2014 APR -8 PM 2:15

Monday, April 07, 2014

Lloyd Jordan, Esq
Chairperson
Board of Zoning Adjustment
441 4th Street NW
Suite 210 South
Washington DC 20001

Re: 1717 E Street, NE. (BZA No. 18692)

This supplemental submission responds to the Board's request for additional information pertaining to the subject of comparative analysis of reasonable Return on Investment (ROI) associated with a six-unit versus an eight-unit condominium, as proposed for the property of reference above

The Board continued the March 4th, 2014 hearing until April 15, 2014 to allow the applicant to supplement the records to address specifically the following concerns

1 Financial expert written and or oral testimony as to the reasonable return on investment or lack thereof of approximately 11% ROI associated with the six-unit project for this site,
2 Market Analysis in support of the applicant's request for an eight-unit condominium,
3 Self-imposed hardship resulting from due diligence or lack thereof,
4 Office of Planning's Report limiting recommendation to six units

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18692
EXHIBIT NO. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.18692
EXHIBIT NO.29

Financial expert written and or oral testimony as to the reasonable return on investment or lack thereof of approximately 11% ROI associated with the six-unit project for this site

Please find attached the resume and written opinion of Mr Greshaun Fulgham, who comes with first- hand experience in the DC real estate market

The applicant refers the Board to the transcripts of BZA No 17930, specifically page 67, line 17 through page 70 line 8, wherein the Board affirms expectation of a fair and reasonable return in investment is a settled matter as a basis for the consideration of the grant of a use variance, particularly when the unique circumstance(s) affecting the property is the direct result of the exceptional and undue hardship upon the owner of the property

The standard of reasonableness of an expectation of fair and reasonable ROI is inextricably tied to the relative difficulty of a project attracting construction financing or loan given standard lending sector risk analysis Further, due consideration of the economic feasibility of the project relating to the unpredictable and unforeseen impact of the public infrastructure on the marketability of the completed project, as the expert brokers written and oral testimony attests is directly related to the attractiveness of the project to potential developers

The project architect will testify as a fact witness about the history of the attempts to market these lots on behalf of the previous owners and sellers to numerous potential developers, including the related impact of the encumbrance of the public utility infrastructure

Therefore the need to mitigate known and unknown risks, including the difficulty in attracting construction financing or loan, is the singular driving force for the request for an eight-unit for-sale condominium project, not the desire for greater profit

These factors are the same regardless of who the developer is, and probably is the singular reason why subject property has remained undeveloped, and probably will in perpetuity contrary to the intent and purpose of the Zoning Regulations

Market Analysis in support of the applicant's request for an eight-unit condominium

The expert broker's comparative market analysis confirms that the instant project will be a pioneer condominium project for the size of units in this market area of DC Notwithstanding that adjustments for the infrastructure easement have been included in pricing of the completed units for sale, the fact that this project will be making a new market for new condominium sales in the Kingman neighborhood, the uncertainty of potential buyers' reaction to the import of the presence of the infrastructure and associated condominium insurance expense, which is likely to result in higher condominium fees over time, and the restriction of subject property to three Residential Parking Permits (RPP) combine to render the expected ROI for the six-unit project within the realm of an economically unfeasible project, such that it is unattractive to any developer regardless of respective risk thresholds

As further attested by the opinion of the broker, the applicant paid fair market value for the lots, given the unique circumstances and did not have a choice with respect to isolating the only lot feasible for a potential matter of right development All three lots were offered for sale only in tandem, with full disclosure about all encumbrances affecting subject property as required by law

The eight-unit request assures a fair and reasonable ROI in that it anticipates all known or predictable, and unknown or unpredictable contingencies to make the project an economically feasible project, such that the property does not remain unattractive to developers for the foreseeable future or in perpetuity

Self-imposed hardship resulting from due diligence or lack thereof

When the unique circumstance affecting a subject property constitutes an extraordinary situation or condition of property which particularly predates the adoption of the Zoning Regulations, foreknowledge of same cannot constitute a self-imposed hardship, except incontrovertible evidence exists that the hardship is as a direct result of a bad business decision

In the instant matter, the expert broker asserts that the applicant paid fair market value for the acquisition of the property which is reflective the encumbrance, which the seller is obligated under law to provide full disclosure of The subject property has been so encumbered since the early 1900s when the infrastructure was originally installed The lots were offered for sale as a group, for good reason The location of the infrastructure encumbrance and its easement zone of influence are such as to render undevelopable two of the three lots, lots 166 and 167 are worthless without lot 165

The unique circumstance of the lots and the requirement of the Zoning Regulations set forth under §3202 3, which restricts a single building to one lot of record conspire to impose the necessity for a use variance upon the owner, without which feasible economic use of subject property is impossible

The footprint to which the infrastructure encumbrance restricts the proposed building crosses the common property line between lots 165 and 166, therefore §3202.3 mandates lot consolidation through a subdivision process Once the proposed building contains three units or more on the consolidated lot, the use variance sought by the applicant is required because the only matter of right use the combined lots is limited to is a two-family flat, which clearly is an economically unfeasible use under the circumstances

The exceptional and undue hardship upon the owner is inherent in the extraordinary situation of property and therefore cannot be deemed to be self-imposed

Office of Planning's Report limiting recommendation to six units

The Office of Planning's (OP) report does not dispute that the property demonstrates extraordinary and exceptional situation of property which results in exceptional and undue hardship upon the owner of the property, but in recommending a maximum of six-units, quantifies the hardship upon the owner solely on the basis of what the owner would otherwise have been able to develop on each individual lot, absent the encumbrance of the infrastructure and its restrictive easement

Applicant's finance consultant, who applicant hopes will testify as an expert if so qualified by the Board, will attest to the difficulty of obtaining construction finance for any similar regular six-unit project with an approximate 11% ROI, let alone one with other exigent factors as affect the instant application including but not limited to potential increase in condominium fees due to additional insurance costs associated with the presence of the infrastructure, buyer apathy requiring pricing incentives, as the expert broker written submissions and oral testimony will attest

The extraordinary and exceptional situation of property affecting the subject property is significantly compelling as to present risks not easily anticipated and empirically quantifiable, as such would lend to the necessity for a buffer in spread to mitigate those risks

OP report concludes also that the design of the building would neither result in substantial detriment to the public good, nor constitute substantial harm to the Zoning Regulations, except the number of proposed units would be contrary to the intent of the zone

The applicant submits that since the exceptional situation of property imposes upon the owner the necessity of the relief sought in this application, the appropriate comparison as to the intent of the Zoning Regulations is related to the restrictions imposed upon similar uses – in this instant an apartment house use – in the underlying R-4 zone district, as opposed to what would have been buildable, if the three lots were not so encumbered by the public infrastructure

As set forth under §330 5 (e) an apartment house, defined as a building three or more dwelling units, may be established in the R-4 zone district through the conversion of a building or structure in existence prior to May 12, 1958, provided that such building is located on a lot with a minimum 900 square feet of lot area for each unit of conversion, a form of density control to restrict the proliferation of conversions noted in areas mapped in the R-4 zone districts prior to May 12, 1958 (see the General Provisions Chapter, §§330 1 through 330 3)

Given the foregoing, an eight-unit apartment house would be subject to a minimum lot area of 7,200 (900 ×8 = 7200) square feet The combined lot area of the three lots at 8,246 square feet is excess of the minimum Further an apartment house use, as are all other permitted uses in the underlying R-4 zone district, is allowed to occupy a maximum 60% lot occupancy, which would have resulted in an aggregate footprint of 4,948 8 square feet, but only 2,566 square feet or 31% lot occupancy is possible due constraints placed upon the property by the public infrastructure easement

The proposed structure will not exceed the limitation placed on number of stories and height for the underlying zone district, and proposes to provide more than twice the minimum number of parking spaces required for a similar use

Notwithstanding that applicant recognizes that the R-4 zone district is not intended as apartment house district as contemplated in the General Residence (R-5) District as set forth in § 330 3, the use is not prohibited in that it can be established as a matter of right as prescribed However, the Zoning Regulations contemplates the necessity for density controls applicable to an apartment house use, and the proposed 8-unit apartment house of subject property meets and exceeds to density controls

The fact of how the use is to be established within the zone district, which is the subject of relief before the BZA, is the result of the extraordinary and exceptional situation or condition of property, which the owner has no control over

For all the foregoing reasons, the applicant submits that the proposed 8-unit apartment house condominium is not inconsistent with the intent and purpose of the Zoning Regulations

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UrbanLand
COMPANY
Real Estate Brokerage

April 7, 2014

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street NW, Suite 220 S
Washington DC 20001

Re: 1717 E Street, NE

To Whom It May Concern:

Enclosed please find information on comparable sales in support of my opinion of February 18, 2014 on the impact of the WASA easement on the marketability of condominiums at the subject property.

The subject property is located in the Kingman Park neighborhood, on E Street, NE, and approximately four blocks south of Benning Road. The area is in transition and is mostly comprised of brick apartment buildings and single family row houses; there are not many condominiums in the immediate area. In looking for comparable condominiums that have sold, are under contract or are for sale now, I studied the subject neighborhood, as well as Trinidad, Langston, Carver, and part of Stanton Park. For sold condominiums, I considered those sold after June 30, 2013, and focused on two-bedroom, two-bathroom units, which are the floor plan the developer prefers to build, and which are much more common than three-bedroom units.

I identified the eight comparable properties described in the Comparative Market Analysis that is enclosed as the most relevant of those available. Of the five that have sold, the prices ranged from $201,000 to $309,000, with an average sold price of $250,685. These condominiums differ from those planned at the subject property in that they are all existing properties (not new construction), and they are smaller, ranging from 620 square feet to 975 square feet, compared to the approximately 1,100 square foot units planned. Adjusting for these factors, I recommended in my opinion letter that the two-bedroom, two-bath subject units be priced at approximately $339,000, prior to the discount for the WASA easement. The developer will really be making a market for new condominiums in Kingman Park.

In addition, I would like to note that the developer's acquisition price of $280,000 for the three subject lots is approximately 50% of the market price for unencumbered land in a similar area, with the reduced price a reflection of its reduced value due to the public infrastructure easement traversing the lots. Unencumbered land in a similar neighborhood typically commands a price of approximately $200,000 per lot. Furthermore, the lots were listed for sale in the multiple listing service for $385,000 in 2012, with the existence of the WASA easement disclosed in that listing. The developer and the seller of the land took the existence of the easement into account in negotiating the purchase and sale of the lots for a reduced price of $280,000 in 2013.

Thank you for the opportunity to present this additional information.

Sincerely,

Gerard V. DiRuggiero
Broker and Managing Member

Enclosure

COMPARATIVE MARKET A LYSIS

1717 E Street, NE
Washington, DC 20002

Prepared exclusively for
1717 E Street, LLC

Prepared on
April 04, 2014

Researched and prepared by
Gerard DiRuggiero
UrbanLand Company, LLC
913 Florida Ave, NW
Washington, DC 20001
202-299-9223

COMPARATIVE MARKET ANALYSIS

CMA Summary

ACTIVE — 1 Listing

	List Price	Orig. Price	% Dif	DOMP	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Built	Lot SF
Average	$350,000	$350,000	0.00	38	0	2	2	0	1	1		1956	
Median	$350,000	$350,000	0.00	38	0								

CNTG/NO KO — 1 Listing

	List Price	Orig. Price	% Dif	DOMP	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Built	Lot SF
Average	$350,000	$350,000	0.00	30	0	2	2	0	1	1		1956	
Median	$350,000	$350,000	0.00	30	0								

CONTRACT — 1 Listing

	List Price	Orig. Price	% Dif	DOMP	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Built	Lot SF
Average	$201,000	$201,000	0.00	104	820	2	2	0	0	0		1940	
Median	$201,000	$201,000	0.00	104	820								

SOLD — 5 Listings

	List Price	Sold Price	% Dif	DOMP	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Built	Lot SF
Average	$251,185	$250,685	-0.26	22	695	2	2	0	1	0		1936	
Median	$249,923	$242,426	0.00	30	820								

Report Totals

Properties: 8

Avg List Price	$269,615	Avg Sold Price	$250,685	Avg DOM-P	35
Median List Price	$269,962	Median Sold Price	$242,426	Median DOM-P	30
Low List Price:	$201,000	Low Sale Price:	$201,000		
High List Price:	$350,000	High Sale Price:	$309,000		

MRIS Real Estate in Real Time™

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Prepared on April 04, 2014

COMPARATIVE MARKET ANALYSIS

CMA Summary Detail

ACTIVE 1 LISTING

Address		List Price	Orig. Price	% Diff	DOMP	Style	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Bmt	YrBlt	Acres	List Date
653 8Th St Ne #2		$350,000	$350,000	.00	38	TH-Victorian / End	0	2	2	0	1	1		No	1956		15-Nov-13
	Average	**$350,000**	**$350,000**	**0.00**	**38**			**2**	**2**	**0**	**1**	**1**			**1956**		
	Median	**$350,000**	**$350,000**	**0.00**	**38**												

CNTG/NO KO 1 LISTING

Address		List Price	Orig. Price	% Diff	DOMP	Style	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Bmt	YrBlt	Acres	Contr Date
653 8Th St Ne #3		$350,000	$350,000	.00	30	TH-Victorian / End	0	2	2	0	1	1		No	1956		4-Dec-13
	Average	**$350,000**	**$350,000**	**0.00**	**30**			**2**	**2**	**0**	**1**	**1**			**1956**		
	Median	**$350,000**	**$350,000**	**0.00**	**30**												

CONTRACT 1 LISTING

Address		List Price	Orig. Price	% Diff	DOMP	Style	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Bmt	YrBlt	Acres	Contr Date
1354 Queen St Ne #102		$201,000	$201,000	.00	104	Federal / Interior	820	2	2	0	0	0		No	1940		1-Apr-14
	Average	**$201,000**	**$201,000**	**0.00**	**104**			**2**	**2**	**0**	**0**	**0**			**1940**		
	Median	**$201,000**	**$201,000**	**0.00**	**104**												

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COMPARATIVE MARKET ANALYSIS

CMA Summary Detail

SOLD **5 LISTINGS**

	List Price	Sold Price	% Diff	DOMP	Style	Liv Sqft	BR	FB	HB	Lvls	Fpls	Gar	Bmt	YrBlt	Acres	Cont Date	Sold Date	Subsidy
1354 Queen St Ne #101	$201,000	$201,000	.00	0	Federal / Interior	820	2	2	0	0	0		No	1940		25-Nov-13	26-Mar-14	$6,300
1614 Isherwood St Ne #202	$249,923	$242,426	-3.00	30	Colonial	800	2	1	0	1	0		No	1932		27-Nov-13	25-Mar-14	$0
1354 Queen St Ne #202	$206,000	$206,000	.00	48	Federal / Interior	820	2	2	0	1	0		No	1940		11-Jan-14	18-Mar-14	$4,500
410 15Th St Ne #14	$309,000	$309,000	.00	0	Art Deco	62	2	1	0	1	1		No	1927		22-Feb-14	28-Feb-14	$0
423 18Th St Ne #6	$290,000	$295,000	1.72	30	Other	975	2	2	1	2	0		No	1941		14-Aug-13	31-Oct-13	$8,000
Average	**$251,185**	**$250,685**	**-0.26**	**22**			**2**	**2**	**0**	**1**	**0**			**1936**				
Median	**$249,923**	**$242,426**	**0.00**	**30**														

Report Totals **Properties: 8**

Avg List Price	**$269,615**	**Avg Sold Price**	**$250,685**	**Avg DOM-P**	**35**
Median List Price	**$269,962**	**Median Sold Price**	**$242,426**	**Median DOM-P**	**30**
Low List Price:	**$201,000**	**Low Sale Price:**	**$201,000**		
High List Price:	**$350,000**	**High Sale Price:**	**$309,000**		

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Prepared on April 04, 2014

CMA Pricing Analysis

Subject	mparable 1	Comparabl	Comparable 3
			
1717 E STREET, NE WASHINGTON, 20002 DC	653 8TH ST NE #2 WASHINGTON OLD CITY #1 DC8225102	653 8TH ST NE #3 WASHINGTON OLD CITY #1 DC8225120	1354 QUEEN ST NE #102 WASHINGTON TRINIDAD DC8231082

			Adj		Adj		Adj
Status		ACTIVE		CNTG/NO KO		CONTRACT	
DOMM		33		25		104	
Seller Subsidy							
Transaction Type		Potential Short Sale		Potential Short Sale		Standard Sale	
Property Cond						Renov/Remod, Shows Well	
List Date		11/15/2013		11/15/2013		11/25/2013	
Settled Date						16-May-2014	
Contract Date				04-Dec-2013		01-Apr-2014	
List Price		$350,000		$350,000		$201,000	
Close Price							
Style		Victorian		Victorian		Federal	
Type		Attach/Row Hse		Attach/Row Hse		Garden 1-4 Floors	
Levels		1		1		0	
Year Built		1956		1956		1940	
Total Bedrooms		2		2		2	
Baths Full/Half	/	2 / 0		2 / 0		2 / 0	
# of Fireplaces		1		1		0	
# Gar/Car/ParkSp	-/-/-	-/-/-		-/-/-		-/-/-	
Exterior Features							
Exterior Constr		Brick		Brick		Brick and Siding	
Basement Type							
Cooling System		Central A/C		Central A/C		Ceiling Fan(s), Central A/C	
Cooling Fuel Sys		Electric		Electric		Electric	
Heat System		Heat Pump(s)		Heat Pump(s)		Central, Forced Air	
Heat Fuel		Electric		Electric		Electric	
Living Area		0		0		820	
Price PER SQFT		0.00		0.00		245.12	
Tax Total Liv Ar		808		872		3,360	
TLA Prc PER SQF		$433.17		$401.38		$59.82	
Lot Size (Sqft/Ac)	-/-	-/-		-/-		-/-	
Total Adj							
Total Adj. Value	$	$350,000		$350,000		$201,000	

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CMA Pricing Analysis

Subject	mparable 4	Comparabl	Comparable 6
			
1717 E STREET, NE WASHINGTON, 20002 DC	1354 QUEEN ST NE #101 WASHINGTON TRINIDAD DC8231075	1614 ISHERWOOD ST NE #202 WASHINGTON OLD CITY #1 DC8178644	1354 QUEEN ST NE #202 WASHINGTON TRINIDAD DC8229469

			Adj		Adj		Adj
Status		SOLD		SOLD		SOLD	
DOMM		0		30		48	
Seller Subsidy		6,300		0		4,500	
Transaction Type		Standard Sale		Standard Sale		Standard Sale	
Property Cond		Shows Well, Renov/Remod		As-is condition, Renov/Remod		Shows Well, Renov/Remod	
List Date		11/25/2013		09/10/2013		11/22/2013	
Settled Date		26-March-2014		25-March-2014		18-March-2014	
Contract Date		25-Nov-2013		27-Nov-2013		11-Jan-2014	
List Price		$201,000		$249,923		$206,000	
Close Price		$201,000		$242,426		$206,000	
Style		Federal		Colonial		Federal	
Type		Garden 1-4 Floors		Garden 1-4 Floors		Garden 1-4 Floors	
Levels		0		1		1	
Year Built		1940		1932		1940	
Total Bedrooms		2		2		2	
Baths Full/Half	/	2 / 0		1 / 0		2 / 0	
# of Fireplaces		0		0		0	
# Gar/Car/ParkSp	-/-/-	-/-/-		-/-/-		-/-/-	
Exterior Features						Secure Storage, Street Lights	
Exterior Constr		Brick and Siding		Brick		Brick and Siding	
Basement Type							
Cooling System		Ceiling Fan(s), Central A/C		(s), Central A/C, Heat Pump(s)		Central A/C, Ceiling Fan(s)	
Cooling Fuel Sys		Electric		Electric		Electric	
Heat System		Central, Forced Air		Forced Air		Central, Forced Air	
Heat Fuel		Central		Electric		Central, Electric	
Living Area		820		800		820	
Price PER SQFT		245.12		312.40		251.22	
Tax Total Liv Ar		3,360		714		3,360	
TLA Prc PER SQF		$59.82		$350.03		$61.31	
Lot Size (Sqft/Ac)	-/-	-/-		-/-		-/-	
Total Adj							
Total Adj. Value	$	$201,000		$242,426		$206,000	

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CMA Pricing Analysis

	Subject	mparable 7		Comparabl	
					
	1717 E STREET, NE WASHINGTON, 20002 DC	410 15TH ST NE #14 WASHINGTON OLD CITY #1 DC8277204	Adj	423 18TH ST NE #6 WASHINGTON OLD CITY #1 DC8119065	Adj
Status		SOLD		SOLD	
DOMM		0		30	
Seller Subsidy		0		8,000	
Transaction Type		Standard Sale		Standard Sale	
Property Cond					
List Date		02/22/2014		06/27/2013	
Settled Date		28-February-2014		31-October-2013	
Contract Date		22-Feb-2014		14-Aug-2013	
List Price		$309,000		$290,000	
Close Price		$309,000		$295,000	
Style		Art Deco		Other	
Type		Garden 1-4 Floors		Garden 1-4 Floors	
Levels		1		2	
Year Built		1927		1941	
Total Bedrooms		2		2	
Baths Full/Half	/	1 / 0		2 / 1	
# of Fireplaces		1		0	
# Gar/Car/ParkSp	-/-/-	-/-/-		-/-/-	
Exterior Features					
Exterior Constr		Brick		Brick	
Basement Type					
Cooling System		Central A/C		Central A/C	
Cooling Fuel Sys		Electric		Electric	
Heat System		Central		Electric Air Filter	
Heat Fuel		Electric		Natural Gas, Electric	
Living Area		62		975	
Price PER SQFT		4,983.87		297.44	
Tax Total Liv Ar		630		1,019	
TLA Prc PER SQF		$490.48		$284.59	
Lot Size (Sqft/Ac)	-/-	-/-		-/-	
Total Adj					
Total Adj. Value	$	$309,000		$295,000	

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