

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION OF
14TH & U RESIDENTIAL, LLC

14TH STREET & WALLACH PLACE, NW
ANC 1B

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 14th & U Residential, LLC (the "Applicant"), the owner of properties located at 1921-1923 14th Street NW (Lot 180, Square 237), 1925 14th Street NW (Lot 196, Square 237), and 1351 Wallach Place NW (Lot 806, Square 237) (the "Property") in support of its application for area variances from the requirements regarding public space at the ground level (§633), lot occupancy on the first and second story (§634), and rear yard setback (§636.2); and special exception relief from the parking requirement for historic structures (§2120.6) and the ARTS Overlay setback requirement (§1902.2) to allow the Applicant to renovate two historic structures and build a new residential building with ground floor retail in the CR/ARTS District at the Property.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board" or "BZA") has jurisdiction to grant the variance relief requested pursuant to §3103.2 and the special exception relief requested pursuant to §3104.1 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property contains approximately 9,540 square feet of land area and is located in Northwest Washington, D.C. The Property has approximately 90 feet of frontage along 14th Street NW and approximately 106 feet of frontage along Wallach Place NW. See Baist Atlas Map at Tab 8. The Property is in the CR/ARTS District. The Property is partially improved with two vacant, historic

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structures and a parking lot. The first is a three-story historic structure previously having the address of 1921-1923 14th Street (the “Historic 14th Street Building”). The Historic 14th Street Building was most recently used as a barber shop and dentist’s office and has a long history of commercial use with previous Certificates of Occupancy for an electronics retail store and sale of fireworks. The second is a historic, two-story apartment building previously having the address 1351 Wallach Place (the “Wallach Place Apartment Building”). The Wallach Place Apartment Building address had a prior Certificate of Occupancy for an employment agency and later as a flat. The lot previously having the address 1925 14th Street was most recently used as a parking lot with a one-story framed structure. That structure will be razed. The Property is located within the Greater U Street Historic District and both the Historic 14th Street Building and the Wallach Place Apartment Building (collectively referred to as the “Buildings”) are on the DC Inventory of Historic Sites.

B. Description of the Improvements in the Surrounding Area

Square 237 is bounded on the north by U Street, on the east by 13th Street, on the south by T Street, and on the west by 14th Street. Wallach Place runs east-west and bisects the Square. The northeast portion of the Square is ½ block from the U Street Metro entrance. Square 237 is split-zoned. The western portion abutting 14th Street, including the Property, is in the ARTS/CR District. The northern portion of the Square abutting U Street is in the ARTS/C-2-A District. The southeastern portion of the Square along Wallach Place is in the R-4 District. *See Zoning Map at Tab 9.*

Square 237 has two large-scale, mixed-use projects being developed. The first, at the southwest corner of the intersection of 13th Street & U Street NW, is an 8-story mixed-use residential and retail development. *See ZC Case No. 12-20.* The second, across Wallach Place NW at 1919 14th Street, is a new residential building with ground floor retail and service uses. *See BZA Case No. 18306.* In addition, the Louis at 14th, a 9 story mixed-use residential and retail development at 14th & U Street NW, is located

to the west across 14th Street. *See* BZA Case No. 17831. Tall multiunit residential buildings adjacent to two-and three-story residential and commercial properties are located throughout the neighborhood.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is located in a transit rich area with a variety of mass transit and other transportation options available to residents and visitors. The Property is located approximately 1.5 blocks (.2 miles) from the U Street Metro entrance. Moreover, Metrobus routes 52, 53 and 54 stop along 14th Street, including at 14th and T Street and 14th and U Street, and routes 90, 92, 93, 96, and X3 stop at the intersection of 14th Street & U Street NW. The DC Circulator (DC98) also stops at 14th Street and U Street NW. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. Capital Bikeshare stations are located at 14th Street & V Street NW (27 docks) and 14th Street and R Street NW (15 docks). A number of Zipcar spaces are located within walking distance including a 24 vehicle lot at 14th & Corcoran as well as spaces at 13th Street & T Street NW, 1929 12th Street NW and 13th & U Street NW. Another local car-sharing program, Car2Go, has recently reported that the use of the company's car-sharing service had reached over 10,000 users and 6,000 trips per week. The Property has a walkscore of 100, the highest possible score, and is classified as a "walker's paradise" and a bikescore of 95 and is classified as a "biker's paradise."

The applicant has retained Gorove/Slade, a professional, engineering, and planning consulting service, to provide strategic planning, research, and technical services and ensure that traffic, transportation, and parking matters will all be properly addressed. The Applicant will provide a formal traffic study in its Prehearing Statement.

D. Description of the Proposed Development

As shown on the architectural plans, *See* Architectural Plans and Elevations at Tab 10, the Applicant proposes to construct a new 9-story mixed-use structure that incorporates the Historic 14th

Street Building and the Wallach Place Apartment Building. In total, the project will have 7,619 square feet of retail, 51,409 square feet of residential, and 1,951 square feet of storage. The retail will be located on the first floor of the newly constructed portions of the structure and the first and second floor of the Historic 14th Street Building. The project will have a total of 78 residential units, 71 units in the newly constructed portions of the structure and 7 renovated units in the historic Buildings. The new construction will have a “U” shape, with a large, private interior courtyard. The majority of the residential units will open to the courtyard. The courtyard will be on the second floor and will open toward the south, which greatly reduces the massing on the side facing the historic Buildings and residences on Wallach Place. The main entrance to the residential lobby will be accessible from 14th Street. No loading facilities will be provided and, pursuant to §2200.5, no such facilities are required due to the presence of the historic structures on the Property. *See, e.g.,* BZA Case No. 17831.

The project will contain a 9-space underground parking garage. The underground garage will not occupy the entire building footprint to preserve the basement levels of the historic Buildings. Twenty bicycle parking spaces will be provided in a secure room on the garage level. A shower facility will be provided for any retail employees utilizing the bicycle parking.

IV. NATURE OF VARIANCE RELIEF AND STANDARD OF REVIEW

Area variance relief is required from the requirements regarding public space at ground level requirement (§633), lot occupancy on the first and second story (§634), and the rear yard setback (§636.2).

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 affected by exceptional 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 Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also*, *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972)(noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990).

As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this Application.

V. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exception Situation or Condition

The phrase “exceptional situation or condition” in the above-quoted variance test applies not only to the land, but also to the existence and configuration of a building on the land. *See Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the

unique or exceptional situation may arise from a confluence of factors which affect a single property.

Gilmartin v. District of Columbia Bd. of Zoning Adjustment, 579 A.2d 1164, 1168 (D.C. 1990).

The Property is characterized by an exceptional situation and condition as a result of a confluence of the following factors: (1) the presence and location of two historic properties that are being incorporated into the new structure; (2) the high water table below the surface of the Property; (3) the narrow rights-of-way abutting the Property; and (4) contradictory limitations on development as a result of the Property's location in the Greater U Street Historic District, the ARTS Overlay, the CR District, and Inclusionary Zoning Requirements.

The Property contains three separate lots improved with the Historic 14th Street Building and the Wallach Place Apartment Building. Both historic structures are listed on the DC Inventory of Historic Sites. Wallach Place is an extremely intact and unified block of two-story houses, most constructed either by builder James Robbins or architect/developer T.F. Schneider between 1885-1889. The Historic 14th Street Building was built in 1904 by built by Henry Kluckhun and designed by Harding & Upman, a prolific, well-known architecture firm. The Wallach Place Apartment Building was built in 1880. Both Buildings are made out of brick. The Applicant has engaged in extensive dialogue with the Historic Preservation Office ("HPO"). HPO Staff has made multiple recommendations to preserve the historic character of the two historic Buildings. HPO Staff recommended that the Applicant fill in the open, overgrown, poorly maintained space between the two historic Buildings. The Applicant has complied with this request by developing the infill space in a manner that compliments the existing historic Buildings. Additionally, HPO has discouraged the Applicant from building any significant structure that overhangs the existing historic Buildings. These conditions have a direct impact on the design and layout of the proposed development. The presence and location of the historic Buildings on the Property presents difficulties for the Applicant in complying the public space requirement, lot occupancy requirement, and rear yard requirement.

Due to the high water table and loose sandy soils, providing more than one level of parking would require costly dewatering and stabilization measures. The high water table and loose sandy soils would make the cost of additional levels of underground parking significantly greater than a similar site without such conditions.

The Property is located at the corner of 14th Street and Wallach Place. Wallach Place is a relatively narrow roadway with a width of 30 feet and street parking on both sides of the street. The location of the Property, and the placement of the existing Buildings, creates some unique circumstances. The Wallach Place Apartment Building is constructed along the property line abutting a narrow 15-foot wide public alley. The existing building is improved with bay window projections, reducing the 15-foot wide alley to 12 feet above 12'6".

Finally, the Property is subject to a combination of zoning districts, overlays, and Inclusionary Zoning regulations that establish contradictory requirements for the development. The new Inclusionary Zoning requirements require that a certain percentage of units in a new development be set aside as affordable units in exchange for bonus density. Due to a combination of the size and shape of the lot, the requirements of the historic preservation office, and the setback requirements in the ARTS Overlay district, the Applicant is subject to the inclusionary zoning set aside requirements but is unable to utilize the bonus FAR.

For the reasons outlined above, the Property is subject to an exceptional circumstance.

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty to the Owner

Strict application of the zoning regulations with respect to public space at ground level requirement (§633); lot occupancy on the first and second story (§634); and the rear yard setback (§636.2) would result in a practical difficulty to the Applicant.

1. Public Space at Ground Level (§633)

The CR District requires that an area of 10% of the total lot area, 954 square feet in this case, must be available for public use on a continuous basis and must be located immediately adjacent to the main entrance of structure. The proposed project provides no public space at ground level. Therefore, the Applicant has requested area variance relief from the public space at ground level requirement.

The Applicant is unable to provide the public space due to limits imposed by the Historic Preservation Office's ("HPO") recommendations and the size and location of the two historic Buildings. The existing historic Buildings, which may not be demolished, compromise a large portion of the street frontage on Wallach Place and HPO has requested that the Applicant fill in the space between the two historic Buildings. There is no remaining frontage along Wallach Place to provide the public space required. In addition, avoiding placement of the public space and accompanying main entrance on Wallach Place helps preserve its historic character.

Locating the public space on 14th Street would also be practically difficult because of the drastic design and layout changes that would be required. The Historic 14th Street Building occupies a significant amount of the frontage along 14th Street. Furthermore, the Applicant has been encouraged to locate the entrance to the main residential lobby and retail entrance on 14th Street to avoid an adverse impact to the historic residences on Wallach Place. Because the remaining frontage on 14th Street is limited, the 954 square foot public space would occupy a large, deep, awkward space and would impede efficient use of the main residential structure and conflict with the desired ground floor retail use. Meeting the requirements of §633 would require significant design changes to the location and layout of key features including the size, shape and number of units, as well as the location and orientation of the stairway and elevator core. Furthermore, as determined in BZA Case No. 17831, the CR District, which requires public space at ground level, and the ARTS Overlay District, which requires that a minimum of 75% of the street frontage be built to the lot line, conflict with one another.

Therefore, strict application of the public space at ground level requirement would result in a practical difficulty.

2. Lot Occupancy on the First and Second Story (§634)

In the CR District, permitted lot occupancy is 75%. 11 DCMR §634.1. Because the development is subject to the Inclusionary Zoning requirements, residential lot occupancy may be increased to 80% and the commercial lot occupancy may be increased to 100%. 11 DCMR §1909.1(d). The first story, which is devoted primarily to commercial use but maintains residential use in Wallach Place Apartment Building, occupies 100% of the lot. The second story, devoted primarily to residential use and a courtyard, occupies 90% of the lot. Both contain residential uses and thus must meet the 80% lot occupancy requirement. Therefore, the Applicant has requested area variance relief from the lot occupancy requirement for the first and second floors. All other floors comply with the lot occupancy requirement with many of the upper floors occupying far less than the maximum lot occupancy permitted.

The first story has a lot occupancy of 100%. One-hundred percent lot occupancy would have been permitted as a matter of right if the entire first floor were devoted to retail use. The vast majority of the first story, nearly 90%, is devoted to retail use. The roughly 10% of the lot devoted to residential use is intended to maintain the historically residential nature of Wallach Place and the Wallach Place Apartment Building. Retail use in the Wallach Place Apartment Building would not be well received and conversion to retail use would present significant challenges with respect to design, layout, and configuration.

The second story has a lot occupancy of 90%, a 10% deviation from the 80% lot occupancy requirement for residential use. The need for lot occupancy relief on the second story is largely due to development constraints as a result of the size and location of existing historic Buildings being preserved, and HPOs recommendation to infill the space between the two historic structures. Additionally, the

Applicant is restricted from developing the air space directly above the historic Buildings. The historic Buildings occupy roughly 23% of the lot.¹ In addition, HPO recommended that the Applicant infill the undeveloped area between the two historic Buildings. *See Architectural Plans, Page A 0.6, at Tab 10.* The three-story infill structure adds 969 square feet of lot occupancy, or just over 10% of the total lot area, which directly accounts for the requested lot occupancy relief. While the infill structure pushes the project over the permitted lot occupancy on the first and second story, the infill structure will help avoid gaps in the street wall along Wallach Place as was recommended. In addition, the structure will consist largely of transparent glass and other design features to compliment the historic Buildings.

Furthermore, HPO insisted that there is to be no development in the air space above these three structures, each of which is three stories or less. Therefore, the Applicant must carefully and efficiently utilize the remaining two-thirds of the lot. As proposed, the project is already 16,227 square feet smaller than is permitted under the FAR requirements as a matter of right.² Further reducing the available lot occupancy by strict enforcement of the lot occupancy requirement on the first and second stories would drastically reduce the amount of square footage available at the Property and impede core features of the proposed structure.

For these reasons, compliance with the lot occupancy requirement on the first and second story would result in practical difficulty to the Applicant.

¹ The three- and two-story historic structures occupy roughly 2,211 square feet of the 1st story or 23.2% (2,211 sf / 9540 total sf = 23.2%)

² FAR = 6.0 base FAR + 20% IZ Bonus FAR + 0.5 ARTS residential bonus FAR = 7.7 FAR. The lot is 9,540 square feet. Thus, the gross square footage permitted as a matter of right is 73,458 square feet. The proposed structure has a gross square footage of 57,231. Thus, the proposed structure has 16,227 square feet less gross floor area than is permitted as a matter of right under the FAR requirements.

3. Rear Yard Setback (§636.2)

In the CR District, a rear yard shall be provided for each residential building. The rear yard is 3in/ft of height, but not less than 12 feet. Thus, the proposed project requires a rear yard of 25 feet.³ The proposed structure does not provide a rear yard and thus requests a variance from the rear yard requirement. The rear yard definition states that “[t]he rear yard shall be for the **full width of the lot** and shall be unoccupied . . .” 11 DCMR 199.1 (emphasis added). Therefore, the location of Wallach Place Apartment Building constitutes an existing nonconformity with respect to rear yard. Regardless of the manner in which the Property is developed, compliance with the rear yard requirement would require demolition of a portion of the Wallach Place Apartment Building or area variance relief for a 100% deviation from the rear yard requirement. HPO would not permit the Applicant to raze ¾ of the structure. Thus, strict application of the rear yard requirement would result in a practical difficulty to the Applicant.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zoning Plan

Granting the zoning relief requested would not impair the intent, purpose, and integrity of the zone plan. The new mixed-use development will significantly contribute to the vibrancy of the neighborhood while supporting the District’s vision for this area.

1. Public Space at Ground Level (§633)

The public space at ground level relief does not cause substantial detriment to the public good or zone plan. Competing policy goals of the CR and ARTS overly indicate the tradeoffs necessary for development in urban areas. The decrease in public space is offset by the preference for a pedestrian friendly and active retail streetscape created by the proposed project.

³ 3in/ft of height x 100 feet = 300 inches = 25 feet.

2. Lot Occupancy on the First and Second Story (§634)

The lot occupancy relief sought on the first and second floor does not cause substantial detriment to the public good or zone plan. The massing and setback of the proposed structure allows for sufficient light and air to all residential units and neighboring properties. As stated, the Applicant is not utilizing its entire matter-of-right FAR. Furthermore, the structure is surrounded on three sides by streets and alleys.

3. Rear Yard Requirement (§636.2)

The rear yard requirement is intended to provide light and air to the building. While no rear yard is provided, the property is a corner lot, surrounded on three sides by 14th Street, Wallach Place, and an alley. The substantial space surrounding the lot serves the purpose of the rear yard with respect to light and air. Furthermore, the substantial setback of the upper floors allows for additional light and air to the units abutting the alley and neighboring properties. Variance relief from the rear yard requirement also allows the Applicant to preserve the historic Wallach Place Apartment Building.

VI. NATURE OF SPECIAL EXCEPTION RELIEF AND STANDARD OF REVIEW

Special exception relief is required from the parking requirement for historic structures (§2120.6) and the ARTS Overlay setback requirement (§1902.2). Under D.C. Code §6-641.07(g)(2) and 11 DCMR §3104.1, the Board is authorized to grant a special exception where it finds that the special exception will be in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981)

(quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

VII. APPLICANT MEETS BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF

1. Parking for Historic Structures (2120.6)

Pursuant to § 2120.3, a historic resource and any addition to a historic resource are exempt from the requirements of § 2100.4 to provide additional parking as a result of a change of use and §2100.6 to provide additional parking as a result of an increase of intensity of use, except that parking is required for any addition where the gross floor area of the historic resource is being increased by 50% or more, and the parking requirement attributable to the increase in gross floor area is at least four spaces. In this case, the project includes 73 residential units in the addition and 4,648 square feet of retail space in the addition. The residential off-street parking requirement is 1 space per 3 dwelling units. Thus, the residential parking requirement is 24 spaces.⁴ The retail off-street requirement is 1 space per 750 square feet over 3000 square feet. Thus, the retail parking requirement is 2 spaces.⁵ In total, the parking requirement is 26 spaces. The project provides 9 spaces in an underground parking garage. Because the gross floor area of the historic resource is being increased by 50% or more and the parking requirement attributable to the increase in gross floor area is at least four spaces, parking relief is required.

Pursuant to §2120.6, the Board may grant special exception relief from all or part of the parking requirements of §2120 if the owner of the property demonstrates that, as a result of the nature or location of the historic resource, providing the required parking would result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource. Additionally, §2120.6 provides four factors to consider in determining whether the requested relief can be granted without adversely affecting the use of the neighboring property owners.

⁴ 73 residential units in the addition/3 = 24 spaces required.

⁵ 4648 new retail – 3000 sq. ft. = 1648 sq. ft.; 1648 sq. ft./750 = 2 spaces required.

i. Providing the required parking would result in an architectural and structural difficulty as a result of the nature and location of the historic resource

Providing the required parking would result in an architectural and structural difficulty due to the age and location of the historic Buildings and the size and dimensions of the Property. The Applicant cannot provide parking beneath the historic Buildings due to the difficulty of underpinning them, excavating below them, permanently supporting them, and constructing parking beneath them. The inability to provide parking beneath the historic Buildings drastically reduces the space available for below grade parking. Due to the limited remaining space available, only one level of below grade parking can efficiently be provided. The space needed to provide a double-loaded drive aisle, necessary to build more than one level of underground parking, would consume any practical useable parking area.

Furthermore, additional levels of below-grade parking cannot be provided, under the historic Buildings or otherwise, because the Property is located in an area with a high water table. As a result, the Applicant would encounter poor soil conditions at the foundation bearing elevation of a multilevel underground garage. Therefore, providing additional levels of below-grade parking presents a practical difficulty due to the groundwater and poor soil conditions at the Property.

In addition, use of the ground level is limited by the requirement of §1901.1 which provides that retail and service uses must occupy no less than 50% of the ground floor level of the building, combined with the need for a residential lobby and typical ground floor building services in the proposed structure. The location of the building's structural columns and the area occupied by required elevators, drive aisles, storage space, stairwells, and utility rooms make it particularly difficult for the Applicant to accommodate the required number of parking spaces on the Property.

ii. Additional factors demonstrate no adverse impact on the use and enjoyment of neighboring properties

The Property's proximity to public transportation is exceptional. The Property is located on the multimodal 14th Street corridor. As stated, the Property is ideal for walkers and is well serviced by a

number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is 1½ blocks from the U Street Metro entrance on the green line, on 8 bus routes and the DC Circulator, and close to bikesharing and carsharing locations. Furthermore, the Property has a walkscore of 100, the highest possible score, and is classified as a “walker’s paradise” and a bikescore of 95 and is classified as a “biker’s paradise.”

The availability of a variety of transportation options reduces the incentive to own and store a vehicle on the premises and minimizes spillover parking in the neighborhood. The Property and neighborhood will have sufficient parking when the redevelopment is completed. The project provides 8 parking spaces, 1 handicap van space, and 27 bicycle spaces in an underground parking garage. All residents and patrons of the retail establishments will be well accommodated by the combination of the proposed bicycle parking spaces, the several bus lines on 14th Street, the proximity to the U Street Metrorail station, and the walkability of the neighborhood. The amount of traffic congestion existing and generated by the redevelopment of the historic resource will be limited. A large percentage of trips in this transit oriented location are made by Metrorail, Metrobus, bicycle, or on foot. Car ownership and traffic congestion is particularly low in this area of the District as a result of the broad array of transportation alternatives for residents, visitors, and customers.

For the reasons outlined above, the Applicant has met the requirement for granting special exception relief for parking for an historic structure pursuant to § 2120.6. As stated, the Applicant will provide additional evidence that further supports justification for the special exception, including a traffic study, in its Prehearing Statement.

2. ARTS Overlay setback requirement (§1902.2)

In the CR/ARTS overlay, a building located on a lot that abuts a street, alley, or zone district boundary with a Residence District has a setback requirement. No part of the building may project above a plane drawn at a 45 degree angle from a line located 65 feet directly above the property line on each such street, alley, or zone district boundary line. 11 DCRM §1902.2. In this instance, the eastern

property line of 1351 Wallach Place and 1925 14th Street are subject to this additional height restriction.

A small portion of the top floor projects above that plane. *See* Architectural Plans, p A 3.1, at Tab 10.

Pursuant to §1906.1 of the Zoning Regulations, the Board may grant relief from the requirements of the Arts Overlay as a special exception, provided certain criteria are met as set forth below.

- i. Section 1906.1(a): The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

The intention of the setback requirement is to provide a recessive feature of upper floors and soften the height disparity with neighboring two and three-story properties. The Applicant has carefully designed the structure in a “U” shape, with a courtyard facing Wallach Place, to ensure that proper light and air are available to neighboring properties. In deference to the Historic 14th Street Building and Wallach Place Apartment Building on the Property, the massing of the new structure is concentrated to the north end of the lot. Thus, the Applicant has worked carefully with the architect to advance the purposes of the ARTS Overlay and avoid impacts to neighboring property owners.

- ii. Section 1906.1(b): Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan.

The features of the proposed structure provide substantial benefit to the public and help achieve the intentions of the ARTS Overlay and Comprehensive Plan. As noted in the sections above discussing the variance test, the Property is uniquely affected by the presence of two historic properties that are being incorporated into the new structure, the high water table below the surface of the Property, the narrow rights-of-way abutting the Property, and contradictory limitations on development as a result of the Property’s location in the Greater U Street Historic District, the ARTS Overlay, the CR District, and Inclusionary Zoning Requirements. In fact the gross floor area proposed is 16,227 square feet smaller

than is permitted under the FAR requirements as a matter of right, largely the result of compliance with the setback requirement and limitations recommended by HPO. Conformance with respect to the top floor creates a practical difficulty for the Applicant because the roof structure, which houses the elevator shaft and mechanical equipment, must be sufficiently setback from 14th Street based on the roof structure requirements.

- iii. Section 1906.1(c): The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report.

The proposed setback massing will enhance the quality of life in the Arts Overlay District. Based on an initial meeting, HPO is supportive of the proposed setback and massing provided that the Applicant complies with its recommendations to preserve the historic Buildings, provides a complimentary infill structure between the historic Buildings, and respects the air space above the historic Buildings.

- iv. Section 1906.1(d): Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions.

As shown on the plans, all vehicular access and egress occurs through an existing public alley and is designed to minimize conflict with principal pedestrian pathways, function efficiently, and avoid dangerous or otherwise objectionable traffic conditions. Moreover, a special exception from the setback requirement will have no impact on vehicular access and egress. Furthermore, while the Applicant believes §1906.1(d) is met, because the criteria in §1906.1(d) is not relevant to the relief sought the Board need not apply this criteria pursuant to §1906.1.

- v. Section 1906.1(e): The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District.

The relief requested from the setback requirement is modest. As stated, the structure will be significantly set back from adjacent property lines and public thoroughways so that it will not be readily

visible from public space. As such, the Applicant believes that the modest setback relief requested will not necessitate any additional requirements or conditions from the Board beyond those imposed by the HPO.

VIII. COMPREHENSIVE PLAN

The proposed project is consistent with the Comprehensive Plan. The Property is designated as a mixed use area on the Comprehensive Plan Future Land Use Map, with moderate to medium density residential uses and moderate density commercial. Medium density residential generally consists of mid-rise apartment buildings but may include taller residential buildings. Moderate density commercial areas are characterized by retail, office, and service businesses that draw from the surrounding neighborhoods as well as a broader market area. The Generalized Policy map indicates this area is within a Main Street Mixed Use Corridor, defined as follows:

***Main Street Mixed Use Corridors:** These are traditional commercial business corridors with a concentration of older storefronts along the street. The service area for Main Streets can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian-oriented environment with traditional storefronts. Many have upper story residential or office uses. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment.*

Other relevant plan policies include the retention of walkable shopping streets with continuous building facades located at the lot line to "improve pedestrian comfort." 913.13. The Plan also supports creating ground level retail, minimizing curb cuts and driveways, and avoiding gaps in the street wall in order to improve the street environment for pedestrians. 913.14.

For the Mid-City area in particular, where the subject property is located, the Comprehensive Plan lists the following policy term with respect to directed growth:

Policy MC-1.1.2: Directing Growth

Stimulate high-quality transit-oriented development around the Columbia Heights, Shaw/Howard (University, and U St./African American Civil War Memorial/Cardozo Metrorail station areas, as well as along the Georgia Avenue corridor and the North Capitol Street/Florida Avenue business district. Opportunities for new mixed income housing, neighborhood retail, local-serving offices, and community services should be supported in these areas, as shown on the Comprehensive Plan Policy Map and Future Land Use Map. 2008.3.

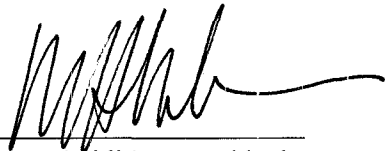
For the reasons stated, the proposed project is consistent with the Comprehensive Plan and helps bring to fruition the District's intention for this location.

IX. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for zoning relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted

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By: 

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