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DONOHUE & STEARNS, PLC

July 15, 2013

Mr. Lloyd Jordan, Chair
D.C. Board of Zoning Adjustment
441 4th Street, NW
Suite 200S
Washington, DC 20001

Re: Pre-Hearing Statement for Community Three Development, LLC
BZA Case No. 18596

Chair Jordan:

Pursuant to §3113.8, on behalf of my client and the Applicant in the above-referenced case, I am submitting the following items as Community Three Development, LLC's pre-hearing submission:

1. Outline of Testimony (Attached)
2. Revised Statement of Justification (Attached)
3. Pre-Hearing Statement (Included below)
4. Floor Plan (2nd Floor) & Floor Plan (3,4, & 5) (Attached)
5. Alley Window Configuration (Attached)

Pre-Hearing Statement

The purpose of this statement is to reaffirm and clarify the statements contained in Community Three Development, LLC's ("Community Three's") Application for a Variance (the "Application"). Community Three is applying for a variance from the lot occupancy requirements of §772.1, the rear yard requirements of §774.1, the off-street parking requirements of §2101.1 and the size of parking spaces requirements of §2115.2 and §2115.4 for a property located in the Arts/C-3-A District at 2200-2202 14th Street and 1405 W Street, NW.

Community Three intends to construct a new 18-unit mixed use building where there is currently a vacant lot and two-story commercial structure. The new building's design is influenced by the surrounding architecture which combines new midrise structures and smaller low-rise traditional buildings. The proposed design incorporates massing and character elements of the surrounding neighborhood while remaining sensitive to its impact on the contributing historic structure on the premises. Community Three believes that it has achieved a sensitive mixed-use development that

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18596
EXHIBIT NO. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.18596
EXHIBIT NO.25

will contribute to both the economic and aesthetic revitalization of this part of the U Street neighborhood.

The Revised Statement of Justification (attached) contains additional explanation regarding the existing historic structure's impact on the design and requested variance relief. Specifically, the lot occupancy requirements of §772.1 which, with the inclusionary zoning modification, limit the permitted lot occupancy to 80%. The 12.5% increase in lot occupancy does not apply to the overall structure, but rather only to the amount needed on the structure's second floor. Floors three through five require an increase of only 4.5%. *See attached Floor Plans.* The presence of the contributing historic structure on the parcel and the setbacks required therefrom yield a maximum lot occupancy achievable without variance relief of 67.5%. The incorporation of the necessary design elements of corridors, stairwells and elevator shafts would limit the residential space on the upper floors of the structure to such a great degree as to make the project economically infeasible.

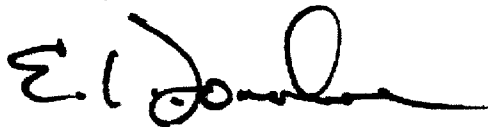
Second, while Community Three is requesting a variance from §774.1's rear yard setback requirement of 13.5 feet to nine feet, it has taken a series of measures to insure that the reduction will not negatively impact the residents in the building across the public alley. As shown in the attached *Alley Window Configuration*, the windows on the façade of the building facing the alley have been aligned so as not to look directly into those of the residential units across the public alley. This was the solution agreed upon by the residents of the adjacent building when Community Three took its design to them for their consideration.

On March 18, 2013, Community Three brought its proposal before ANC 1B's Design Review Committee which recommended that ANC 1B support the proposal. On April 4, 2013, ANC 1B voted unanimously to support Community Three's requests for variance relief. On March 19, 2013, Community Three presented its design to The Meridian Hill Neighborhood Association which subsequently voted unanimously to support the proposal noting the Applicant's involvement of the Association itself, but also its consultations with a group of individual citizens to insure that the design addressed the concerns of those living in the neighborhood. Finally, on April 4, 2013, the Historic Preservation Review Board voted five to zero that the proposed design was compatible with the Greater U Street Historic District.

In accordance with §§3113.14 and 3113.15, the property was posted with notice of the hearing on June 12, 2013.

Community Three looks forward to presenting its Application to the Board on Tuesday, July 31, 2013. Should you have any other questions, or would like more information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "E. L. Donohue", with a stylized flourish at the end.

Edward L. Donohue

Community Three Development, LLC – Variance Application – Outline of Testimony
BZA Case No. 18596

Site

2200-2202 14th St. & 1405 W St., NW Washington, DC 20009
Square 202, Lots 828, 827 & 33
4,800 SF
ARTS/ C-3-A Overlay Zone
Greater U Street Historic District & Arts Overlay Zone

Proposed

18-unit mixed use building
Bordered by W St. – south, 14th St. – east, 10' wide alley – west, 3-story commercial building/ lot – north
22,500 total SF – 2,225 SF on ground floor for retail

Relevant Zoning Ordinance Provisions

- 66' in overall height (maximum allowed for the C-3-A District per §740.5 of the Zoning Regulations is 65 feet, however, § 1902.1 and §1909.1(c)(3) for C-3-A/ARTS Districts will be utilized which allow for an additional 10'
- §771.2 FAR of 4.0 (§1909.1(c)(1) allows for FAR up to 4.8 under the inclusionary zoning modifications) §1904.3 additional 0.5 FAR for buildings that include 3.0 or more FAR devoted to residential
- §775.5 – no side yard as the proposed structure is not a one-family detached or semi-detached dwelling

Variance Relief Requested

Zoning Standard	C-3-A Requirement	With Inclusionary Zoning Modification (§§2604.2 & 1909.1(c)(2))	Proposed
§772.1: Lot Occupancy	75% Maximum	80%	92.5%
§774.1: Rear Yards	13.5 feet	---	9 feet
§2101.1: Off-Street Parking	9	---	4
§2115.2: Size of Parking Spaces	40% compact if 25+provided	---	75% of 4
§2115.4: Size of Parking Spaces	Minimum of 5 in contiguous group	---	1

Test for Variance Relief

- 1) The physical characteristics of the property:
 - a. Make it difficult for the owner to use the property in compliance with the Zoning Regulations (area variance) – i.e. shape and size of the property, unusual topography or slope, soil problems, etc.
 - Spieden & Spieden historic building
 - Lot occupancy variance request allows for the project to remain economically feasible while satisfying mandated setbacks from the historic structure
 - No new building area can be built atop the existing structure without compromising historic elements
 - 12.5% of the lot occupancy is unusable due to the location of the historic structure and the need to maintain an adequate buffer along 14th St. (HRAB)
 - ❖ 12.5% relief is only on 2nd Floor
 - ❖ Average for the majority of the building is 4.5% (Floors 3-5)
 - ❖ Without LO variance, LO of 67.5% on 3-5 that would have to include corridors, stairwells & elevators – rendering development financially infeasible
 - ❖ Rear yard setback reduction from 13.5' to 9 allows for 92.5% LO/ economically feasible project
 - ❖ Width (40') and orientation of property render greatest number of parking spaces possible achievable only through combination of 3 compact spaces + 1 handicap
- 2) Granting the application will not be of substantial detriment to the public good – i.e. traffic, noise, lighting, etc.
 - Improved street presence from vacant lot to contributing residential/retail use
 - Reduction in parking balanced by proximity to public transit
 - ❖ 1,200' from U St. Metro
 - ❖ Along 13 Metro Bus routes
 - ❖ 9 zip car locations
 - ❖ Capital Bike Share
 - Reduction in rear yard setback does not impact the residents on opposite side of alley as window placement designed accordingly and with their input
- 3) Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.
 - ❖ The purposes of the Uptown Arts-Mixed Use (ARTS) overlay district include to **require uses that encourage pedestrian activity**, especially **retail**, entertainment, and **residential uses**; to expand the area's housing supply in a variety of rent and price ranges, as well as business and job opportunities; and **to encourage the development of residential and commercial buildings, including the adaptive reuse of older buildings in the area and an attractive combination of new and old buildings.**

Community/ Organizational Support

- Meridian Hill Neighborhood Association
- ANC 1B Design Review Board & ANC 1B
- Historic Preservation Review Board

**Community Three Development, LLC – Variance Application – Statement of
Justification
Washington D.C. Office of Zoning
2200-2202 14th Street & 1405 W Street, NW Washington DC 20009
Square 202, Lots 828, 827, & 33**

1. The Property

The property is located at 2200-2202 14th Street and 1405 W Street, NW Washington, DC 20009 (Square 202). Community Three Development, LLC (“Community Three”) intends to combine the adjoining lots 828, 827 and 33 and construct a new, 18-unit, mixed-use building on the site which now comprises a surface parking lot and two-story commercial building. The property is 4,800 square feet and is located in the ARTS/C-3-A District, the Greater U Street Historic District and the Uptown Arts Overlay Zone.

2. Proposed Use

Community Three is proposing to construct an addition to an existing commercial building, creating a new 18-unit mixed-use building on the property that contributes to the neighborhood’s economic and aesthetic revitalization. The proposed concept comprises a new quality building that is sensitive to the context of the surrounding urban environment as well as to the adjacent buildings’ massing and detailing.

The property is bordered by W Street to the south, 14th Street to the east, a 10 foot wide public alley to the west and a three-story commercial building and lot to the north. The area in the vicinity of the property contains residential and mixed-use buildings ranging from two to ten stories. The style of the neighborhood buildings ranges from traditional low-rise townhouses and small apartment buildings to modern high-rise, mixed-use and commercial buildings.

The proposed design allows for the creation of a new mixed-use ensemble, located within walking distance of public transit and served by existing utilities and infrastructure, with massing and detailing influenced by surrounding structures. As a result of these design strategies, the project promotes the creation of a sensitive mixed-use development that will contribute to both the economic and aesthetic revitalization of this part of the U Street neighborhood.

The new building takes its massing and character cues from the recent construction across 14th Street of a new modern midrise structure adjacent to a smaller low-rise traditional building. This resulting design is a clear distinction between the new, six-story structure and the two-story existing building in both scale and style. The character of the 5-story portion of the building takes its rhythmic cues from the staccato bay rhythm of adjacent apartment buildings accentuated by a tower-esque element at the corner of 14th and W Streets. A sixth story is recessed on all street and alley sides, helping to diminish its visual impact on the surrounding properties and lower portions of the structure. The primary entrance to the residential portion of the building is

located along W Street and the retail-oriented ground floor along 14th Street. At-grade garage parking is proposed to be located along the alley frontage to the west with a nine-foot rear yard between the alley right-of-way and west building façade. The design contains 22,500 total square feet with 2,225 square feet on the ground floor dedicated to retail use.

The proposed design allows for the creation of a new mixed-use ensemble, located within walking distance of public transit and served by existing utilities and infrastructure, with massing and detailing influenced by surrounding structures. As a result of these design strategies, the project promotes the creation of a sensitive mixed-use development that will contribute to both the economic and aesthetic revitalization of this part of the U Street neighborhood.

3. Compliance with the D.C. Zoning Regulations

Section 740.4 of the Zoning Regulations provides, "The C-3-A District permits medium density development with a density incentive for residential development within a general pattern of mixed-use development. " The proposed development falls squarely within these parameters.

As shown in the attached Zoning Drawings ("drawings"), the proposed structure will be 66 feet in overall height. The maximum allowed for the C-3-A District per §740.5 of the Zoning Regulations is 65 feet, however, § 1902.1 and §1909.1(c)(3) for C-3-A/ARTS Districts will be utilized which allow for an additional ten (10) feet in height. Section 771.2 limits the floor area ratio ("FAR") for the C-3-A District to 4.0; however, §1909.1(c)(1) allows for a FAR up to 4.8 under the inclusionary zoning modifications. Section 1904.3 further provides an additional 0.5 FAR for buildings that include 3.0 or more FAR devoted to residential use.. Community Three meets these Inclusionary Zoning residential use requirements as demonstrated by the drawings. No side yard is required pursuant to §775.5 as the proposed structure is not a one-family detached or semi-detached dwelling.

4. Variance Request

Community Three is requesting four (4) area variances pursuant to §3103.2. The proposed project will have a lot occupancy of 92.5% as shown on the drawings. Section 772.1 of the Zoning Regulations sets the maximum percentage of lot occupancy for the C-3-A District at 75%. Due to Community Three's provision of inclusionary zoning, §§2604.2 and 1909.1(c)(2) allow for a modified lot occupancy of 80%. Therefore, Community Three is requesting a variance under §3103.2 from the designated 80% to 92.5% to accommodate retaining portions of the existing historic commercial building.

Second, §774.1 requires a rear yard of two and a half (2 ½) inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof and not less than 12 feet. In the present case, this would require a rear yard of 13.75 feet. Community Three, therefore, is requesting a variance

per §774.2 from the D.C. Board of Zoning Adjustment ("BZA") for the rear yard setback provided of nine (9) feet.

Community Three is requesting a variance for a reduction in the number of off-street parking requirements pursuant to §2108. The schedule provided in §2101.1 calls for one (1) off-street space for each two (2) dwelling units provided in a multiple dwelling. For the development herein proposed, this would mean that nine (9) off-street parking spaces would be required. However, due to the size constraints of the parcel, Community Three intends to provide four (4) reserved parking spaces which it believes will be sufficient given the proximity of the parcel to public transit.

Finally, Community Three is requesting a variance from §2215.2 and 2215.4 to allow for the provision of three (3) compact parking spaces.

In summary, the proposed project will require Community Three to apply to the D.C. Board of Zoning Adjustment ("BZA" or the "Board") for variances from the lot occupancy (§772.1), rear yard setback (§774.1), off-street parking requirements (§2101.1) and parking space size (§§2115.2 and 2115.4) for the C-3-A District. *See TABLE ONE below.*

TABLE ONE: Applicant's Area Variance Requests

Zoning Standard	C-3-A Requirement	With Inclusionary Zoning Modification (§§2604.2 & 1909.1(c)(2))	Proposed
§772.1: Lot Occupancy	75% Maximum	80%	92.5%
§774.1: Rear Yards	13.5 feet	---	9 feet
§2101.1: Off-Street Parking	9	---	4
§2115.2: Size of Parking Spaces	40% compact if 25+ provided	---	75% of 4
§2115.4: Size of Parking Spaces	Minimum of 5 in contiguous group	---	1

With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-41.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code §6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing

the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.”

This provision has three main tests that must be proved by the Applicant.

- 1) The physical characteristics of the property:
 - a. Make it difficult for the owner to use the property in compliance with the Zoning Regulations (area variance) – i.e. shape and size of the property, unusual topography or slope, soil problems, etc.
 - b. Create financial hardship for the owner in using the property consistent with the Zoning Regulations (use variance)
- 2) Granting the application will not be of substantial detriment to the public good – i.e. traffic, noise, lighting, etc.
- 3) Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

Standard of Review

A showing of “practical difficulties” must be made for an area variance, while the more difficult showing of “undue hardship” must be made for a use variance. *Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972). In order to prove “practical difficulties,” an applicant must demonstrate first, that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990).

Prong 1(a) - The physical characteristics of the property make it difficult for the owner to use the property in compliance with the Zoning Regulations.

The property is situated on a corner lot that abuts a historic commercial building on the northern property line about which the District of Columbia Historic Preservation Review Board (“HPRB”) described as follows in its March 23, 2013 report:

“2202 14th Street was constructed in 1911 and designed by architects Spieden and Spieden, a prominent local firm active from the 1890s until the 1930s. As originally designed, the purpose – built commercial building had a slate pent roof with an eyebrow dormer, bracketed eaves, a brick façade with six – over one windows on the upper floor and a 3’ x 9’ projecting storefront window on the first floor. The pent roof, dormer and brackets remain, but the slate has been removed.

While obscured by a metal mesh screen, the second floor elevation remains intact underneath, including the original windows and decorative iron window boxes. The first floor has been altered with the loss of the

storefront and damage to the brick when a later stone veneer was removed. Despite its somewhat deteriorated condition, as part of the review of a previous concept for the site in 2005, the Board determined the building to retain sufficient integrity to be considered contributing to the historic district.”

The proximity to this structure necessitates setbacks above the second floor as depicted on page nine – *Building Section* – of the drawings. The requested area variances allow for the property to be developed in an economically feasible manner that also complies with the mandated setbacks from this structure. The increased lot occupancy and reduced rear yard allow for the maximization of contributing both retail and residential space. The HPRB’s Report guides the applicant’s request for relief for lot occupancy and rear yard setback in its effort to maintain and restore the contributing structure within a comprehensive redevelopment of the property. While redevelopment of this property without maintaining and restoring the existing historic structure would likely conform to the area regulations of the Ordinance, the necessity to keep the massing, character, and detailing of the contributing historic building as part of the redevelopment on this small lot requires a series of design sensitivities.

Given that no new building area can be built atop the existing structure without destroying the elements that make the structure contribute to the historic character of the neighborhood, reasonable setbacks along 14th Street, NW are required above the 2nd floor. This desire to respect the heritage of the property and create a mixed-use infill project that meets the density and use goals of the Comprehensive Plan, underlying Zoning District, and the Arts District Overlay, require some relief from the area requirements of the Ordinance.

Lot Occupancy

While 80% residential lot occupancy is allowed upon this site, given the supplied inclusionary zoning provisions, approximately 12.5% of that lot occupancy is not achievable above the 2nd floor while respecting a reasonable buffer along 14th Street, NW (as requested by HPRB) from the sloped roof and eyebrow dormer that define the existing historic property’s street character. Solely providing a buffer from the existing historic structure and not increasing allowable lot occupancy for the 2nd floor would result in achievable lot occupancy of approximately 67.5% on the upper floors (3 to 5) of the development. Without such relief, given the corridor, life safety egress stairs, and elevator requirements on each floor, the reduced floorplate on floors 3 to 5 would be too small to accommodate a financially viable development on this property.

Rear Yard Setback

The request for relief from rear yard setback goes hand in hand with the need to respect the massing, character, and detailing of the existing historic structure and meet the density and use goals of the Comprehensive Plan, underlying Zoning District, and the Arts District Overlay. The reduction in allowable rear yard setback to 9 feet (from 13.5 feet above 20 feet in building height) allows for the resulting increase in allowable lot occupancy of 92.5% to be achieved. Without such relief, the floorplate on floors 3 to 5

would be equal in size to those resulting from an approximately 67.5% lot occupancy, which would be too small to accommodate a financially viable development on this property.

Parking,

As indicated on the attached Form 135 and pursuant to §3103.2 of the District of Columbia Zoning Ordinance, Community Three is requesting an area variance from §2215.2 to allow compact spaces in a lot less than twenty-five (25) parking spaces. The parking variances are requested to accommodate the limitations imposed by the width and orientation of the property. The property is forty feet wide (northern boundary to southern boundary). Community Three, in its attempt to provide the greatest number of feasible parking spaces, proposes four (4) parking spaces, including one (1) handicapped accessible space, along the western edge of the building that borders the alley. The maximum interior dimension of the garage (clear from the building structure) is 38 feet. This width accommodates a single handicapped accessible parking space (9 feet wide) and adjacent access aisle (5 feet wide), leaving a total of 24 feet to accommodate three (3) eight (8) feet-wide compact-sized spaces.

On April 1, 2009 the BZA voted to grant applicant JBG's applications for variance and special exception relief in order to construct a mixed-use residential and retail development in the ARTS/ C-3-A district. The proposed development included a request for a variance from the lot occupancy requirements and various special exceptions in order to incorporate the existing historic building in to the new design. Community Three is seeking to do much the same thing and its efforts to merge old and new structures align perfectly with the goals articulated for the ARTS overlay district. Just as in Case No. 17850, "the need to preserve and integrate the contributing building on the site" satisfies Prong 1(a) of the test for variance relief. *D.C. BZA Order for Application No. 17850 p. 9*. Furthermore, in the Board's consideration of JBG's request for relief from parking requirements, it noted,

"Pursuant to §2120.6, the Board may grant relief from the parking requirements if the owner of the property demonstrates that, as a result of the nature or location of the historic resource, providing the required parking will result in a significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource."
D.C. BZA Order for Application No. 17850 p. 12.

Like in that case, here, Community Three's design carefully considers the existing historic building which limits the provision of the required number and size of parking spaces.

Prong 2 - Granting the application will not be of substantial detriment to the public good – i.e. traffic, noise, lighting, etc.

Currently, the lots comprising the property contain only a surface-level parking lot and two-story commercial building. The proposed development incorporates careful

consideration of the architecture, character, style and uses within the surrounding neighborhood. The replacement of the parking lot with the proposed design will provide both residential units and retail space to contribute to the economic growth of this mixed use district. The *Site Photography* provided in the attached drawings speaks to the improved street presence Community Three's proposal will yield.

The reduction in parking spaces is balanced by the proximity to public transit. The property is located 1,200 feet from the U Street Metro Station and is along 13 Metro Bus routes. Also in the vicinity are nine (9) Zip Car locations as well as a Capital Bike Share facility. As the Board noted in Case No. 17850, "Additional parking spaces are not needed to accommodate the proposed mix of uses based on the location of the site, in an area likely to attract pedestrians and well served by public transportation." *D.C. BZA Order for Application No. 17850, p. 13*. The approval of the four (4) requested area variances will not, therefore, cause substantial detriment to the public good, but rather greatly benefit this section of the U Street Historic District and the Uptown Arts Overlay Zone.

Community Three worked in concert with the D.C. HPRB to ensure the proposal's compatibility with surrounding context. The result is a structure in harmony with the existing buildings that will contribute to the street view and economic vitality of the neighborhood as evinced by the project's formal support from the Meridian Hill Neighborhood Association. Community Three presented the proposal and required variance requests to the ANC1B Design Review Committee on March 18, 2013 and the Committee voted to recommend that ANC1B support the application. Subsequently, on April 4, 2013, ANC1B voted unanimously to support the application. *See attached letter from Tony Norman, ANC1B Chair dated 4.4.13*.

Prong 3. Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

Community Three took great care to model the proposed developed after architecture and design styles in existence in the surrounding neighborhood. In its April 1, 2009 Order granting JBG's application for variance and special exception relief, the BZA stated:

"The purposes of the Uptown Arts-Mixed Use (ARTS) overlay district include to require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses; to expand the area's housing supply in a variety of rent and price ranges, as well as business and job opportunities; and to encourage the development of residential and commercial buildings, including the adaptive reuse of older buildings in the area and an attractive combination of new and old buildings."
D.C. BZA Order for Application No. 17850 pp. 8-9, citing 11DCMR §1900.2.

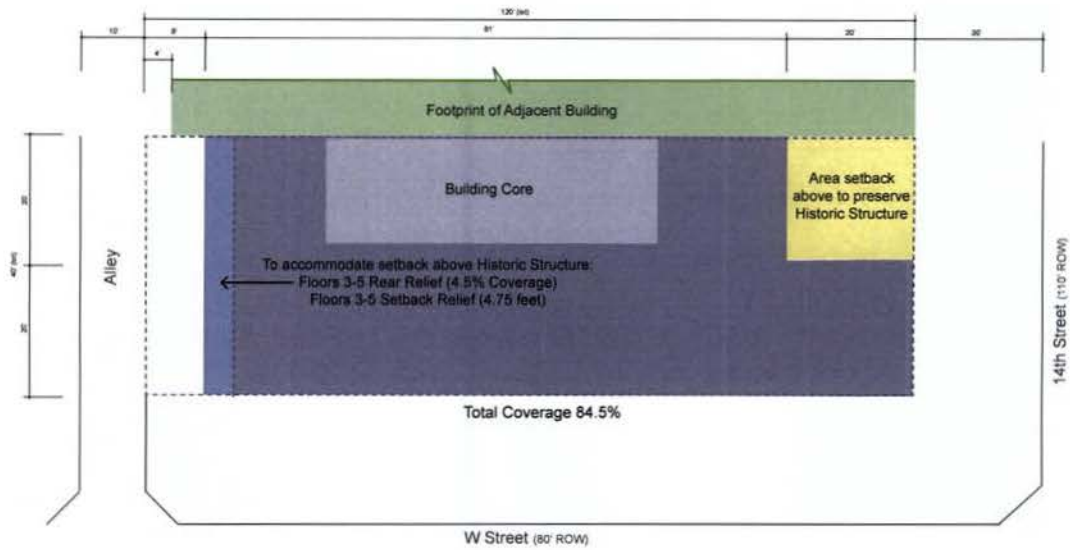
The four (4) area variances herein requested would allow Community Three to transform the aesthetic appearance of this corner property into a contributing mixed-use building in exact accordance with the intentions of the Zoning Regulations, specifically §1900.2.

Conclusion

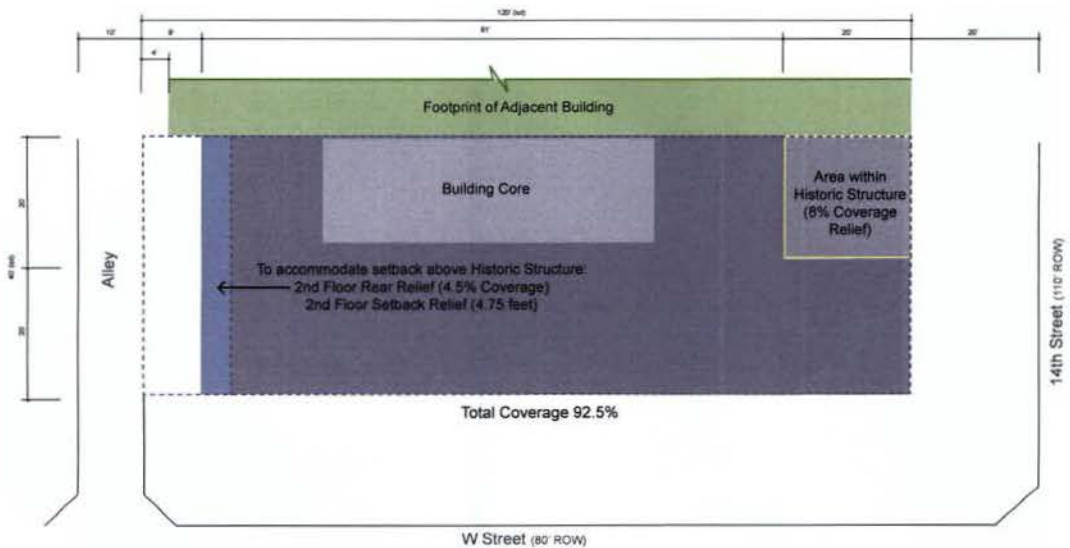
In Case No. 17850, the Board granted the Applicant's request for variance relief from the lot occupancy requirements in order to make possible a project incorporating the existing contributing building on the site. In granting the Applicant's request, the Board found "the subject property is affected by an exceptional situation or condition due to a confluence of factors, including the need to preserve and integrate the contributing building on the site, the inability to build new floor area above the existing historic structure, and requirements of the ARTS overlay district that affect building design." *D.C. BZA Order for Application No. 17850*. The exact same confluence of factors exist here for Community Three. It too is subject to the additional limits imposed as a result of the subject site's location within the Uptown Arts district. These limits include the street frontage design requirements for the ARTS districts in §1903. In Case No. 18750, as here, the application of these requirements is not unique to the specific parcel; however, as the Board noted, "the confluence of its impact together with the loss of development resulting from the preservation of the contributing portions of the existing structure and the limitations on development above that structure combine to make absolute compliance with lot occupancy limits a practical difficulty." *D.C. BZA Order for Application No. 17850 p. 10*. The Board noted that strict compliance with the Zoning Regulations would "jeopardiz[e] the financial feasibility of the project" and "squeez[e] the development potential of this project." *D.C. BZA Order for Application No. 17850 pp. 10*.

These variance requests can be granted without causing substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan. In fact, the requested variances would allow for the realization of the purpose of the ARTS overlay district include to "encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings." *11 DCMR § 1900.2(g)*.

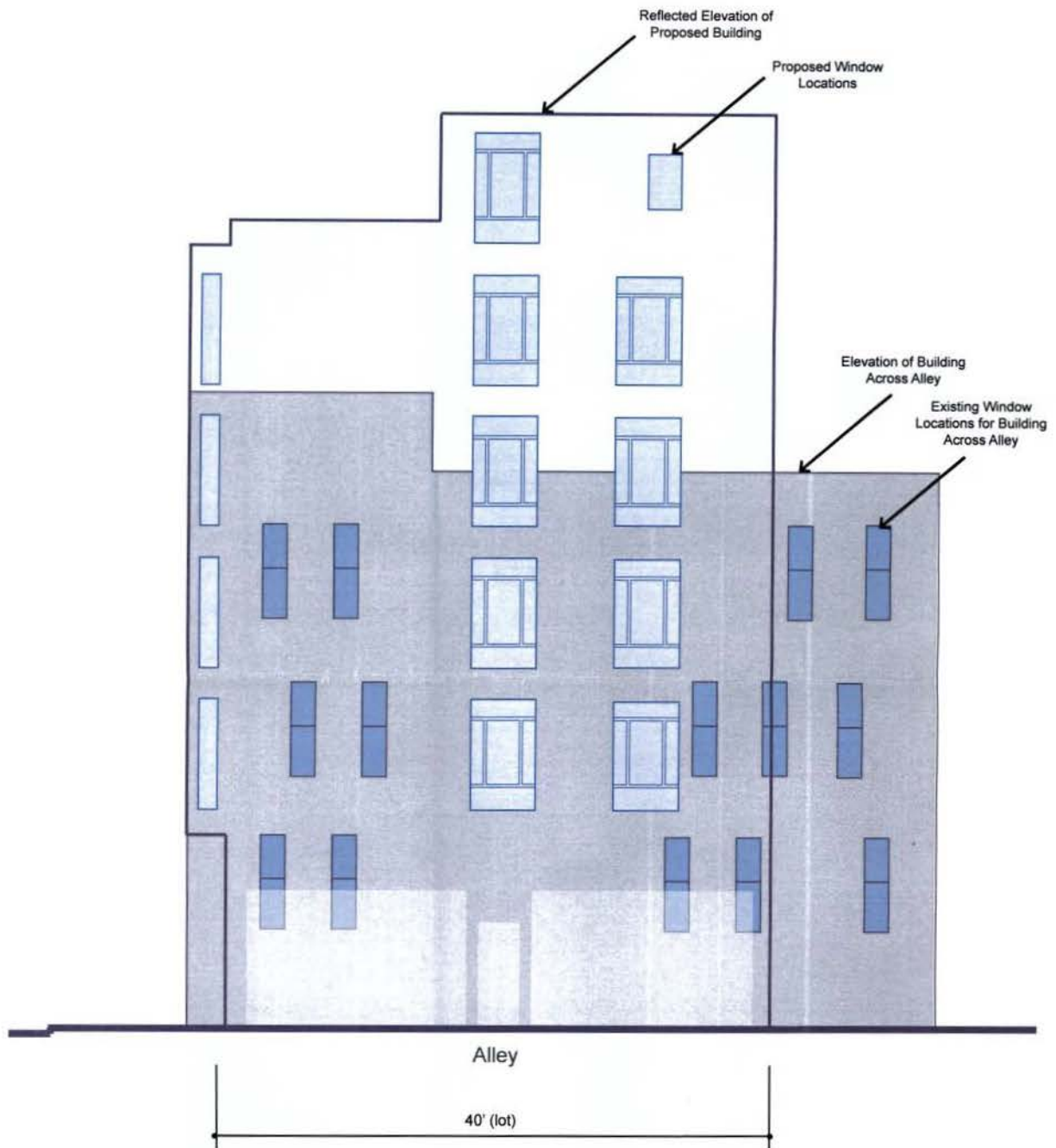
We believe that the Board should be able to find that this request for a variance falls within the scope of §8 of the Zoning Act, D.C. Official Code § 6-41.07(g)(3)(2001).



Typical Floor Plan (FL 3, 4, 5)



2nd Floor Plan (A)



Alley Window Configuration