

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

Statement of N.W. 1800 I St Associates LP
ANC 2B06

BZA Application No.
Hearing Date:

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STATEMENT OF THE APPLICANT

This is the statement of N.W. 1800 I St Associates LP, in connection with Eastbanc, the contract purchaser of the property ("**Applicant**"), for variance relief to accommodate renovations to an existing office building that will make the building compliant with building, fire/life safety and ADA accessibility codes. This application pertains to the office building located at 1800 Eye Street, NW (Square 105, Lot 847) ("**Property**"). The Property is improved with a seven-story office building including two levels of retail ("**Building**") and is located in the C-4 Zone District. The Building was constructed in 1915 and consists of approximately 23,435 square feet of gross floor area ("GFA"). The Applicant is proposing a major interior renovation to reposition the Property into a Class A office and retail building. Renovation work will entail a complete replacement of all building systems, a relocation/consolidation of the Building's core elements and extensive structural modifications to every floor. This work will not only yield more functional and efficient office and retail space, but will rectify important building code, fire/life safety and ADA accessibility issues that negatively impact the Building. In order to realize these improvements the Applicant is requesting a modest floor area ratio ("**FAR**") variance from Section 771 of the Zoning Regulations.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (the "**BZA**" or the "**Board**") approve variance relief pursuant to Section 3103.1 from the FAR requirements for an office building under Sections 771.2 and 771.5.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Section 3103.1 of the Zoning Regulations (11 DCMR §§ 3103.1).

III. BACKGROUND AND PROJECT DESCRIPTION

The Applicant in this case is 1800 I St Associates LP, the owner of the Property. Eastbanc is the contract purchaser of the Property and is proposing a major interior renovation to re-position the Building for Class A office and retail use.

The building was constructed in 1915 as a residential building. It was subsequently converted to a commercial office building with retail on the first two floors. Because the building originally functioned as an apartment house, the existing floor plans are extremely inefficient and dysfunctional. Their small, irregularly shaped configuration in conjunction with an antiquated core and structural design impose significant limitations on the Applicant's ability to create efficient, modern office space.

The Building's retail space is challenged with a split level design configuration whereby half the space is partially below grade and half is above grade. Consequently, the retail spaces are not accessible to those with disabilities and, given their detachment from the sidewalk, are not very visible or inviting to pedestrians on the sidewalk.

To correct these problems Applicant will completely re-build the retail space by constructing a new primary floor at grade level with 14 foot ceiling heights and large storefronts to enhance the Building's corner presence. Simultaneously with this work, a new cellar level will be excavated beneath the new ground floor to be available as for either retail or "back office" use. This work will not only dramatically improve the quality of retail space but also will

afford the Applicant the opportunity to construct an office addition on the existing roof level (through a reduction in GFA from eliminating the basement level). This rooftop office and terrace space will be an important feature and amenity to the project in helping attract future Class A office tenants.

In addition to these improvements, which are permitted as a matter of right, the Applicant will replace all the building systems and core elements to fix non-code compliant building, fire/life-safety and ADA accessibility issues. A key feature of the plan entails relocating and consolidating the core elements to infill the rear courtyard of the Property. Walled-in by neighboring properties decades ago, this non-code compliant courtyard still remains as a second means of egress for the Building's existing exterior fire escape. Under Applicant's plan, this exterior fire escape and courtyard would be replaced by new code compliant fire stairs and elevators that would offer direct fire/life-safety egress to 18th Street. Beyond improving life/safety, the other advantage to relocating the core is how it improves the efficiency and functionality of the floorplans. Programming requirements under current building codes enlarge the effective footprint of the core by 50%, a material amount space given the Building's small, irregularly shaped floors. This challenge is increased further by having to work around an antiquated structural design that relies largely on the perimeter walls, elevator and fireplace shafts for both vertical and lateral support. Taken together, these code and structural constraints impose significant limitations on re-planning the existing Property for Class A office and retail use. Applicant's plan arranges the core elements along the perimeter of the rear courtyard. This creates an efficient core layout and provides a more open, functional floor plan for both office

and retail use. However, infilling the courtyard space will result in an increase in gross floor area beyond what would otherwise be permitted on the Property.¹

IV. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located in the southwest corner of 18th and I Streets, NW in Central DC. The Building is located across the street from the Farragut West Metrorail Station and is in the C-4 Zone District. The Assessment and Taxation lot consists of 3,482 square feet of land area. It shares a record lot with the buildings lining 18th Street and Pennsylvania Avenue in Square 105; accordingly, it technically has frontage on Pennsylvania Avenue and is permitted a maximum height of 130 feet and a maximum FAR of 10.0 (as calculated in combination with the other structures on the record lot). The neighborhood is primarily comprised of office buildings with ground floor retail. 1800 I Street is a Class C office and retail building which is a cumulative result of its age, condition and irregular floor configuration. As discussed above and in the memorandum attached as Exhibit C, the existing floorplate is neither efficient nor functional enough for modern office and retail use. Moreover, the Building is non-compliant with current building, fire/life-safety and ADA codes. The proposed plan put forth by Applicant fixes these problems in a complete way that is sensible and beneficial to the future of the Property, its occupants and commercial neighborhood.

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¹ The building is a part of a single record lot along with lots 843-846. Although the Building does not exceed the density permitted on lot 847, it does exceed the amount of density permitted on the record lot pursuant to an allocation of density agreement entered into by the property owners. Accordingly, the Applicant requires BZA relief in order to construct any additional density on the record lot.

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V. THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF

The Applicant is seeking relief from the maximum FAR requirements of Sections 771.2 and 771.5. It is proposing to increase the gross floor area on the Property by 3,074 square feet for a total building density of 26,509 square feet of gross floor area, or an FAR of 7.61. The burden of proof for an area variance relief is well established. The Applicant must demonstrate that the property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). As outlined below, the Applicant shall demonstrate that the Property meets the three-part test for area variance relief.

A. The Property is affected by an Exceptional Situation or Condition

The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. In Monaco, the Court accepted the past zoning history of the property as evidence of uniqueness, as well as its location in relation to the Capitol. Specifically, the Court held “[t]he site’s proximity to the Capitol made it uniquely valuable to the Republican National Committee, a public service organization. The previously constructed buildings and the contiguous subject site can be considered together in applying the test especially because the past acts of the zoning authorities led interveners to rely in good faith on their eventual consent to the final stage of the building.

This case, like *DeAzcarate*, illustrates that extraordinary circumstances can encompass the past zoning history, as well as the physical features, of the property.” *Id.* at 1099-1100.

Furthermore, the Court of Appeals held in *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors.” *Id.* Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood

Here, the Property is unique because it is improved with an existing building that was originally constructed nearly 100 years ago as a residential building. The existing floor plan is constrained by its small, irregular configuration and antiquated structural design that relies heavily on perimeter and interior walls as well as elevator and fireplace shafts to provide vertical and lateral support. These structural constraints, in conjunction with a non code-compliant core layout, create an inefficient and dysfunctional floorplan for modern office standards. To improve efficiency and functionality, the Applicant will be gutting the Building’s interior and rear exterior structure, and constructing new core and structural elements. As explained in more detail below, this will also require the relocation and consolidation of the core elements of the Building.

The former residential nature of the Building also uniquely burdens the Property with low quality, split-level retail space. The existing first floor is a half level below-grade and the second floor is a half level above-grade; no retail entrance is located at-grade, so the Property does not have a good street presence, visibility and access from a retail perspective. To transform the

quality of retail space, the Applicant is building a new retail floor located at-grade level with 14-foot ceiling heights and large open storefronts.

Besides renovating the retail space, Applicant will correct innumerable latent deficiencies, many of which date back to when the Building was constructed. The Building does not meet current building, fire/life safety and ADA accessibility codes. To achieve full compliance, with efficient and functional floor plates, requires relocating and consolidating the core elements to the rear courtyard of the Property. Not doing this, and being constrained by the existing small, irregularly sized floorplates, would result in a disproportionate loss of interior space and make the floors inefficient and dysfunctional for both office and retail use.

B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty

The requested relief is for an area variance, and the appropriate test is whether the strict application of the zoning regulations results in a “practical difficulty.” In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. Board of Zoning Adjustment, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1365 (D.C. 1992) (citing Gilmartin v. Bd. of Zoning Adj., 579 A.2d 1164, 1167 (D.C. 1990)). Finally, it is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ Increased expense and inconvenience to applicant for a variance are among the factors for BZA's consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of

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Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171.

Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible. The Applicant meets this standard. As discussed above, relocating the core building elements allows Applicant to address non-compliant building, fire/life safety and ADA accessibility issues. Each of these conditions arise from the fact that the Building is almost 100 years old, is non-code compliant and has small, irregularly shaped floors. The Applicant is proposing to make the Building fully code compliant, and resolve its inherent spatial and functional deficiencies, by relocating the core elements to the rear courtyard of the Property. Making these extensive improvements increases the FAR of the Property by just over 3,000 square feet. Absent such FAR relief, it is difficult and not practical for Applicant to address these concerns within the confines of the density permitted on the record lot. If the core elements were planned within the existing building (not utilizing the courtyard), the core would subsume a disproportionate amount of the existing floor plan. The remaining usable space would lack the requisite depth for retail and office use, thereby undermining Applicant’s ability to attract Class A tenants.

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C. Relief Can Be Granted without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

The requested variance relief can be granted without impairing the intent, purpose and integrity of the Zone Plan. The increase in gross floor area is modest and it is being proposed for a use that promotes the public good and is consistent with the integrity of the zone plan – improving building accessibility, space functionality, and addressing life-safety concerns.

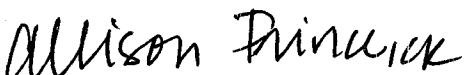
VIII. EXHIBITS

1. EXHIBIT A Architectural Plans including Surveyor's Plat of Property and Photographs of Property
2. EXHIBIT B Application Form, Self-Certification and Agent Authorization
3. EXHIBIT C Memorandum Outlining Existing Conditions and Proposed Changes
4. EXHIBIT D Excerpt of Zoning Map
5. EXHIBIT E Property Owner List

X. CONCLUSION

For all of the above reasons, the Applicant is entitled to the requested variance relief in this case.

Respectfully submitted,


Allison C. Prince


Christine A. Roddy

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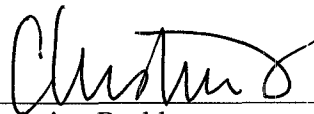
Certificate of Service

I hereby certify that I sent a copy of the foregoing document to the following addresses on October ____, 2012 by first class mail:

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