets, N.W., and 15th and P Streets, N.W. There is also a Zipcar facility at 14th and Corcoran Streets, N.W.⁴ Moreover, the peak parking demand time for the office and retail/service uses coincide with the availability of on-street and off-street parking in the area. The Applicant will also implement a TDM program to encourage alternative modes of travel to the building, including designation of a Transportation Management Coordinator who will be responsible for disseminating information to office and retail tenants regarding alternate modes of transportation in the area. The Applicant is also providing storage space for 10 bicycles within the building, whereas only two to three bicycle spaces are required (depending upon the development scheme chosen).

⁴ This site is slated for redevelopment, and the Applicant understands that Zipcar intends to relocate these spaces to one or more other locations in the vicinity.

The office loading variance is also appropriate, and will not create any adverse impacts. The loading berth requirement of one 30-foot deep berth and one 20-foot deep service delivery loading space is required for office uses in the C-3-A zone of between 20,000 sq. ft. and 50,000 sq. ft. There is no office loading variance necessary under Schemes 1 and 3. Under Scheme 2, the proposed office use is just over the minimum threshold requirement, at 22,295 sq. ft. The same loading requirement would apply to an office use that was more than twice that size. The Applicant will institute TDM measures to schedule deliveries, in order to avoid an overlap of demand for the loading berth. The Applicant expects that the 30 ft. berth that is provided in the project will be sufficient to be shared by the retail/service use and the office use in this small building.

V.
THE APPLICANT MEETS THE TEST FOR
SPECIAL EXCEPTION RELIEF FOR A ROOF STRUCTURE

A. Full Compliance with Section 411.5 of the Roof Structure Requirements Would Be Unreasonable

In the original plans for this BZA application, no roof structure special exception relief was required. The original plans show only a stairway to the roof over the fourth floor. The elevator did not extend up to the fourth floor roof level in those plans. The rooftop HVAC machinery is all anticipated to be less than four feet in height above the parapet wall.⁵

Subsequent to the filing of this Application and issuance of public notice, the Applicant determined to add a roof terrace to the roof above the fourth floor. That elevator is shown on the plans filed herewith. The elevator is adjacent to the Stairway 1 enclosure, which in turn will be

⁵ If the installed height of the HVAC equipment on the fourth floor roof will be four feet or greater above the height of the parapet on any of the three schemes, then the HVAC machinery will be placed within a roof structure enclosure that equals the height of the Stairway 1 enclosure, and will be connected to the Stairway 1 enclosure, and will meet or exceed the setback requirement. The installed height of the HVAC equipment on the third floor roof in Scheme 1 will in all cases be less than four feet in height above the parapet wall, and thus no screen wall is required, per Section 411.17.

attached to the roof structure enclosure (if necessary - see footnote 5) The height and location of the elevator penthouse, the stair way enclosure, and the roof structure enclosure are permitted as a matter of right

However, the elevator enclosure will be higher than the originally-planned height of the stairway enclosure which will require a special exception under Section 411 11 of the Zoning Regulations, to allow a roof structure enclosure with unequal heights The elevator penthouse will be 14 33 ft higher than the adjacent roof, and the stairway enclosure will be 9.66 ft higher than the adjacent roof. In order to provide only one roof top enclosure per Section 411 3, the elevator penthouse, stairway enclosure, and the roof structure screen wall enclosure (if required) will all be connected Raising the stairway enclosure and roof structure screen wall an additional 4.66 ft in order to match the height of the elevator penthouse would still allow the stairway enclosure and the screen wall to meet the set back requirement, but would be unreasonable in this instance The stairway is as tall as it needs to be Raising the height of the stairway enclosure and screen wall enclosure (if required) to match the height of the elevator penthouse can be done as a matter of right, but would only serve to add additional apparent mass and bulk to the rooftop, and would be unreasonable

B The Intent and Purpose of the Zoning Regulations Will Not Be Materially Impaired By The Roof Structure, And The Light And Air of Adjacent Buildings Will Not Be Affected Adversely

Construction of these rooftop elements as proposed will be consistent with the intent and purpose of the Zoning Regulations, which is to consolidate all rooftop elements within one enclosure and to minimize the apparent bulk of the rooftop elements Moreover, the proposed configuration will actually have less of an impact on light and air of adjacent buildings than

would be the case if the stairway enclosure and roof structure screen wall were raised to match the height of the elevator penthouse

For the same reasons, pursuant to Section 3104.1, the lower height of the proposed stairway enclosure and roof structure screen wall enclosure (if required) will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps

VI. COMMUNITY SUPPORT

Representatives of the Applicant have met on a number of occasions with ANC 2F to discuss the zoning and historic preservation aspects of the project. The record in this case includes an ANC resolution of support for this application

VII. EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

<u>Exhibit A</u>	Portions of the Baist Atlas and Sanborn Atlas Maps showing the Site;
<u>Exhibit B</u>	A portion of the Zoning Map showing the Site,
<u>Exhibit C</u>	HPRB Staff report in support of project,
<u>Exhibit D</u>	Transportation Impact Statement from Wells & Associates;
<u>Exhibit E</u>	Outline of Testimony and Resume of William Bonstra, FAIA;
<u>Exhibit F</u>	Outline of Testimony and Resume of Jami Milanovich, Wells & Associates,
<u>Exhibit G</u>	Updated Photos, Architectural Plans and Drawings for the project

VIII. WITNESSES

A William Bonstra, FAIA, Principal, Bonstra/Haresign Architects

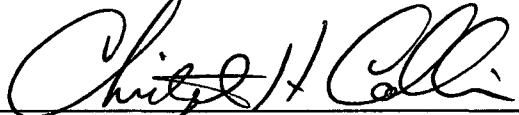
- B Jamı Milanovich, Principal Associate, Wells & Associates, Traffic Consultant for the project

IX.
CONCLUSION

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

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By. 

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