

**STATEMENT OF CONTINENTAL MORTGAGE & INVESTMENT
CORP. IN SUPPORT OF APPLICATION FOR
VARIANCE/SPECIAL EXCEPTION**

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Re. District of Columbia Office of Zoning/Board of Zoning Adjustment
Continental Mortgage & Investment Corp. (CMIC")
Proposed Design for 12-unit 3-floor Apartment Buildings
11 50th Street, S.E. Lot: 0033 in Square: 5331
4945 Ayers Place, S.E. Lot: 0032 in Square: 5331

This Statement is being provided in response to the Zoning Administrator's May 2, 2013 Memorandum regarding the above-referenced matters and in accordance with Section 5(E) of the Instructions to Form 120.

I. Background

CMIC has submitted plans to renovate and rehabilitate properties at the above-referenced locations. CMIC acquired the properties in 2010 through foreclosure upon a borrower who pledged the properties as collateral for a loan. Upon information and belief, the prior owner intended to renovate these properties but no such renovation was performed. The existing structures have substantially the same design and are in substantially the same condition. They are blighted, vacant, and it is unknown when they were last occupied. CMIC's proposed renovation design is virtually identical for each structure and the explanations provided in this statement apply equally to each property. The existing condition of 11 50th Street, S.E. is depicted in the attached photograph.

The neighborhood where the properties are located was previously zoned R-5 and was rezoned as R-3 as of September 2008. The buildings at issue are three-floor, 12-unit apartment buildings. Accordingly, they are considered non-conforming in an R-3 zoned area.

II. Proposed Renovation

Under the proposed renovation design, the use of the buildings will not change (except that attractive, code-compliant, and safe structures will exist in place of blighted, vacant buildings). The structures will remain 12-unit multi-family residential dwellings. The footprint of each building will not change and the height of each building will remain exactly the same.

The proposed change at issue has two components. The first component is to create a very limited section of fourth floor loft space for two of the top-floor units in each building. The lofted space does not span the entire width of the building and involves a "dormer"-style modification to a portion of the roofline on that side of the building. The second component of this feature is that the additional space created by the loft on one side of the roof is offset by a recessed, or "cutaway" area, on the opposite side of the roof, whereby existing building space is actually removed from the structure.

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These features can be seen on the attached rendering of the finished building at 11 50th Street and 4945 Ayers Place, S.E. The loft is seen on the building on the left side of the image and the cutaway is seen in the building on the right. The attached design documents also depict these features in plan, elevation, and section details. This design feature does not increase the building's height.

A building permit has already been granted for the exterior configuration of the building with a double height living room space for the two top most units. The only remaining item involves that aspect of the design that would add a limited amount of lofted space within the double height space.

III. The Board Should Grant CMIC a Variance

CMIC respectfully submits that it is entitled to either a variance (to the extent that a variance is required) or a special exception. The proposed design does not change the use of the buildings (except to allow occupancy after one or more decades of vacancy and complete disrepair), and results in virtually no change to the basic physical characteristics of the property. The design provides for a very small addition of lofted floor space, which terms of gross floor space will occupy one third of the building's footprint. The space added by the loft counterbalanced by the already-approved removal of a comparable, if not larger, section of the physical structure – the cutaway. CMIC submits that this essentially constitutes an architectural variation or embellishment to the buildings with no meaningful alteration to the core characteristics of the buildings themselves. To the extent that the Board considers this design to create a new, non-conforming component to an already existing non-conforming structure (the apartment building itself), CMIC respectfully submits that it is entitled to a variance for the addition of a partial 4th floor. The lofted, partial floor will exist in only 2 of the 12 units in the building and the additional space is literally offset by the removal of corresponding space on the opposite side of the building roof and attic space. With respect to the additional considerations for a variance request:

1. The proposed design affects only 4 of the 24 results in the two buildings and constitutes, at most, an extraordinarily minimal addition to the existing space. It simply allows the owner to add a feature within the double-height space for these 4 units (the double-height space has already been approved) that will allow for the creation of nicer living units that will benefit the District of Columbia residents who will live in those units. To disallow this design will prevent the owner from constructing and potential residents from acquiring a more valuable and desirable unit.
2. The proposed design will have no detrimental impact whatsoever to the public good and no potential impact on traffic, noise, or lighting in the area. To the contrary, as discussed below, the proposed design under consideration will enhance the public good. The variance sought not affect the size, shape, or dimensions of the building exterior as already approved.

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3. The proposed design will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map. The existing structures are non-conforming because they are multi-family residential apartment dwellings. They are also uninhabitable. The proposed design does not change the nature of the buildings, the footprint of either building, the height of the buildings, the number of units in either building or the amount of parking necessary for either building. The owner simply wishes to proceed with a design that will permit the construction of a limited number of enhanced units in an area that would benefit greatly from that improvement and serve the interests of both the general public and, especially, the residents of the property at issue and their neighbors in the immediate neighborhood.

The property immediately adjacent to the buildings under consideration in this application (that is, 4932-4940 A Street, S.E.; Lot 34 in Square 5331), received a variance to add an entire fourth floor on top of a pre-existing three-story residential apartment building. This application seeks a far more limited variance, and for the reasons stated, and in consideration of the terms of CDCR 2001.3, CDCR 400.1, and CDCR 3103.2, CMIC respectfully submits that the Board should grant the requested variance.

IV. The Board Should Allow CMIC a Special Exception for its Design

As an additional and alternative ground for the relief requested, CMIC respectfully submits that the Board should grant a special exception for CMIC's design. Special exceptions are appropriate with respect to specific categories of structures and uses where the requested exception "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 . . ." CDCR 3104.1. These exceptions include, among other things, nonconforming uses and roof structures (and all associated aspects). *Id.* In interpreting the standards for special exceptions, as with variances, the zoning regulations are to be interpreted to promote (again, among other things) public health, safety, prosperity and general welfare. CDCR 11-101

The foregoing discussion of CMIC's proposed design establishes not only that CMIC is entitled to a variance, but that it is entitled to a special exception for this design as well, as the proposed design is consistent with the general purposes and intent of the Zoning Regulations and Map and will not adversely affect the use of the neighboring property. Rather, the proposed design will allow construction of attractive and quality residential units in place of an existing uninhabitable structure, and will include four specific units with enhanced features that will have virtually no impact upon the use of the property and will not affect the exterior of the structures. This will provide District of Columbia residents with a greater selection of residential living units in this neighborhood. The design will not affect the use of the neighboring property at all and high-quality rehabilitation of these properties will improve the overall condition of the immediately surrounding neighborhood. This is completely consistent with the purposes and intent of the zoning regulations and promotes the overall safety, convenience, order, prosperity and general welfare at these properties and in the immediately surrounding neighborhood.

V. Conclusion

CMIC respectfully asks that its request for a variance or alternatively, a special exception, be granted. CMIC would be happy to provide any additional information upon request.

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