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June 10, 2014

VIA HAND DELIVERY

Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 200S
Washington, D C 20001

Re BZA Case No 18638 – 1456-60 Church St , N W.

Dear Members of the Board·

On behalf of Gregg M. Busch and Rosebusch, LLC (collectively "Applicant"), we submit the attached proposed findings of fact and conclusions of law (Exhibit A), and the following response to the critique of the Metropole Condominium ("Metropole") on the Applicant's financial evidence supporting its parking variance request.

1. Introduction

Nothing in the Metropole's submission diminishes the evidence submitted by the Applicant in support of its parking variance The evidence supplied by the Applicant at the May 20 hearing clearly demonstrates that a project with fewer than 37 units on the site would not produce enough *value* to allow construction financing. Letters corroborating that testimony are attached as Exhibit B. As explained by the Applicant's witness, Mr. Andrew MacAllister, a lender requires an equity return on a project of at least six percent. Mr. MacAllister has over 16 years experience of placing debt and equity for construction finance and land sales, and was the broker on over 30 transactions representing $1 2 billion of either investment sales or construction finance, or land sales, in the 14th Street and U Street corridors

The Metropole never challenges this fundamental premise of the Applicant's testimony or offers any evidence suggesting that projected rate of return is in error Instead, the Metropole relies on flawed assumptions and incomplete information to challenge the Applicant's pro forma, which only leads to its faulty conclusion that the pro forma's numbers are unreliable As described below, the pro forma is accurate and forms a valid basis for a lender to assess the value of the project

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18638
EXHIBIT NO. 77

2 <u>Metropole's Consultants Fail to Address Specific, Pertinent Facts to this Redevelopment Site, Which Undermines Their Analysis</u>

The Metropole places great emphasis on what it perceives to be a major flaw in the expense category of the Applicant's pro forma. that the expenses for an 18-unit building and a 37-unit building are identical. Yet the reports submitted by Keith MacIntosh and Robert Robidoux, neither of whom have been qualified as experts, are based on flawed assumptions and incomplete information They fail to take into account the specific facts of this building site

First, as testified to by Mr. Brook Rose who prepared the pro forma, the greatest expenses for either alternative are the fixed costs of the new superstructure and retaining and rehabilitating the historic structures on the site. These costs are significant and constant under either program While there will be fewer units in the18-unit scenario, and the number of kitchens and bathrooms will be reduced, the cost implications are not significant Moreover, the 18-unit scenario would have larger kitchens and more cabinetry, and the two-bedroom units would likely have two bathrooms. That is, the cost associated with electrical, plumbing, HVAC, and fixtures would <u>*not*</u> double as assumed by Mr. MacIntosh, who is a real property tax professional. The fewer bathrooms and kitchens do not represent enough cost savings to have any meaningful impact on a $10 million project and the pro forma See BZA Transcript ("Tr "), May 20, 2014, at 70

Second, the Ribodoux report assumes that the expenses for the Church Street building will be comparable to other buildings However, the Applicant's project will use a Variable Refrigerant Flow (VRF) system, which only recently has gained acceptance for use in multi-family buildings The VRF system cannot allocate energy use to individual units and thus utility costs will be included in the rent. The units will also be furnished, which also increases the project's expenses. These additional expenses are part of the operating and maintenance expenses that explain the differences from the statistical data found in the Ribodoux report

Third, the Ribodoux report erroneously claims that there is adequate comparable market data to analyze the Applicant's pro forma.[1] Yet "micro-unit" apartments are a new product on the market. The Ribodoux report effectively acknowledges this deficiency in his report by classifying the 37-unit building as an "executive suite facility," and then comparing the "micro-units" to studio units with greater square footage [2] Further, it relies on historical rental data from buildings that are at least ten years old This faulty comparison leads to the erroneous conclusion that "micro-units" would not generate competitive rental rates to justify the $5 00 per square foot assumption in the Applicant's pro forma.

In contrast, Mr. MacAllister's testified to *current* market conditions in the immediate neighborhood and what is getting financed. He stated that "the smaller units are, by far, getting the highest rents per square foot" and that $5 00 per square foot "is what we're seeing in similar

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[1] See Ribidoux Report, unnumbered p 4 (item 16)
[2] *Id* at unnumbered p 11

projects that execute on a smaller unit basis, and they're getting financed." Tr at 67, see also Exhibit B attached. While lenders will certainly look to historical data, they must then use that information to make projections of value in the future when the building is completed to determine whether to finance construction.

Significantly, the Ribodoux report "does not provide an estimate of value "[3] Nor does it look to current market trends Instead, it relies only on statistical information for aged rentail buildings that do not provide a comparable product in order to evaluate the validity of the Applicant's pro forma The Metropole and its consultants have missed the entire point of the Applicant's financial evidence The Applicant's pro forma is to demonstrate whether the project creates sufficient value in to obtain financing

3. Alternative Parking Relief as a Special Exception

Because it falls outside the limited scope of rebuttal authorized by the Board, the Metropole's response on the Applicant's alternative special exception parking relief should be stricken from the record [4] In the event the Board accepts that information, the Applicant offers the following response.

The Applicant clearly demonstrated at the hearing that it can only provide four parking spaces at the rear of the property given the significant site constraints. The historic structures at Church Street restrict the length of a ramp to below grade parking from the alley, resulting in a slope of 22 8% that is not drivable. Even if it were maneuverable, the required ramp and drive aisle are wider than the site, making it impossible to provide below grade parking Thus, the difficulty proved by the Applicant was that it could only provide four spaces at the rear of the property. Therefore, the amount of relief needed is 11 spaces for the 15 required

This requested relief is less than 100 percent deviation the Board granted to the project at 15 Dupont Circle in BZA Case No. 18744, which proposed an addition to historic landmark in order to construct a 92-unit apartment building. There, the Board found that the Applicant had demonstrated that underground parking would compromise the integrity of the historic landmark, and that moving the addition closer to the landmark would likewise undermine its historic character The Board concluded that the Applicant was entitled to 100 percent relief from the 23 required parking spaces It did not require the Applicant to prove why it shouldn't provide fewer units to reduce the amount of relief requested. Here, the Applicant is only requesting relief from 11 spaces and will provide four compact spaces, or a deviation of 73 percent

Like special exception standard applied in BZA Case No 18744, the Applicant in this case is not required to prove why it needs 37 units or why it shouldn't provide fewer units to

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[3] *Id* at unnumbered p. 1, 9 (second complete sentence)

[4] The Board only granted the Metropole the opportunity to submit contrary evidence on the cashflow evidence presented by the Applicant See BZA Hearing Transcript, May 20, 2014, at 108

reduce the amount of parking relief requested Those questions are only appropriate under the variance standard.

4. <u>Conclusion</u>

The Applicant stands by its pro forma and the evidence and testimony presented at the hearing The Applicant's witnesses are recognized professionals in their respective fields and have substantial experience in the real estate industry, including on-the-ground financing and analysis of residential market trends, sales and leasing. This experience is concentrated in the U Street corridor and the 14th Street corridor, in which the project is located. It is their business to study, analyze and understand prospectively how a new residential project with a two-year delivery date is going to be received in the market Significantly, the information submitted by the Metropole does not refute the core issue raised by the Applicant, namely, that the 37-unit building, scheduled to be delivered in the future, is financeable with an equity return rate of 6 percent (which is only marginally financeable at today's interest rates) and that the 18-unit configuration is not financeable The information and statements provided by the Metropole's witnesses, due to their respective areas of practice in real estate tax and appraisal, is purely and admittedly retrospective in a market that one of Metropole's advisors described as "emerging as one of the District of Columbia's best residential neighborhoods."

The Applicant's overall evaluation of the market in the future is of more probative value than opposition's statistical data, which draws from buildings that are as old as 14 years and will be 16 years old at the time of delivery of this building, which will be a brand new product. The opposition's advisors admit they are not able to provide information as to the value of the asset when completed, which is precisely what the investment market will be looking at in order to determine the "financeability" of the project

Lastly, as set forth above, Applicant also has clearly met the burden of proof for parking relief under the special exception criteria for historic structures

The Applicant submits that on the basis of the entire record, the Board should grant the parking variance requested or, in the alternative, grant the special exception relief requested, or grant both requested areas of relief as they pertain to parking relief requested in this application.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By Mary Carolyn Brown
Norman M Glasgow, Jr
Mary Carolyn Brown

June 10, 2014

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing materials were sent to the following this 10th day of June 2014·

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JUNE 10, 2014
APPLICANT'S REVISED PROPOSED ORDER

Application No. 18638 of Gregg Busch and Rosebusch, LLC, pursuant to 11 DCMR §§ 3103 2 and 3104 1, for a special exception from the roof structure requirements of sections 411 and 1902.1(a), and a variance from the off-street parking requirements under section 2101 1, to allow the construction of a new residential building in the ARTS/C-3-A District at premises 1456-1460 Church Street, N W (Square 209, Lot 65, 66 and 67).[1]

HEARING DATES:	October 22, 2013 December 10, 2013 December 18, 2013 January 7, 2014
DECISION DATES	February 25, 2014 April 8, 2014
DECISION ON MOTION TO REOPEN RECORD/ LIMITED REHEARING:	April 15, 2014
LIMITED REHEARING DATE:	May 20, 2014
DECISION DATE:	June 17, 2014

DECISION AND ORDER

Gregg Busch and Rosebusch LLC ("Applicant"), submitted this self-certified application on July 24, 2013, for the property located at 1456, 1458 and 1460 Church Street, N.W , at Lots 65, 66, and 67 in Square 209 (the "Property") The Applicant requested special exception relief from the roof structure requirements of sections 411 and 1902 1(a), and a variance from the off-street parking requirements under section 2101 1, to allow the construction of a new residential building in the ARTS/C-3-A District Based on revisions to the design of the building, the Applicant eliminated the need and withdrew its request for an area variance from the rear yard requirements under section 774 and the lot occupancy requirements of section 2604 2. At the May 20, 2014, the Applicant argued in the alternative that the parking relief should be granted under the special exception standard for historic buildings pursuant to section 2120.

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1 The Applicant amended its application to eliminate the need for relief from the rear yard and lot occupancy requirements

Preliminary Matters

Notice of Application and Notice of Hearing By memoranda dated July 30, 2014, the Office of Zoning sent notice of the filing of the application to the D C Office of Planning ("OP"), the D C. Department of Transportation ("DDOT"), Advisory Neighborhood Commission ("ANC") 2F, the ANC within which the subject property is located, Single Member District 2F 02, and the Councilmember for Ward 2. A public hearing was scheduled for October 22, 2013 Pursuant to 11 DCMR § 3113 13, the Office of Zoning published notice of the hearing on the application in the *D C Register,* and on August 9, 2013, sent such notice to the Applicant, ANC 2F, and all owners of property within 200 feet of the subject property.

Board of Zoning Adjustment Hearings The Board of Zoning Adjustment ("BZA" or "Board") convened a hearing on the application on October 22, 2013, but continued the hearing until December 10, 2013, due to the recusal of one Board member resulting in a lack of quorum. The District government was closed for a snow emergency on December 10, 2013, and the hearing was continued to December 18, 2013 At the request of the Applicant, the hearing was deferred until January 7, 2014, due to the unavailability of witnesses Post-hearing submissions were filed with the record on February 4, 2014, and responses thereto were submitted on February 18, 2014, including proposed findings of fact and conclusions of law

The Board originally scheduled the case for deliberation on February 25, 2014, but due to lack of a quorum it was rescheduled to April 1, 2014. Because of the primary elections, the Board rescheduled deliberations for April 8, 2014 By a vote of 2-1-2, the Board was unable to reach a decision on a motion to grant the parking variance and special exception on the roof structure height A second motion passed by a vote of 3-0-2 to grant just the special exception on the roof structure height By a vote of 2-1-2, the Board was unable to reach a decision on a third motion to grant just the parking variance The Board continued the decision on the parking variance to April 15, 2014, to allow the absent Board member who participated in the hearing to cast a vote

On April 11, 2014, the Applicant filed a motion to reopen the record and hold a limited hearing on the parking variance request. On April 15, the fourth participating Board member cast her vote to deny the parking variance. As a result, the Board requested NCPC to assign another representative to review the record and vote on the application The Board granted the Applicant's motion to reopen the record and set the case for limited rehearing on May 20, 2014 Post-hearing submissions were filed with the record on June 3 and 10, 2014, including revised proposed findings of fact and conclusions of law. The Board scheduled the application for further deliberations on June 17, 2014, and voted __-__ to approve the parking relief under the [special exception/variance] standards

Request for Party Status In addition to the Applicant, ANC 2F was automatically a party in this proceeding The Metropole Condominium Association ("Metropole"), located immediately west of the Property and represented by Martin Sullivan, Esq , was granted party status in opposition to the application

Applicant's Case Carolyn Brown and Norman M Glasgow, Jr , of Holland & Knight LLP, represented the Applicant The Applicant presented four witnesses in support of the application at the February hearing Brook Rose of Rosebusch, LLC; Steven E. Sher, Director of Zoning and Land Use Services at Holland & Knight, LLP, recognized as an expert in land use and zoning; Peter Fillat of Peter Fillat Architects, and Erwin Andres, Gorove/Slade Associates, an expert in transportation engineering At the limited rehearing on May 20 2014, the Applicant presented testimony from Brook Rose, Gregg M Busch, Michael Hines, a real estate broker with TTR Sotheby's specializing in sales in the 14th Street and U Street corridors, Andrew MacAllister, a real estate professional specializing in debt and equity financing for residential properties in the 14th Street and U Street corridors, and Erwin Andres

Government Reports OP filed a report with the Board on October 15, recommending approval of the application The OP report set forth each of the provisions of 11 DCMR §§ 411, 1902 1(a) and 3104 1 and opined that each is met. The report also opined that the application met the standards of sections 2101 1 and 3103 2 DDOT also filed a report with the Board on October 16, 2013, stating that it had no objection to the requested relief The Board waived its requirements in order to accept the report one day late

ANC Report ANC 2F submitted a report to the Board dated June 19, 2013, recommending approval of the application

Party in Opposition The Metropole objected to the proposed apartment building addition based on unacceptable parking impacts on the surrounding streets and traffic congestion in the alley It argued that the Applicant could lower the degree of parking relief needed by constructing a building with fewer units, and that the Applicant had failed to demonstrate a financial practical difficulty for anything less than a 37-unit building The party opponent also opposed the application with respect to its alleged adverse effect on the light, air and enjoyment of their property, and lack of communication by the Applicant

Persons and Organizations in Support The Board received numerous letters in support of the application from a number of individuals and organizations. The letters commented favorably on the Applicant's proposal to renovate three historic buildings on the site into a new residential development that leverages the public infrastructure and transportation services in the area, and will add to the vibrancy, walkability, and diversity of the community The condominium association of CITTA 50, a seven-story residential building to the east of the Property, also submitted a letter to the record stating it had no objection to the project or zoning relief requested by the Applicant

Persons and Organizations in Opposition The Board also received letters and petitions in opposition to the application A number of individuals raised concerns regarding transportation issues, including parking, loading, and the enforceability of the Applicant's proposal to restrict residents of the building from applying for residential parking permit stickers, the size and square footage of the proposed units, and construction impacts

FINDINGS OF FACT

The Property and the Surrounding Neighborhood

1 The Property is located at 1456-1460 Church Street, N.W , at Lots 65, 66, and 67 in Square 209 The south half of Square 209 is bounded by Church Street to the north, 15th Street to the west, P Street to the south, and 14th Street to the east The Property fronts on Church Street, which is 50 feet wide, a ten-foot wide alley is located at the rear of the Property The Property contains approximately 3,420 square feet of land It is zoned ARTS/C-3-A and is located within the 14th Street Historic District

2 C-3-A Districts permit medium density development, including residential and mixed-use development 11 DCMR § 740 4 The C-3-A Districts are generally located on arterial streets, in uptown centers, and at rapid transit stops 11 DCMR § 740.5 Pursuant to §§ 741, 721, 701, and 350 4 of the Zoning Regulations, multiple dwellings as well as numerous commercial, retail, and service uses are permitted as a matter of right in C-3-A Districts

3 The Arts Overlay permits a maximum height of 75 feet for buildings in the underlying C-3-A District, provided that no part of the building projects above a plane drawn at a 45-degree angle from a line located 50 feet directly above any property line adjacent to a residential district or any alley separating the property from a residential district 11 DCMR § 1902.1 However, because Church Street is only 50 feet in width, the maximum permitted height is 70 feet under the 1910 Height Act. D.C Official Code § 6-601 05 (2012 Repl)

4 The maximum permitted floor area ratio ("FAR") for a Property zoned ARTS/C-3-A that provides at least 3 0 FAR of residential use and meets the maximum Inclusionary Zoning ("IZ") requirements is 5 3 FAR, and the maximum lot occupancy is 75% for residential uses with 80% permitted under IZ 11 DCMR §§ 1904.3 and 1909 1(c)(1)

5 The Applicant is not seeking any relief from the applicable FAR, building height, or lot occupancy requirements The project will satisfy the matter-of-right zoning requirements with respect to rear yard and side yard, and the project is not required to provide any loading berths, loading platforms, or service/delivery spaces, in accordance with section 2200 5 In addition, the proposed uses are consistent with the Property's ARTS/C-3-A zoning designation

6 Three nineteenth century buildings occupy the site. The buildings at 1456 and 1458 Church Street are three-story flat-front brick rowhouses with bracketed wood cornices These houses are extremely modest in size, measuring only 12-

feet, 6-inches wide by 28-feet deep The building at 1460 Church is a three-story, flat-front brick rowhouse, with a corbelled brick cornice This house is only slightly larger than the other two, originally measuring 13 feet wide by 34 feet deep, with a small ell-wing added later at the rear

7 The Property is located less than one block from 14th Street N W , and less than two blocks from Logan Circle The 14th Street corridor is continuing to be redeveloped with a wide variety of high-density commercial, residential, and mixed use buildings As some of the last remaining undeveloped parcels on the 1400 block of Church Street, Lots 65, 66, and 67 currently offer little to the surrounding neighborhood as the older buildings falling into disrepair Surrounded by new mixed use and residential high-rise buildings on both sides, the buildings on the site do not currently fit into the streetscape, which has artfully incorporated older structures into new urban spaces. Revitalization of the site will be a positive addition to the neighborhood The proposed new building will be one of many new developments in the area, which has become a flourishing retail, residential, and transit corridor

8 The Property is easily accessible by public transportation There are three Metrorail Stations within walking distance of the redevelopment site The nearest is the Dupont Circle station, which is approximate 0 6 miles from the site, with service on the Red Line. The site also has access to the U Street/African American Civil War memorial/Cardozo Station, which is approximately 0.7 miles away and which services the Green and Yellow Lines The McPherson Square Station, which serves the Blue and Orange Lines, is located approximately 0 65 miles away The site is also located along numerous Metrobus lines, including the G2, S1, S2, S4, S9, 52, 53, 54, 915, and DC 98 lines, and is within three blocks of two Capital Bikeshare stations

9 The Property abuts a seven-story residential building to the east that incorporates a modest 1920s apartment building (Citta 50) To the west is the seven-story Metropole Condominium, which fronts on 15th Street, Church Street, and P Street The Metropole building steps down to four stories immediately adjacent to the site on Church Street Across Church Street to the north is a parking lot

<u>The Applicant's Project</u>

10 The Applicant proposes to redevelop the Property by incorporating the three existing nineteenth century buildings into a new eight-story apartment building with approximately 37 units The historic buildings will be saved to an average depth of 30 feet, which is consistent with their original footprint. The proposed addition will be constructed to the rear, and will project over two of the three existing buildings. The new building will have a height of 70 feet, with the highest portion of the roof structure rising another 14 feet, 3 inches, for an overall height above the measuring point of 84 feet, 3 inches

11 The design of the new building's façade is primarily metal paneled with aluminum windows, glass sliding doors, and aluminum fascia and break metal wrapped trim The proposed development will retain and incorporate the main masonry bocks of the three historic rowhouses to their original depth of approximately 28-32 feet. These facades will be cleaned, repaired, and repointed The center rowhouse will serve as the entrance lobby to the larger project, while the entrances to the other two houses will provide access to individual ground floor units A secondary entrance at the rear of the building is provided from the public alley

12. The Applicant's initial proposal required relief from the rear yard and lot occupancy provisions, the roof structure setback requirements along Church Street, and 90 percent relief from the parking requirements based on a proposal to provide two compact spaces at the rear of the site The Applicant revised its plans twice first to eliminate the rear yard and lot occupancy relief, and then to eliminate the roof structure setback relief and reduce the degree of parking relief to 79 percent As shown on the updated drawings dated February 4, 2014, the Applicant proposes to provide four parking spaces along the public alley at the rear of the building instead of the required 19 spaces Alternatively, under the special exception standards for historic buildings of section 2120, the Applicant would be required to provide only 15 spaces, thereby further reducing the degree of parking relief to 73 percent

13 The D C Historic Preservation Review Board ("HPRB") reviewed the design of the addition and found the concept not incompatible with the historic district and consistent with the purposes of the Historic Preservation Act The revised design, which eliminated the need for lot occupancy and rear yard relief, was reviewed and approved unanimously by HPRB staff under its delegated authority from HPRB.

The Special Exception Relief

Enclosure Walls of Unequal Height

14 Housing for mechanical equipment or a stairway or elevator penthouse on the roof of a building or structure must be placed in one enclosure, and the enclosing walls from the roof level must be of equal height 11 DCMR §§ 411.3 and 411 5

15 In order to maximize the light and air of the residential units and to minimize the size and visibility of the roof structures from the street, the Applicant proposes to build roof structures with walls of unequal height The egress stairs are proposed to be located on the east and west sides of the building, and will each rise to a height of 8 feet, 8 inches. The elevator penthouse will be located slightly off-center on the roof, and will rise to a height of 14 feet, 3 inches

16 Each roof structure is a necessary feature to the building, and each structure's location and height is driven by the layout and design of the residential units within the building The stairs are separated due to the Building Code requirement to provide two means of egress for buildings, as well as the desire to break up massing on the roof These deviations from the roof structure standards are necessary to provide access to the roof, including handicapped access The unequal heights reduce the height and visibility of the structures to the greatest extent possible

Height of Roof Structures

17. Under section 1902.1(a) of the Uptown Arts Overlay District, no roof structure may exceed a height of 83 5 feet above the measuring point used for the building Here, the Applicant proposes that the portion of the roof structure, which will accommodate the elevator override equipment, will rise to a height of 14 feet, 3 inches on a building that is 70 feet in height, resulting in an overall height of approximately 84 feet, 3 inches, or nine inches taller than what is permitted in section 1902 1(a) of the Zoning Regulations The additional height of the elevator penthouse will allow access, including handicap access, to the roof terrace. The rooftop terrace will further the purposes of the ARTS Overlay District to encourage residential development and strengthen the architectural character of the neighborhood. Furthermore, the elevator core has been pushed back to the center of the building to limit its view from the street The penthouse will be integrated into the overall design of the new structure to ensure its compatibility with the 14th Street Historic District in which it is located

18 The Applicant satisfies the applicable criteria of the ARTS Overlay under section 1906 1, as described below.

a The proposed height of the roof structures will substantially advance the purposes of the ARTS Overlay District by allowing the necessary mechanical equipment for the building to be located on the roof and by providing access to a communal rooftop terrace The rooftop terrace is a major amenity to this residential development and a significant design feature that strengthens the ARTS Overlay and the 14th Street corridor It provides a safe recreational gathering space for residents of the building and fosters increased activity in the overlay district 11 DCMR § 1906 1(a)

b The Property is affected by an exceptionally narrow width of only 38 feet, as well as an exceptionally small size of only 3,420 square feet of land area. In order to accommodate the inclusionary units required under Chapter 26 of the Zoning Regulations, the Applicant is availing itself of the bonus density and height designed to encourage construction of affordable housing The bonus height permits the building to be constructed to a height of 70 feet, thereby leaving only 13 5 feet for mechanical equipment and an elevator override so that the maximum permitted height of 83.5 feet is not exceeded The standard mechanical penthouse is 18 feet, 6 inches. Here, the Applicant has reduced that overall height to 14 feet, 3 inches, which is only 9 inches taller than what is otherwise permitted 11 DCMR § 1906.1(b).

c. The Applicant has met with the Office of Planning and has received its support, and has received concept approval from the HPRB for the proposed project. 11 DCMR § 1906 1(c).

d The proposed roof structure height does not affect vehicular access to the site or traffic conditions at the site Nevertheless, all vehicular access and egress occur via an existing public alley to the rear of the building The access is designed to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions 11 DCMR § 1906 1(d)

e The modest extension in roof structure height for the elevator penthouse will only be as tall as necessary to allow access to the roof. It will be set back significantly from adjacent property lines and public right-of-ways so that there will be limited visibility of it from the public space The HPRB and staff have deemed the design to be compatible with the 14th Street Historic District. 11 DCMR § 1906.1(e)

The Parking Variance Relief

The Parking Requirement

19 Section 2101 1 requires one parking space to be provided for every two units, or in this case, a total of 19 spaces. The Applicant proposes to provide four parking spaces that are 8 feet wide by 17 feet deep

Exceptional and Extraordinary Conditions

20 The Property is affected by several exceptional and extraordinary conditions First, the site is extremely small and narrow It is only 38 feet wide and contains only 3,420 square feet of land area Second, three historic buildings on the Property must be maintained, repaired, and renovated in accordance with the HPRB approvals specific to these historic resources These existing structures must be incorporated into the design of the new building, which also limits and constrains the floor plate of the building The floor and roof assemblies of the historic townhouses will be retained at 1456 Church Street, largely replaced at 1458 Church Street due to deterioration, and partially replaced at 1460 Church Street to slightly lower the floors These buildings have been on the site since the late nineteenth century, and together these buildings' characteristics place

substantial restrictions on potential building and parking configurations

Practical Difficulties

21. Due to the extreme narrow width of the lot and the historic buildings on the Property, the Applicant cannot excavate the Property to provide below-grade parking, ramps for two-way circulation, or a turning radius sufficient for ingress or egress to a parking garage Parking access to the site can only be achieved from the ten-foot wide rear alley because the historic buildings that span the full width of the site on Church Street must be retained Those buildings must also be saved to a depth of approximately 30 feet, 8 inches, as measured from Church Street, including the demising walls that separate them below grade The site cannot be excavated below the historic buildings due to those demising walls After accounting for the elevator and mechanical core to be located at the rear of the historic buildings, the remaining depth of the lot is approximately 42 feet, 4 inches It is physically impossible to provide a garage ramp from the alley to a below grade parking garage in that distance It would result in a 22 8 percent ramp grade where maximum manageable grade is 12 to 14 percent. Even if an appropriate grade could be accomplished, the 38-foot wide site is still too narrow to accommodate the width of the ramp and drive aisle, both of which need 20 feet

22 Based on a pro forma prepared by the Applicant and other evidence, a building with fewer units does not generate the necessary value to obtain financing Given the high fixed costs associated with retention and rehabilitation of the historic buildings, and the superstructure addition, the 37-unit configuration is necessary to generate the minimum 6 percent equity return required by lenders

No Harm to Public Good or Zone Plan

23. The requested variance from the off-street parking provisions will not result in any substantial detriment to the public good, nor will it impair the purpose, intent, or integrity of the Zone Plan The redevelopment of the existing historic rowhouses into an eight-story residential building will significantly contribute to the vibrancy of the neighborhood while supporting the District's housing goals for this area The development will allow for the repair and renovation of contributing buildings to the historic district and will help to revitalize the block on which the Property is located.

24. The project benefits from a significant amount of favorable transit and pedestrian access to the Property, resulting in a decrease in the number of vehicle trips that would otherwise be generated, and a decrease in the number of off-street parking spaces that would be needed if the Property were not in such close proximity to a mix of uses and public transportation options

25 DDOT reviewed the plans and development and had no objection to the reduction of off-street parking due to the proximity of the project to numerous transportation alternatives and the strength of the Applicant's TDM program

26 The Board accepts the findings made in the Transportation Impact Analysis submitted by the Applicant that the proposed parking will adequately serve the demands of the Property due to a number of factors, including

- The project is well served by all five Metrorail Lines via Dupont Circle station, U Street/African American Civil War Memorial/Cardozo station, and the McPherson Square station,
- The Property is served by 10 bus routes within a quarter-mile walking distance including Metrobus, Metro Express and DC Circulator routes;
- Capital Bikeshare has two existing bike share locations near the site, one of which is less than 500 feet from the site at the intersection of 15th and P Streets NW and another that is approximately 1,200 feet from the site at the intersection of Rhode Island Avenue and 14th Street N W ,
- The Applicant has worked with DDOT to incorporate 13 bicycle parking spaces within the building,
- According to *2000 US Census* data, only 38 percent of the study area's residents residing in apartment buildings owned a private vehicle,
- The means of transportation to work for residents in the census tract for the Property is as follows 22% car, 29% public transportation, 1% bike, 40% walk, and the remaining 8% either work from home or use another mode (see 2007-2011 American Community Survey 5-year estimates); and
- The site area has a walkability score of 96 as calculated by WalkScore.com, which is referred to as a "Walker's Paradise."

27. The Applicant will incorporate a number of transportation demand measures into operation of the building, as set forth in the Transportation Impact Analysis DDOT had no objection to the reduction of off-street parking due in part to the strength of these TDM measures

28 The Applicant also agreed to include language in all documents related to the lease or sale of the residential units that prohibit residents of the building from applying or obtaining a residential permit parking permit ("RPP") from the District of Columbia, regardless of the building's ownership, and for the life of the building The Applicant will record a covenant on the Property ensuring that all future owners are similarly bound for the life of the project. This will strongly discourage on-street parking by residents of the building, further limiting any negative impact on the neighborhood parking supply

29 The Applicant entered into an Agreement with the condominium building known as CITTA 50 to the east of the Property at 1450 Church Street, N.W Among other things, the Applicant agreed to lessen potential impacts of the proposed

building and its construction by providing a construction management agreement and prohibiting the use of the roof deck past 10 00 p.m Sunday through Thursday, or past midnight on Fridays and Saturdays Additionally, the Applicant would minimize trash removal congestion by using the same refuse company as another building in the square CITTA 50 submitted a letter to the record stating it had no objection to the project or zoning relief requested by the Applicant

Alternative Parking Relief Under the Special Exception Standards for Historic Structures

30 Under Section 2120 3, an owner must provide parking for an addition to an historic structure when the gross floor area ("GFA") of an historic resource is being increased by 50 percent or more, and the parking requirement attributable to the increase in GFA is at least four spaces The existing structures contain approximate 3,495 square feet of GFA and the addition will have approximate 18,126 square feet of GFA Thus, the Applicant's project increases the GFA by more than 50 percent The existing historic buildings will have eight units, and the addition will provide 29 units, which generates a parking requirement of 15 spaces for the addition There is no requirement to provide parking for the historic structures

31 An applicant may seek relief from the parking requirement for the addition if certain conditions are met First, an applicant must demonstrate that the requirement parking would result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource As described above, excavation below the historic resources would result in significant architectural and structural difficulty that would compromise the integrity of the historic resources, including their below grade demising walls

32 Given the small size of the units, no more than 37 residents are expected on the site at any one time While these residents may have occasional visitors, they are anticipated to socialize off-site at one of the many restaurants, coffee houses and other gathering places in the neighborhood. The impact of the proposed residential development on the roadway network operations is insignificant and imperceptible In addition to the four on-site parking spaces to be provided, the Applicant has leased two spaces in the Metropole garage, which are currently planned as visitor spaces, and there are five other parking garages within four blocks if the site with available spaces Additionally, there are 14 carshare locations within three blocks of the site, and a Capital Bikeshare Station just around the corner in the same block, approximately 30 feet away

Issues Raised by Parties in Opposition

29 The Metropole Condominium Association asserted that the Applicant had not demonstrated the existence of a practical difficulty in meeting the parking requirements While the Metropole conceded that the lot may be smaller than

most of the properties on the block, it claimed that there were other small sites in the Logan Circle neighborhood It stated that the Applicant had not demonstrated that there was a connection between the unique condition and the alleged practical difficulty It noted that the historic status of the buildings was not unique to the property since all the surrounding properties were also located within the 14th Street Historic District

31. The Metropole claimed that when the Zoning Commission established the ratio of parking spaces to number of units in 1958, the Zoning Regulations already took into account the density of a particular zone district and the relative parking demands of that area

32. The Metropole asserted that the Applicant could perhaps provide 10 parking spaces on one level underground or on just one side of the property, leaving 20 feet on the other side for ingress and egress Alternatively, the Metropole suggested that the Applicant could just provide four spaces at the rear of the building, provide fewer units and drastically reduce the degree of variance relief it was requesting

30. The Metropole also argued that the need for the parking relief was solely a function of the Applicant creating too many units on the site without demonstrating a need for them According to the Metropole, the Applicant was pursuing 37 units in order to get a higher rate of return when fewer units, and a lesser rate of return, would not generate such substantial degree of variance relief It posited that the Applicant was in essence making an economic argument for the relief without providing any economic analysis to support the need for 37 units They challenged the Applicant's pro forma, asserting that the costs associated with the 37-unit and 18-unit scenarios were wrongly listed as identical, when the costs for the 37-unit configuration should have been twice as high as the 18-unit configuration The allocation of costs associated with taxes were also disputed, thereby calling into question the positive rate of return ascribed to the 37-unit building and the negative rate of return to the 18-unit scenario The Metropole claimed that the Applicant had not demonstrated a practical financial difficulty in providing fewer units and lessening the degree of parking relief requested

33 Regarding the third prong of the variance test, the Metropole stated that granting the parking relief would have a significant negative impact on the neighborhood Even if the RPP restrictions proposed by the Applicant were enforceable, the Metropole asserted that residents would exhaust the remaining supply of leased parking spaces in the neighborhood and visitors to the site would exacerbate the on-street parking shortage. The Metropole urged the Board to deny the application.

34 Celia Davis, a resident of the Metropole, testified on behalf of the condominium association She asserted that the Metropole had been given inadequate notice of the BZA applications and that she was unaware that the ANC had voted to

support the applications in Summer 2013 She objected to the Applicant revising its design to eliminate the rear yard and lot occupancy relief because it would have greater impacts on her unit, which abuts the project to the west Her testimony revealed that she and the Applicant had numerous discussions about the design of the building and the BZA application beginning in October 2013

35 The Metropole also claimed that under the special exception parking relief test, the Applicant did not prove the extent of its difficulty in providing the required parking and the degree of relief needed to meet that limited difficulty

CONCLUSIONS OF LAW

Special Exception Relief

Pursuant to section 3104 of the Zoning Regulations, the Board is authorized to grant special exceptions where, in its judgment, the relief 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 Additionally, certain special exceptions must meet the conditions enumerated in the particular sections pertaining to them In this case, along with the general requirements of section 3104, the Applicant also had to meet the requirements of sections 411 and 1906 1 of the Zoning Regulations

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 relief requested are met In reviewing an application for special exception relief, the Board's discretion is limited to determining whether the proposed exception satisfies the requirements of the regulations and "if the applicant meets its burden, the Board ordinarily must grant the application." *First Washington Baptist Church v D C Bd of Zoning Adjustment,* 423 A 2d 695, 701 (D.C 1981) (quoting *Stewart v D C Bd of Zoning Adjustment,* 305 A 2d 516, 518 (D.C 1973))

The Applicant is seeking special exceptions from the roof structure requirements pursuant to section 411.11, [and] the roof structure height limitation of section 1902.1(a)[, and the parking requirements for historic structures under section 2120 1]

Roof Structure Configuration

Under § 411 11, the Board may grant special exception relief from the strict requirements for a roof structure where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable " (11 DCMR § 411.11.) The Board may approve deviations from the roof structure requirements provided the intent and purpose of chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and light and air of adjacent buildings shall not be affected adversely "

Here, the Applicant requests relief from section 411 5 of the Zoning Regulations, which requires the enclosing walls of roof structures to be of equal height However, in order to reduce the height and massing for the majority of the proposed roof structure to the greatest extent possible, the proposed structure incorporates enclosing walls having heights of 8 feet, 8 inches, and 14 feet, 3 inches The 8 feet, 8 inch portions enclose stairwells necessary to provide access to the roof. The 14 feet, 3 inch portion of the structure encloses the elevator and mechanical equipment If the Applicant were to comply with the requirement for penthouse walls of equal height, it would need to increase the height of the proposed stair enclosure walls by another 5 feet, 7 inches Such an action would unnecessarily increase the visibility of the roof structure from the street, thereby negatively affecting the surrounding historic community The elevator is required to go to the roof of the building and to provide access to the roof deck and ancillary amenity space to persons with disabilities The Board concludes that the proposed roof structure complies with the spirit and intent of the roof structure provisions and the Zoning Regulations, by helping to ensure adequate light and air to adjacent property and abutting streets.

The Board further concludes that the step-downs in height help to reduce the visibility of the roof structure from the surrounding areas and that this special exception is requested in order to further minimize the bulk of the roof structure Accordingly, the proposed penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under § 411

Roof Structure Height

The Arts Overlay limits any building, including its roof structures, to a maximum height of 83 5 feet Here, the Applicant proposes that a portion of the roof structure housing the elevator override equipment will rise to a height of 14 feet, 3 inches, resulting in an overall height of approximately 84 feet, 3 inches Pursuant to § 1906 1 of the Zoning Regulations, the Board may grant relief from the requirements of the Arts Overlay as a special exception if the criteria stated in § 1901 6 (a) through (e) are met However, the subsection also provides that the Board "shall apply criteria (c) and (d) only if relevant to the relief sought Paragraph (d) concerns the design of vehicular access and egress and is clearly unrelated to the height roof structures The Board therefore will not address that factor

The Board concludes that the Applicant meets the other standards as follows

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 Board concludes that in this case, the proposed height of the roof structure will substantially advance the purposes of the Arts Overlay District by providing access to a communal rooftop terrace The purposes of the Arts Overlay District include encouraging residential development, and strengthening the design character and identity of the area (11 DCMR § 1900 2(e), (f) and (h)) Here, the rooftop terrace is a major amenity to this residential development and a significant design feature that strengthens the Arts Overlay and 14th Street corridor It provides a safe recreational gathering space for residents of the building and fosters increased activity in the overlay district Without relief from the penthouse height restrictions, this important feature of the building and the design character of the Arts Overlay District would be significantly impacted

Moreover, the Board further concludes that the height of the roof structure will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting the area. The portion of the roof structure that requires the nine-inch deviation is slightly off-centered in the roof and any resulting additional shadow would fall on the roof itself It is set back 8 feet, 4 inches from the east property line, 20 feet, 11 inches from the west property line, more than 48 feet from the northern exterior wall of the building, and more than 30 feet from the southern exterior wall of the building Thus, the Board concludes that this portion of the roof structure above 83 5 feet constitutes a *de minimus* increase of nine inches that will not have any adverse visual impacts. The penthouse will be clad in complementary materials to ensure its successful integration into the overall design of the building, and its design and massing have been approved in concept by HBRB

Section 1906 l(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 Board concludes that in this case, the Property is affected by the combination of several exceptional circumstances, including (i) a narrow width of only 38 feet, (ii) an exceptionally small lot size of only 3,420 square feet of land area, (iii) the configuration of the existing structures on the site, a significant portion of which must be retained due to their historic status, and (iv) the specific HPRB design approvals that reflect the particular historic constraints of these specific buildings All these factors have a direct impact on the design and layout of the proposed development on the Property.

Section 1906 l(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 Board concludes that in this case, the proposed roof terrace -- and the elevator providing access to this amenity -- are exceptional urban design features for a building on Church Street, which enhance the quality of life in the Arts Overlay The elevator penthouse has been located to protect the street views of the building, surrounding properties and the historic district The project has been reviewed by the staff of HPO and approved in concept by HPRB.

Section 1906 l(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 Board concludes that in this case, the proposed extension in the roof structure height and at a limited and discreet location will only be as tall as necessary to allow elevator access to the roof This portion of the roof structure will be significantly set back from adjacent property lines and public ways, so that there will only be limited visibility of it from public space Additionally, the roof deck will be closed after 10 00 p m Sunday through Thursday, and after midnight on Friday and Saturday. Thus, the Board determines that it does not need to impose any additional requirements or conditions As designed, the proposed roof structure protects the integrity of the contributing buildings, encourages their adaptive reuse in an attractive combination of new and old buildings, expands the area's housing supply in a variety of rent and price ranges, all in conformance with the purposes of the ARTS Overlay 11 DCMR § 1900 2

[ALTERNATIVE A FOR SPECIAL EXCEPTION RELIEF]

Special Exception Parking for Historic Resources

Pursuant to section 2120.6, the Board may grant relief from 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 significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource The Board concludes that the Applicant has met its burden of proof The preservation of the historic resources, including below grade demising walls, preclude the Applicant from constructing parking under those buildings The remaining 42 feet of the site that is available for excavation is simply too shallow and too narrow to accommodate a parking garage. It is physically impossible to provide a maneuverable garage ramp to below grade parking, with the requisite drive aisle and spaces However, the rear portion of the site can accommodate no more than four surface parking spaces of compact size (8 feet by 16 feet) Thus, the Applicant has demonstrated that it needs relief from no more than 11 parking spaces The Applicant has also demonstrated that there is ample and frequent transportation alternatives to car ownership and parking on-site and that the traffic impacts created by the project are negligible The proposed TDM measures further assure that the relief will not generate any adverse impacts Granting the parking relief as a special exception is consistent with other decisions of the Board, most recently in BZA Case No 18744 where 100 percent relief (23 spaces) was granted for the project at 15 Dupont Circle Here, a lesser degree of relief (73 percent for 11 spaces) can be granted applying the same special exception standard Because the Applicant meets the test for parking relief as a special exception, the Board concludes it is unnecessary to evaluate the parking relief under the variance test

[ALTERNATIVE B FOR VARIANCE RELIEF]

Variance Relief

Standard of Review

The Applicant seeks an area variance from the minimum number of required parking spaces under section 2101 1 to allow construction of an multi-unit residential building at 1456-60 Church Street, N W (Square 209, Lot 65, 66 and 67) Under section 8 of the Zoning Act (D C Code § 6-641 07(g)(3) (2012 Repl), the Board is authorized to grant an area variance where it finds that three conditions exist "(1) the property is unique because, *inter alia*, of its size, shape or topography; (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 zoning plan " *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 D C 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 D C Bd of Zoning Adjustment*, 579 A 2d 1164, 1170 (D C 1990)

As discussed below, the Board concludes that the Applicant has met its burden of proof for an area variance from the parking requirements of section 2101 1 of the regulations

Exceptional and Extraordinary Conditions

The Board concludes that the subject property is affected by a confluence of several exceptional and extraordinary conditions First, the property is already improved with existing historic buildings, which have been deemed to contribute to the character of the 16th Street Historic District *See Clerics of St Viator v District of Columbia Bd of Zoning Adjustment*, 320 A 2d 291 (D C 1974); *Gilmartin v District of Columbia Bd of Zoning Adjustment*, 579 A 2d 1164, 1168 (D C 1990) (an exceptional or extraordinary situation or condition may encompass the buildings on a property, not merely the land itself, and may arise from a "confluence of factors") Second, HPRB has required the Applicant to incorporate significant portions of these historic structures into the design of the new building, thereby severely limiting the location of the elevators, egress stairs and unit layout The Property, at only 38 feet wide, is exceptionally narrow and significantly smaller in size in comparison to other multi-family redevelopments within Square 209, and the surrounding community, as evidenced by the plats and maps submitted to the record Additionally, the Property fronts on one of the narrowest streets in the neighborhood.

Based on the foregoing, and as discussed below, the confluence of factors is more than sufficient to create exceptional or extraordinary conditions affecting the Property The historic status of the existing buildings is not in and of itself an extraordinary condition because it is a characteristic shared by other buildings in the historic district. However, as the Board has concluded in other cases, it is not so much the buildings' historic status that creates the exceptional condition, but the specific design constraints imposed by HPRB based on the particular historical and architectural significance of these specific individual buildings When taken as a whole, the Board concludes that these "confluence of factors" create exceptional and extraordinary conditions for the subject Property

Practical Difficulties

The Board further concludes that these exceptional and extraordinary conditions, in turn, create practical difficulties for the Applicant in complying with the parking requirements of the Zoning Regulations If the Applicant were forced to provide 19 compliant parking spaces, it would need to excavate the site The portion of the lot not occupied by the historic structures is physically not large enough to accommodate all nineteen spaces plus the drive aisle, elevator core, egress stairs, trash room and bike parking The remaining 42 feet of the site that is available for excavation is simply too shallow and too narrow to accommodate a parking garage with a maneuverable ramp and the requisite drive aisle.

Even if the number of units were reduced, the Applicant would encounter financial practical difficulties The Applicant's pro forma demonstrated that the 37-unit scenario yielded an equity return rate of 6 15 percent, which is the minimum required by lenders to finance projects However, if the number of units were reduced to a point that the degree of parking relief would be significantly lessened, it resulted in a project that could not be financed. The party opponent challenged the validity of the pro forma because it assigned the same fixed costs to the 18-unit scenario as it did for the 37-unit project According to the opponent, a smaller project would cut the costs by half. Yet the Applicant's testimony and submissions to the record demonstrated that the high fixed costs for each scenario were due to the preservation of the historic structures and construction of the new superstructure, which were constant values in either model The reduced costs associated with fewer bathrooms or kitchens were not significant enough to change the negative return of the 18-unit alternative The party opponent also questioned how the pro forma could show the same expense for real property taxes in either scenario, reasoning that if the taxes were the same, the value of each alternative was the same. The potential error, however, is still too insignificant to affect the value of the project For an \$8 million project, the \$34,000 attributed to property taxes is less than one-half of one percent.

No Substantial Detriment to Public Good or Substantial Impairment of the Zone Plan

The requested 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, including the ARTS Overlay The Applicant submitted a Transportation Impact Analysis that demonstrates that even a 100% waiver of the parking requirements would not create any adverse effects provided the proposed TDM measures and RPP restrictions are in place, as set forth in Finding of Facts DDOT had no objection to the application and the reduction in parking for the transit-oriented development, in light of the TDM measures and RPP restrictions

Thus, the Board concludes that there will be a significant amount of transit and pedestrian access to the Property, resulting in a decrease in the number of vehicle trips that would otherwise be generated, and a decrease in the number of off street parking spaces that would be needed if the Property were not in such close proximity to public transportation The requested parking relief is appropriate considering the wealth of mass transit options for residents and visitors. The provision of four parking spaces at the site, in addition to two spaces in the Metropole Building immediately adjacent to the site and accessible from the same alle, will also help satisfy whatever parking demand may be generated by the building

In addition, the Applicant has agreed to include language in all documents related to the lease or sale of the residential units that residents of the building are prohibited from applying for a RPP from the District of Columbia, regardless of the building's ownership, and for the life of the building In addition, the Board is requiring the Applicant to record a covenant running with the land so that all future owners of the Property will be bound by this obligation

The integrity of the zone plan would not be impaired by the granting of the variance The ARTS Overlay zoning "incentivizes" residential development The proposed project's size and scale would be consistent with nearby residential development

[END OF ALTERNATIVE B]

Great Weight to ANC

Section 13(b)(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D C Law 1-21, D C Code § 1-309.10(d)(A)), requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC In this case, ANC 2F recommended approval of the requested relief The Board accords the ANC recommendation the great weight to which it is entitled and concurs in its recommendation

The Board is required under section 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D C Law 8-163, D C Code § 6-623 04) to give great weight to OP recommendations The Board also concurs with OP's recommendation that the zoning relief should be granted

[ALTERNATIVE A for Special Exception Relief].

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104 1, 1902.1(a), and 2120 6, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map

[ALTERNATIVE B for Variance Relief]·

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for an area variance under sections 2120 1, that there exists an exceptional or extraordinary situation or condition related to the Property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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 The Board also concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104 1 and 1902 1(a), and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map

It is therefore **ORDERED** that the application is hereby **GRANTED, with the following conditions:**

1 The Applicant shall provide four compact spaces at the rear of the property, as shown on the plans In addition to the four on-site parking spaces, the Applicant shall lease two parking spaces within two blocks of the site for use by residents or visitors of the building

2 The Applicant shall include in its residential leases a provision that prohibits tenants from obtaining a Residential Parking Permit ("RPP") for the Property from the D.C Department of Motor Vehicles ("DMV"), under penalty of lease termination

3. The Applicant shall obtain written authorization from each tenant, either through a lease provision or another written document, that allows the DMV to release to the Applicant any and all records of that tenant requesting or receiving an RPP for the Property

4 The Applicant shall monitor tenant compliance with the RPP lease restriction by requesting from the DMV, every six months, any and all records of residential tenants requesting or receiving RPPs for the Subject Property, and shall provide annually to the Metropole Condominium Board the results of its inquiries

5 The Applicant shall record a covenant against the Property among the Land Records of the District of Columbia prohibiting any lessee or owner of the Property from obtaining an RPP for the building approved in this BZA Order

6 For the life of the project, the Applicant shall provide a one-year membership to either a car-share or bike-share organization to each residential leaseholder. The time period will begin upon the issuance of the certificate of occupancy for the building

7 The Applicant shall designate a Transportation Management Coordinator to implement and manage TDM strategies The strategies are (i)the development and distribution of information and promotional brochures to residents, visitors, patrons and employees regarding transit facilities and services, pedestrian and bicycle facilities and linkages, ridesharing (carpool and vanpool) and car sharing, and (ii) ensuring that loading activities are properly coordinated and do not impede the pedestrian, bicycle, or vehicular lanes adjacent to the development

8 The Applicant shall prohibit residents from using the roof deck after 10 00 p.m. Sunday through Thursday and after midnight on Friday and Saturday

9 The Applicant shall provide an indoor, temperature-controlled and ventilated trash facility and shall utilize the same trash removal company as another residential building in the block to help minimize trash removal congestion.

VOTE: _____ (Lloyd L Jordan, S Kathryn Allen, Marnique Heath, Shane Dettman)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member approved the issuance of this order

ATTESTED BY: ____________________________
Sara Bardin
Director, Office of Zoning

FINAL DATE OF ORDER: _______________

UNDER 11 DCMR § 3125 9, "NO DECISION OR ORDER OF THE BOARD SHALL BECOME EFFECTIVE UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS IN ACCORDANCE WITH THE D C HUMAN RIGHTS ACT OF 1977, AS AMENDED, D C OFFICIAL CODE § 2-1401 01 ET SEQ, (THE "ACT"), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BZA APPLICATION NO. 18638

As Director of the Office of Zoning, I hereby certify and attest that on **_________, 2014,** a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter and to each public agency listed below

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Washington, D C 20005

The Honorable Jack Evans
Councilmember – Ward 2
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ATTESTED BY: ________________________________
Sara Benjamin Bardin
Director, Office of Zoning

MAC REALTY ADVISORS

June 7, 2014

Board of Zoning Adjustments
441 4th Street NW
Washington, DC 20001

Dear Members of the Board

I attended the 1456-1460 Church Street hearing on May 20, 2014 and provided testimony. My firm MAC Realty Advisors has been involved in over 30 transactions in the 14th and U Street corridors involving well over a billion dollars in construction financing and sales. We are one of the most active brokers for multi-family sales, debt and equity placement, and land sales in that immediate area. I have reviewed the Rosebusch ProForma and want to reiterate the following:

- The revenue projections of $4-$5.00 per square foot are accurate for current new construction studio/one bedroom rentals in the 14th Street Corridor. I am involved in multiple deals supporting those numbers.
- The proposed unit mix of 37 studio units supports a financeable project.
- Larger 2 bedroom rental units command between $3-4 per square foot.
- The alternative units mix of 18 units is not a financeable project.

Sincerely,

Andrew McAllister
Executive Director
MAC Realty Advisors, LLC
(202) 296-0007
amcallister@macrealtyadvisors.com

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June 7, 2014

Brook Rose
Rosebusch LLC
2114 Bancroft Place NW
Washington, DC 20008

Re: Building Costs differentiating a 18 unit or 37 unit project

Dear Mr. Rose:

Thank you for considering SIGAL Construction Corporation (SIGAL) for your development project at 1456-1460 Church Street NW. We are happy to have had the opportunity to price your architectural plans over the past several months.

Established in 1977, SIGAL is the Mid-Atlantic Region's premier general contractor specializing in unique projects of varying complexities. As one of Washington Metropolitan area's ranked and leading general contractors, SIGAL has completed over $2 billion dollars of projects, including the Jefferson Hotel, Penn Plaza (601 Penn. Ave), and Heights of Columbia (14th & Girard).

In response to the proposition of building an 18 unit project (8 two-bedroom units and 10 one-bedrooms) instead of the proposed 37 unit, we offer the following:

- The vast majority of the costs of the building are fixed regardless of the number of units built. The largest construction expenses involve building the concrete superstructure, excavation and underpinning of the existing historic structures, elevator, trash system, two means of egress, roof deck, windows and exterior cladding. These items remain constant irregardless of unit count.
- There will be some costs savings on the number of kitchens and HVAC systems and possibly plumbing (although the two bedroom units could result in the same plumbing needs) This will likely be offset by larger kitchens and bathrooms in the larger units and increased cost of larger HVAC units

Please let us know if you have any additional questions.

Sincerely,

Gerard Heiber
President