

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of SB-Urban, LLC
ANC 2B

STATEMENT OF THE APPLICANT

This is the application of SB-Urban, LLC (“**Applicant**”) on behalf of the Washington Club (“**Club**”) for variance and special exception relief to permit the conversion of and addition to an existing building for use as an apartment building. The property that is the subject of this application is located at 15 Dupont Circle, NW (Square 136, Lot 34) (“**Property**”) and is shown on the Surveyor’s Plat attached as Exhibit C. The Property is located in the DC/SP-1 Zone District, as shown on the excerpt of the Zoning Map attached as Exhibit D.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (the “**BZA**” or the “**Board**”) approve the following four areas of relief:

1. Variance from Section 536.3 (court width) for two courts not providing the minimum required width;
2. Variance from Section 2100.10 (parking requirement for existing building) to eliminate existing parking spaces for a building that does not require parking;¹
3. Variance from Section 2101.1 (number of required parking spaces) to provide zero parking spaces with a requirement of 23; and

¹ The Applicant understands that the Zoning Administrator generally requires the retention of an existing parking area for an existing building that does not otherwise provide any parking. In this case, an area at the Property’s rear arguably provides unstriped parking that will be eliminated with the proposed project, so the Applicant is seeking relief from the Zoning Administrator’s requirement out of an abundance of caution.

4. Special exception under Section 411.11 (roof structure) for a roof structure not set back a distance equal to its height and having enclosing walls of unequal height.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Sections 3103.2 and 3104.1 of the Zoning Regulations (11 DCMR §§ 3103.2 and 3104.1).

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located in the northwest quadrant of the District and in Ward 2. The property is trapezoidal-shaped and contains approximately 13,853 square feet of land area. It is a corner lot with frontage on both Dupont Circle to the west and P Street to the south. To the north, it is bordered by a nine-story office building (zoned DC/C-3-C), and to the east, it is bordered by the Consulate of the Republic of Iraq. The surrounding area contains a mix of office, residential, institutional, hotel, and retail uses.

The Property is improved with the Patterson House (“**Mansion**”), a four-story former residence that is owned and occupied by the Washington Club as a private club. The Mansion includes a two-story addition at its rear (east) that was constructed circa 1956. The floor area ratio (“**FAR**”) of the existing improvements is approximately 2.20. The Mansion is a historic landmark, and it is also located within the Dupont Circle and Massachusetts Avenue Historic Districts.

The Applicant intends to demolish the two-story rear addition to the Mansion and replace it with a new seven-story addition. The proposed design has been submitted to the Historic Preservation Review Board for concept review.

IV. BACKGROUND AND PROJECT DESCRIPTION

The Patterson House, constructed in 1902-03, was designed by architect Stanford White (of the firm McKim, Mead, and White) for Robert Wilson Patterson, the editor of the *Chicago Tribune*, in the Italian neoclassical style. The Patterson family continued to control the property for nearly five decades and maintain it as a social hub. Among other highlights, the Mansion served as a temporary home for President Coolidge and his wife while the White House was under renovation in the 1920s, and the President hosted Charles Lindbergh at the Mansion following his transatlantic flight. The Club bought the property in 1951 and has used it as a private club since then. The addition to the Mansion is not considered to contribute to the character of the landmark.

The Applicant proposes to convert the Property to use as a furnished all-studios apartment building containing 92 dwelling units and amenity spaces (“**Project**”), as shown in the plans attached as Exhibit E. The Applicant’s intended demographic for this Project is single professionals who want to live in a walkable neighborhood close to the central business district with urban amenities and convenient access to public transportation. Because the apartments will each contain approximately 350 square feet, the Applicant will provide significant shared-living spaces within the Project. The apartments will be furnished, so they will attract residents who want as much convenience as possible.

To accommodate the design of the proposed apartment building, the Applicant will demolish the existing non-contributing addition and construct a new seven-story addition in its place. The Mansion will contain both apartments and the community/amenity spaces, and the addition will contain only apartments.

The Mansion measures approximately 57.7 feet in height, and the addition will be 69.5 feet in height, both within the 70 foot height limit in the SP-1 Zone District. The Project will have a maximum FAR of approximately 3.9, which is within the 4.8 FAR limit in the SP-1 Zone District. Further, the addition will bring the lot occupancy of the building to 76%, which is within the 80% limit for residential uses in the SP-1 zone. Except for the relief requested herein, the Project will comply with the Zoning Regulations. The Project will comply with the requirements of inclusionary zoning and the green area ratio.

The proposed Project will contain two nonconforming courts. The first court will be to the east of the addition at the southeast corner of the Property and will be six feet wide to provide a set back from the Iraqi Consulate. The required width of this court is 20'-10". The second court will be on the south side of the building between the Mansion and the proposed addition, opening on to P Street. The Applicant provided this court because of comments by the HPRB to provide separation between the landmark and the addition. The required width of this court is 15 feet, and the provided width will be 14 feet.

The proposed addition will increase the gross floor area of the historic resource by greater than 50%, so parking is required for the addition. As such, 23 parking spaces are required for the addition. However, with the construction of the addition, the Project will eliminate an area that is arguably currently used for parking.² Further, the Project will not provide any parking spaces.

The Project is consistent with the purposes of the Dupont Circle Overlay. The DC Overlay is intended to require a scale of development consistent with the nature and character of Dupont Circle in height and bulk; protect historic resources and prevent demolition activity that would lead to an inappropriate increase in height or FAR; enhance residential character by

² The area is not striped for parking but is occasionally used to stack valet-parked cars during events.

maintaining existing residential uses and controlling the scale, location and density of commercial and residential development; ensure the compatibility of development with the Comprehensive Plan; preserve areas planned as open gardens and backyards; and enhance the streetscape by maintaining public space as landscaped green space.

Here, the Project will be within the height and bulk that is permitted in the SP-1 Zone District and is otherwise consistent with the nature and character of Dupont Circle, which contains a mixture of historic structures and taller new construction around the circle. The Project will protect and enhance the Mansion through an adaptive reuse that takes advantage of the Mansion's unique history and is compatible with its height and mass. The Project will not displace any existing residential units or disturb any planned open gardens or backyards. It will add to the residential character of the neighborhood by returning the Mansion to a residential use. The Project will maintain the existing streetscape design in front of the Mansion. By not providing parking and by adding residential units close to multiple transit options, the Applicant will encourage greater use of public transportation. By removing an existing curb cut on P Street, the Applicant will improve the free circulation of vehicles through the streets.

VI. THE APPLICATION MEETS THE REQUIREMENTS FOR AREA VARIANCES

The burden of proof for an area variance is well established. The applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition; (ii) that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant; and (iii) that the granting of the variance will not cause substantial detriment to the public good or substantially impair the intent, purpose or integrity of the zone plan. *See, e.g., Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). As set forth below, the Applicant meets the three-part test for the requested variance from

the court width requirements, and the requirement to maintain existing parking spaces, and the required number of new parking spaces.

A. The Property is Affected by an Exceptional Situation or Condition

The D.C. Court of Appeals held in *Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that "property generally includes the permanent structures existing on the land." *Id.* at 293-294. Indeed, the Court repeatedly has rejected the idea that the exceptional situation and practical difficulty justifying a variance must arise from the physical aspects of the land. *See Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1097 (D.C. 1979).

Here, the Property is unique because it is improved with an existing building that is a historic landmark as well as located within two existing historic districts. Furthermore, the lot is an irregularly-shaped corner lot and the existing building "fronts" on the intersection at the southwest corner of that lot at Dupont Circle and P Street, rather than on a particular street face or lot line. The Property is also located adjacent to the Iraqi Consulate, which is a unique condition. Finally, the Property is improved with a 10-foot wide driveway along its eastern side that does not meet the minimum requirements of the Zoning Regulations (14 feet for a two-way driveway).

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

To satisfy the second element for an area variance standard, the Applicant must demonstrate "practical difficulty." The D.C. Court of Appeals has established a two part test for determining whether an applicant has met its burden of proof. The applicant must demonstrate that "compliance with the area restriction would be unnecessarily burdensome" and that the

practical difficulty is "unique to the particular property." *Gilmartin*, 579 A.2d at 1170. The Court of Appeals has held that the "nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case." *Id.* at 1171. "Increased expense and inconvenience to applicants for a variance are among the proper factors for [the] BZA's consideration." *Id.* Some other factors that the BZA may consider are "the weight of the burden of strict compliance," "the severity of the variance(s) requested," and "the effect the proposed variance(s) would have on the overall zone plan." *Id.*

In this case, the practical difficulty in complying with the court width requirements results from the exceptional conditions affecting the Property. Since the Mansion is a historic landmark, the Applicant cannot redevelop the portion of the Property occupied by the original building; thus, all new density must be located within the new addition. Furthermore, preservation officials have required that the proposed addition be set off from the Mansion to allow the Mansion to read as a standalone building. This pushes the addition to the east but limits the allowable width of the addition. At the same time, in deference to the Iraqi Consulate (which is also a historic structure), the Applicant will provide a setback from the eastern lot line to provide visual separation between the addition and the historic Iraqi Consulate structure. These requirements constrain the footprint of the addition and limit the ability to accommodate the permitted density within the available footprint. Furthermore, the addition is itself an inefficient single-loaded corridor, which further reduces the net usable density available for apartments. It is not feasible to provide the necessary dimensions for the apartments in the addition for them to be viable and functional units on such tight site without relief from the court width requirements. While the apartments will all be studios, a minimum width of the addition is still necessary to accommodate the interior elements of each apartment under the Building

Code and for the units to function as livable spaces. Therefore, the court to the east cannot conform to the minimum width requirements without compromising the Applicant's ability to provide all necessary building functions in the width of the addition.

Similarly, the open court to the south along P Street is necessary to separate the addition from the historic Mansion, as noted above. However, if the court were the necessary width, then it would squeeze the addition width thereby creating a difficulty for the Applicant to accommodate the building program, as discussed above. Therefore, the two courts on each side of the addition serve an important contextual design function, but if they were to each be conforming widths, then the width of the addition would be too narrow to accommodate all of the essential space in the apartments to make them desirable and livable.

In terms of overall open space, taken together, all of the courts in the Project comply with the necessary dimensions because the conforming courts provide much more width than necessary. However, a complying southern court would push too much of the addition away from the Mansion and squeeze the Iraqi Consulate. Similarly, a complying eastern court would push too much of the addition close to the Mansion. The proposed court scheme balances the amount of addition massing near both the Mansion and the Iraqi Consulate.

The placement and width constraints on the addition, because of the Property's shape and the presence of the historic Mansion, also preclude the Applicant from maintaining the existing paved area on the Property. Without the ability to construct the addition on the area of the existing pavement, the Applicant would not be able to accommodate its building program. The building program includes a minimum number of apartments, minimum sizes for those apartments, amenity spaces, and corridors that are necessary for a viable project. If the Applicant were to preserve the existing pavement, then it would lose 16,800 square feet in the

addition. This floor area is essential to providing a viable and functional project. In addition, it would create design challenges for providing a conforming driveway on a site that is already very constrained.

Finally, the shape of the Property and the presence of the historic Mansion (and the associated design constraints of the addition), prevent the Applicant's reasonable ability to provide new parking. Because of the shape of the Property and the area that the addition will occupy, there is no space for surface parking without significantly reducing the footprint of the addition. As discussed above, reducing the footprint of the addition will render the project infeasible because of the necessary building program. In addition, underground parking is not possible because the Applicant cannot excavate under the historic Mansion without a high risk of damaging it. Also, it is not possible to provide parking under only the addition because of the space constraints of providing necessary drive aisle widths and turning radii that would consume more area than is available. The area of the addition is narrow and cannot accommodate parking spaces and drive aisles without digging deeply at great expense. Given the very low likelihood of residents having cars, the cost per parking space for an underground garage would be prohibitively expensive and add an unnecessary expense to the Project. The rents would have to reflect this cost, but the parking would be unnecessary given the demographic of the residents. Thus, tenants would be less inclined to pay higher rents – and lease the apartments at all – for parking that would go unused, ultimately rendering the project financial unviable. Prior to the public hearing, the Applicant will provide more detailed information about the significant difficulties of providing parking.

C. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

Finally, the Applicant must demonstrate that "granting the variance will do no harm to the public good or to the zone plan." *Gilmartin*, 579 A.2d at 1167. Here, the requested variances can be granted without causing any adverse impact on the neighboring properties. First, no adjacent property is impacted by the court width variance. The eastern court will provide for more light and air to the Iraqi Consulate than if the Applicant were to construct to the property line, so the proposed court will not create a condition that will restrict light and air more than a conforming condition. A conforming eastern court would push the addition to close to the Mansion. The southern court is contained entirely within the Property and does not open onto another property; thus, it will not adversely impact any adjacent properties. A conforming southern court would push the addition closer to the Iraqi Consulate. The parking variances will not adversely impact on-street parking availability in the neighborhood because the project residents are very unlikely to have cars. Also, the Project will eliminate the existing curb cut on P Street, thereby reducing pedestrian-automobile conflicts. The Applicant will provide additional material prior to the public hearing that provides parking mitigation measures and demonstrates that the parking variances will not impose adverse impacts or impair the integrity of the Zone Plan.

VII. THIS APPLICATION SATISFIES THE CRITERIA FOR A SPECIAL EXCEPTION FOR A ROOF STRUCTURE NOT MEETING ALL REQUIREMENTS

Section 411.11 provides that "where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the [Board] shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements..." Accordingly, under this Section, the Board may approve a roof structure that does not satisfy the setback requirement under Section 400.7

and the requirement that enclosed walls be of equal height under Section 411.5 when compliance would be restrictive, prohibitively costly, or unreasonable because of conditions of relating to the building. The proposed roof structure will not have walls of equal height and will not be sufficiently set back from a portion of the eastern wall.

Complying with the requirement for equal heights of enclosing walls would be unnecessarily restrictive for the Applicant. Except for the 13-foot tall mechanical screen at its northern end, the roof structure will have a uniform height of eight feet above the roof. The Applicant lowered the height of the majority of the roof structure to minimize its appearance, and the mechanical screen is taller only to accommodate one piece of necessary mechanical equipment. Without the requested relief, the roof structure would be unnecessarily large when most of its functions could be accomplished in a shorter structure, like the one proposed. Thus, the intent of this regulation to prevent unsightly roof structures will be better served with the proposed roof structure.

By reducing roof structure wall heights everywhere except for the mechanical screen, the Applicant will reduce the possibility of adversely affecting neighboring property more than would one larger structure of uniform wall height. The visual impact of the roof structure from the vantage points where it is visible will be significantly lessened, as proposed. Also, to the extent that the roof structure even will be visible, occupants of the Iraqi Consulate will see less of the proposed roof structure than if it were of a uniform height. Therefore, it will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

Complying with the required setback from the eastern wall would be overly restrictive to the Applicant. Except for the elevator overrun at the south end of the penthouse, the roof structure will be set back a sufficient distance from all exterior walls. The Applicant designed

the addition with the most efficient and functional placement of the elevator overrun, which is set back five feet from the eastern wall (eight feet is required). If the roof structure were to be set back from the eastern wall a distance equal to its height, then the Applicant's ability to locate the elevator overrun in an efficient and functional location would be compromised. Because the nonconforming aspect of the roof structure is the elevator overrun, the Applicant cannot take out a "notch" to make it conform. Otherwise, complying with the setback requirement would necessitate shifting the elevator overrun to the west, which would disrupt the core efficiency by requiring a shift for only the elevator overrun. This proposed elevator location allows for the most efficient layout of units and corridors below, and a shift would result in a loss of functional space.

The nonconforming setback will not adversely affect neighboring properties. The amount of nonconformance will be nominal, and the roof structure otherwise will conform to setback requirements. The eastern side of the elevator overrun will be insufficiently set back from the building's eastern wall by only three feet, but it is substandard only for a small portion of the total roof structure, as shown on page 10 of the enclosed plans. Because the roof structure will be adequately set back from all walls confronting streets, it will not adversely impact public spaces. Furthermore, the nonconforming setback will not result in the elevator overrun looming over the Iraqi Consulate or obstructing light and air to the Iraqi Embassy since the roof structure will be marginally visible – if at all – from that building due to the height differences. Accordingly, the requested roof structure relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

VIII. EXHIBITS

Exhibit A	Application form, Self-Certification form, Filing Fee form, and authorization letters
Exhibit B	Statement of existing and intended use, and burden of proof
Exhibit C	Surveyor's Plat
Exhibit D	Excerpt from Zoning Map
Exhibit E	Plans and elevations, including photographs of the site
Exhibit F	List of property owners within 200 feet of the site

IX. CONCLUSION

For all of the above reasons, the Applicant is entitled to the requested variance and special exception relief in this case.

Respectfully submitted,
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