

**Community Three Development, LLC – Variance Application – Statement
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

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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 and 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 five (5) 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 required 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 three (3) 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 two (2) 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	---	3
§2115.2: Size of Parking Spaces	40% compact if 25+ provided	---	100% of all
§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 A2d 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 includes a historic commercial building along the northern property line. The proximity to this structure necessitates setbacks above the second floor as depicted on page nine – *Building Section* – of the drawings to accommodate historic sensitivities. The requested area variances (for lot occupancy and rear yard setback) allow for the property to be developed in an economically feasible manner that given the proposed setbacks from this historic structure. The increased lot occupancy and reduced rear yard allow for the maximization of both retail and residential contributing space within a transit-rich locale

As indicated on the attached Form 135 and pursuant to §3103.2 of the District of Columbia Zoning Ordinance, Community Three is also requesting parking area variances to accommodate the limitations imposed by the width and orientation of the property. The property is forty feet (40') wide (northern boundary to southern boundary) along the alley frontage. Community Three, in its attempt to provide the greatest number of feasible, building code-compliant parking spaces, proposes four (4) parking spaces,

including one (1) accessible space and three (3) compact car spaces, 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 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 car spaces

This configuration would require further relief from the building-code official during building permit review for from the accessible van space requirement and alternatively provide a standard accessible parking space given the site constraints, small size of the building and number of total spaces.

While Community Three believes this is a practical request from the building code official and will result in an ultimate total of four (4) off-street parking spaces (including one (1) standard accessible space and its adjacent five foot (5') access aisle and three (3) compact car spaces), it is seeking an area variance here from §2101.1 to provide a total of three (3) off-street parking spaces (including one (1) standard accessible van space and two (2) compact car spaces) in the case where relief from the accessible van space is not granted by the building code official.

Community Three is also requesting an area variance from §2215.2 to allow compact spaces in a lot less than twenty-five (25) parking spaces given the above and the limitations imposed by the width and orientation of the property.

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) ZipCar locations as well as a Capital BikeShare 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 five (5) 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. Historic Preservation Review Board ("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 development 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 five (5) 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.

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)