

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

**APPLICATION OF  
MR GALLERY SQUARE, L.L.C.  
627 H STREET, N.W.**

**BZA APPLICATION NO. 18772  
HEARING DATE: JUNE 10, 2014  
ANC 2C**

**STATEMENT OF THE APPLICANT**

**I.  
NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of MR Gallery Square, L.L.C. (the “Applicant”) in support of its application to the Board of Zoning Adjustment for the following variance and special exception relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3104.1 and 3103.2: (i) a variance from the parking requirements of Section 2101.1; (ii) a variance from the loading requirements of Section 2201.1; (iii) a variance from the court requirements of Section 776; (iv) a special exception from the roof structure requirements of Sections 770.6 and 411; and (v) a special exception from the rear yard requirements of Section 774. The relief requested will permit the construction of a new hotel with ground floor retail in the DD/C-3-C District at 627-631 H Street, N.W. (Square 453, Lot 59) (the "Site"). The proposed development is appropriate for the Site, fully compatible with the surrounding area, and not inconsistent with either the Comprehensive Plan or the Zoning Regulations.

**II.  
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the variance and special exception relief requested herein pursuant to Sections 3103 and 3104 of the District of Columbia Municipal Regulations (“Zoning Regulations”).

### **III. BACKGROUND**

#### **A. Description of the Site**

The Site consists of Lot 59 in Square 453. Square 453 is bounded by I Street to the north, 7<sup>th</sup> Street to the west, H Street to the south, and 6<sup>th</sup> Street to the east, all located in the northwest quadrant of the District of Columbia. The Site is small and rectangular in shape, with approximately 8,039 square feet of land area and approximately 60.5 feet of linear frontage on H Street, N.W. The Site is an interior lot, bounded to the east and west by private property (Lots 54 and 58, respectively) and to the north by a 30-foot public alley. Lots 54 and 58 are each improved with a mixed-use building rising to a height of approximately 40 feet. The Site is currently vacant.

#### **B. Description of Surrounding Area**

The Site is located in the heart of Chinatown, an area with rich history, culture, and growing economic opportunity. Anchored by the Verizon Center, the Convention Center, and Gallery Place, Chinatown has emerged as a primary entertainment district in the city. As the heart of the Chinese American community with the D.C. region, Chinatown hosts cultural festivals and events throughout the year, and is home to several world-renowned cultural and tourist destinations, such as the Smithsonian's National Portrait Gallery, the Shakespeare Theatre, and the National Building Museum. Businesses located within Chinatown enjoy high growth potential with access to diverse markets, including downtown office workers and tourists.

Chinatown is well served by multiple public transportation amenities, including Metrorail at the Gallery Place/Chinatown Metro Station, numerous Metrobus routes, and the D.C. Circulator bus system. The area is also served by an extensive pedestrian network and on-street

bicycle facilities, consisting of bicycle lanes, cycle tracks, and signed bicycle routes. Capitol Bikeshare has nine existing Bikeshare locations within and around the Chinatown area.

**C. Existing Zoning**

As indicated in the Zoning Map, attached as Exhibit A, the Site is zoned DD/C-3-C and is located in the Chinatown Subarea and Housing Priority Area B in the Comprehensive Plan (*see* 11 DCMR § 1706.8(b)). The C-3-C zoning permits a hotel as a matter-of-right, with a maximum height of 90 feet and a maximum floor area ratio ("FAR") of 6.5. Based on the Site's location within the Downtown Development Overlay District, the Site may be developed with a building having a maximum height of 110 feet, based on its frontage on H Street, N.W. (*see* 11 DCMR § 1701.7), and a maximum density of 10.0 FAR, made up of 9.5 FAR pursuant to 11 DCMR § 1706.5 and 0.5 FAR pursuant to 11 DCMR § 1706.7(a)(1). Section 1706.5 of the Zoning Regulations requires that a minimum of 3.5 FAR be devoted to residential use, which will be satisfied for this project off-site through combined lot development. Section 1705.3 requires that a minimum of 0.5 FAR be devoted to retail, service, arts, and arts-related uses listed in §§ 1710 and 1711, which will be satisfied by devoting a minimum of 0.5 FAR to retail uses on the Site. The Applicant will also comply with Section 1702.1, which requires at least 50% of the gross floor area of the ground floor to be devoted to permitted retail, service, arts, and arts-related uses, and with Section 1701.5, which requires that 50 percent of the surface area of the street wall at the ground floor level must be devoted to display windows and entrances to commercial uses.

The Future Land Use Map of the Comprehensive Plan designates the Site as High Density Residential/High Density Commercial, as shown on the attached Exhibit B. High Density Residential is defined by neighborhoods and corridors where high-rise (eight stories or more) apartment buildings are the predominant use. High Density Commercial defines the

central employment district and other major office employment centers on the downtown perimeter. These areas are characterized by office and mixed office/retail buildings greater than eight stories in height. The Site is also located in the Chinatown Subarea, which reinforces the area's economic viability by encouraging mixed-use development, including hotels (*see* 11 DCMR 1705.1).

**D. Project Description**

The Applicant proposes to develop the Site with a new 11-story hotel with two below-grade levels. The proposed building will have a maximum height of 110 feet and contain approximately 68,227 square feet of total gross floor area. Floors 2-11 will contain approximately 245 guest rooms, comprised of 60,350 square feet of gross floor area. The ground floor will include approximately 3,277 square feet of gross floor area devoted to the hotel lobby and amenity spaces, plus 4,600 square feet devoted to retail use. Up to 6,900 square feet of additional retail space can be provided on the first cellar level. The retail space is expected to be a restaurant primarily serving hotel guests. The second cellar level will include "back-of-house" hotel uses, including administrative offices, mechanical utility rooms, locker rooms for hotel employees, and a laundry room. An enclosed trash room will be located on the ground floor of the building near the loading facilities, and trash will be removed from the building via the north-facing exit doors at the ground level. Five secure bicycle parking spaces will be located on the ground floor adjacent to the loading facilities for hotel and retail/restaurant employees. The Applicant is working with the District Department of Transportation ("DDOT") to locate additional short-term bicycle parking in public space on the perimeter of the building. Loading will be provided at the rear of the building via an alley connecting to I Street to the north, and all trucks will navigate the alley via front-in, front-out maneuvers.

The proposed hotel will be unique for the Washington, D.C. metropolitan area. The hotel will feature micro-hotel rooms, each with approximately 150 square feet of space, and will be designed and marketed toward millennials. Hotel guests are expected to arrive in the Washington, D.C. area via intercity bus, rail, or air, and will likely travel to the Site via public transportation. The Site is located directly across H Street from the Gallery Place-Chinatown Metrorail station, which offers direct access to Union Station and Reagan National Airport, with connections to Dulles Airport and Baltimore Washington International Airport. The Site's excellent location will offer convenient hotel accommodations for visitors to Washington, D.C., and will continue the ongoing growth of the Chinatown area.

The primary façade of the building is composed of two types of reddish bricks and aluminum/glass loft-style windows with architectural louvers. These elements add texture and rich architectural detail to the project. The base of the building is treated in a retail manner along H Street, with separate glass doors for the hotel lobby and the retail/restaurant entrance, with an entablature at the top of the ground floor story and metal canopies that announce the two main entrances. Although there will be two pedestrian access locations on H Street, internal access between the hotel and the retail/restaurant space will also be provided. The ground floor façade will incorporate Chinese elements, as ultimately approved through the Chinatown design review process. Ornamental cornices are incorporated at the roof parapet and above the second floor level to further retain the existing character of the neighborhood. The most up-to-date architectural plans and elevations ("Plans") of the project are included as Exhibit C.

**E. Prior BZA Approval**

The BZA previously approved a similar development for the Site. Pursuant to BZA Order No. 17673, dated October 16, 2007, the Board found that the Site had an exceptional

condition and that practical difficulties existed in complying with the Zoning Regulations. The BZA therefore granted special exceptions from Section 411 (roof structures), Section 774 (rear yard), and Section 2108 (parking), and variances from Section 2117.4 (parking space accessibility) and 2201 (loading), to permit the development of a ten story building with retail on the first and second floors and offices above. In this case, the Board found that an exceptional situation existed on the Site, and approved the development for a different use at the Site.

#### **IV.**

#### **THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF**

Variance relief in this case is required from the parking requirements (§ 2101.1); the loading requirements (§ 2201.1); and the court requirements (§ 776). Under D.C. Code §6-641.07(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is unusual because of its size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

*See French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be further explained at the public hearing, all three prongs of the variance test are met in this application.

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

The phrase "exceptional situation or condition" in the above-quoted variance test may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). In this case, the Site is affected by several exceptional conditions. The Site is exceptionally small, consisting of only 8,039 square feet of land area, and exceptionally narrow, having only 60.5 feet of frontage along H Street for its almost 133 feet of depth. The Site is an interior lot bounded to the east and west by lot lines and to the north by a 30-foot public alley. The existing 40-foot building to the west encroaches onto the Site approximately 1 foot, 11 inches. These site characteristics place substantial restrictions on potential parking and loading configurations, as well as on the widths available for courts.

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

**1. Parking Requirements**

The Applicant requests a variance from the parking requirements pursuant to Section 2101.1 of the Zoning Regulations. Section 2101.1 requires that the proposed development provide one parking space for each four hotel rooms, plus one parking space for each additional 750 square feet of retail space in excess of 3,000 square feet. Section 2104 provides that the number of parking spaces required for a nonresidential building or structure may be reduced by 75 percent of the amount otherwise required under § 2101.1 if the building is located within a radius of 800 feet of a Metrorail station entrance and i) the building is located in a non-residential district and is at least 800 feet from any R-1 through R-4 District, and ii) the Metrorail station is currently in operation or is one for which a construction contract has been awarded.

Section 2104 applies in this case since the Site is proposed to be developed with a non-residential building; the Site is located directly across the street and within 800 feet of the Gallery Place/Chinatown Metro Station, which is currently operational; and the Site is located in a non-residential district that is at least 800 feet from any R-1 through R-4 District.

As shown on the Plans, the proposed hotel will have 245 hotel rooms and 4,600 square feet of gross floor area devoted to retail space on the ground floor. Pursuant to Section 2101.1, the required number of parking spaces is 61 for the hotel use plus three for the retail use, for a total of 64 on-site parking spaces. Reducing this number to 75 percent pursuant to Section 2104, the Applicant is only required to provide 48 parking spaces on the Site. Given the site constraints described above, the Applicant requests a variance from these parking requirements to not provide any parking spaces on the Site.

The Site's small size and narrow width make it practically difficult to provide both adequate ramping and parking in a below grade parking garage. As noted in the Parking and Loading Assessment, prepared by Gorove/Slade and attached as Exhibit D ("Parking and Loading Assessment"), if a garage were constructed, a minimal number of parking spaces (five or less) could be provided on each below-grade level, and a large area on each level would be necessary to accommodate ramping and drive aisles. These factors together make it infeasible to build parking on such a small site, as described in detail below.

The turning radius and grade required to provide a ramp leading to below grade parking levels would require a ramp to be located in the northeast corner of the Site, accessed from the rear alley. Given that the majority of the Site's rear width is allocated to the required loading facilities (27 feet) and the rear exit corridor (five feet), a ramp would occupy the remaining width of the Site. It is practically difficult to construct a ramp in this location because it would



eliminate approximately 1,200 square feet of the ground floor of the building devoted to retail uses, and it would eliminate Stair B and Elevator 4 (*see* First Floor of the Plans). The location of Stair B is dictated by the Building Code requirements that (i) two stairways must be located at a minimum distance of one-third the diagonal dimension of the building (in this case, 46 feet), and (ii) a dead-end corridor must not be located more than 50 feet past a stairway. If Stair B is pushed toward the front of the building to provide room for a parking ramp, Stair B would be less than 46 feet away from Stair A, and the dead end corridor would be located more than 50 feet away from a stairway. Thus, Stair B cannot be moved or eliminated to make space for a parking garage entrance ramp on the ground floor without resulting in a practical difficulty. Moreover, relocating the stair would adversely affect the layout of the hotel rooms above, which is already constrained given the narrowness of the Site.

In addition, due to the Site's small size, narrow width, and the location of the proposed building columns and core elements, the Applicant could fit very few parking spaces on each excavated parking level, due to the drive isle width and ramping requirements. Thus, a large number of below-grade levels would be necessary to achieve the required 48 parking spaces. While the Applicant is providing two lower levels for retail and back-of-house hotel uses, these types of uses are more easily accommodated in this space because they do not require extensive ramping for access, as would be required for a below-grade parking garage. Based on the foregoing, it is practically difficult for the Applicant to construct the required number of parking spaces on the Site, and the Applicant therefore requests a variance from the parking space requirements of Section 2101.1

## 2. Loading Requirements

The Applicant requests a variance from the loading requirements of Section 2201.1 of the Zoning Regulations. Section 2201.1 requires that a hotel with more than 200 rooms include the following loading facilities: one berth at 30 feet deep with a 100 square foot platform; one berth at 55 feet deep with a 200 square foot platform; and one service delivery space at 20 feet deep. As shown on the Plans, the Applicant proposes to provide one berth at 30 feet deep with a 100 square foot platform, and one service/delivery space at a minimum of 20 feet deep, thus requiring relief from providing one 55 foot loading berth and its 200 square foot platform. The proposed loading facilities are designed to adequately service the hotel and retail/restaurant uses planned for the Site.

Given the Site's small size and narrow width, providing a 55 foot loading berth and 200 foot platform is practically difficult. If provided, the two loading berths would have to be either (i) lined up along the rear property line, taking up almost the entire width of the Site and interfering with the location of the exit corridor, Stair B, and Elevator 4, which, as described above, would be practically difficult to relocate, or (ii) stacked one in front of the other, taking up almost half of the length of the Site on the first level and interfering with the layout of the retail/restaurant space and the configuration and location of the building's structural columns (*see* First Floor of the Plans).

Moreover, as described in the Parking and Loading Assessment, a 55 foot truck would not be able to adequately navigate the alley system from I Street to the rear of the Site to access the loading facilities, since there is not enough north-south space to maneuver through the alley to the rear of the Site. If a 55-foot truck attempted to access the Site's loading facilities, it would essentially have to complete turning maneuvers within the footprints of existing buildings in

adjacent parcels. In contrast, trucks 30 feet in length and shorter will be able to adequately navigate the alley system and make the required inbound and outbound turning maneuvers to easily access the proposed loading facilities. Thus, the unusual conditions of the Site result in a practical difficulty in complying with the strict application of the Zoning Regulations to provide a 55 foot loading berth and related platform.

### 3. Open Courts

The Applicant requests a variance from the open court requirements pursuant to Section 776 of the Zoning Regulations. Section 776.1 provides that "where a court is provided for a building or portion of a building devoted to non-residential uses ... the width of court shall be a minimum of three inches per foot (3in./ft.) of height ... provided that in no case shall the width of court be less than twelve feet (12 ft.)." In addition, Section 776.2 provides that "[i]n the case of a closed court for a building or portion of a building devoted to non-residential use, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 250 square feet.

In this case, the Applicant proposes to provide the following non-compliant courts: i) at the west side of the Site, a closed court at the second level of the building, with a width of 10 feet, 4 inches, where a minimum width of 12 feet is required; ii) at the west side of the Site, an open court at the third floor of the building with a width of 10 feet, 4 inches, where a minimum width of 20 feet, 10 inches is required, based on a court height of 83 feet, 4 inches; and iii) at the east side of the Site, an open court at the second floor of the building with a width of 8 feet, 2 inches, where a minimum width of 23 feet, 4 inches is required, based on a court height of 93 feet, 4 inches. The closed court on the second level on the west side of the Site requires a

minimum area of 250 square feet, and the proposed court complies with this requirement by providing a court area greater than 250 square feet.

Providing compliant court widths on the east and west sides of the Site is impractical given the Site's exceptionally narrow width. If the Applicant provided compliant courts on both sides of the building, almost 75 percent of the building's width would be eliminated on floors 3-11. If the Applicant provided a single compliant court on one side of the building, there would be no room for a double-loaded corridor in the building, which is necessary for the hotel use on the narrow Site, and one side of the building would have at-risk windows on a party wall. Thus, strict compliance with the court regulations would severely compromise the layout of the building's interior and greatly reduce the number of hotel rooms, making development practically difficult. Furthermore, the Zoning Regulations do not require that the Applicant provide courts at all; however, the Applicant is providing courts to increase the light and air to adjacent buildings and to enhance the building's aesthetic and enjoyment for hotel guests. Given the aforementioned constraints of the Site, the Applicant requests a variance from the court requirements of Section 776 of the Zoning Regulations.

**3. The Requested Relief Will Not Result in a Substantial Detriment to the Public Good Nor a Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan**

Relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the Zone Plan, as embodied in the Zoning Regulations and Map. First, with respect to parking spaces, there will be no adverse impact as a result of eliminating the required number of parking spaces on the Site, since the target market for the hotel is not anticipated to drive to the Site or use a personal vehicle once they arrive.

As described in more detail in the Parking and Loading Assessment, the Site is easily accessible to multiple alternative forms of transportation and is located in a vibrant, mixed use, walkable neighborhood. The Site is located directly across H Street from the Gallery Place Chinatown Metrorail Station, which services the Green, Red, and Yellow Metrorail lines, and is within a quarter mile walking distance of 12 bus routes, serviced by Metrobus, Metro Express, and the D.C. Circulator. Capital Bikeshare has four existing stations very near to the site: one is located approximately 500 feet to the west of the Site at the intersection of 8<sup>th</sup> and H Streets; a second station is approximately 600 feet northeast of the Site at the intersection of 5<sup>th</sup> Street and Pennsylvania Avenue; a third is approximately 1,000 feet south of the Site at the intersection of 7<sup>th</sup> and F Streets; and a fourth is approximately 1,100 feet southeast of the Site at the intersection of 5<sup>th</sup> and F Streets. There are five other Capital Bikeshare stations within 0.4 miles of the Site.

The Applicant has worked with DDOT to incorporate bicycle parking into the Site, despite the fact that bicycle parking is not required by the Zoning Regulations. The design of the proposed bicycle spaces reflects similar dimensions as currently incorporated in other developments throughout the District. The Applicant proposes to provide a minimum of five secure bicycle storage spaces located on the ground floor of the building adjacent to the loading facilities, and will work with DDOT to provide short term outdoor bicycle parking along the perimeter of the Site. In addition to public transportation and bicycle facilities, the Site is located within 0.3 miles of at least ten permanent car-share spaces (serviced by ZipCar and Hertz-On-Demand), and has ample access to Car2Go vehicles, which are part of a one-way car-share program. The Site has a walkscore of 97 (see [www.walkscore.com](http://www.walkscore.com)). This condition is considered a "walker's paradise" and will enable hotel guests and retail/restaurant patrons and employees to easily access the Site by foot, further eliminating the need to drive to the Site.

In addition, based on the Site's location near the Convention Center, Verizon Center, and other major destinations, as well as its appeal to millennials with lower budgets arriving in Washington D.C. via public transportation, it is anticipated that hotel guests will not need or want to use a car to access the Site. However, in the event that guests arrive via private vehicle, parking is available in nearby parking garages. Specifically, as noted in the Parking and Loading Assessment, there are 13 nearby off-street parking garages and surface parking lots that can accommodate personal vehicle parking. Overall, given the urban nature of the Site and its proximity to many non-automobile modes of transportation, it is anticipated that the design of the Site with no off-street parking will adequately serve the vehicular needs of the development based on the proposed uses at the Site.

With respect to loading, there will be no adverse impact as a result of eliminating the 55 foot berth and related platform, since the proposed loading facilities are sufficient to serve the needs of the proposed hotel and retail/restaurant uses. The Parking and Loading Assessment concludes that, based on the nature of the proposed uses for the Site, the vast majority of trucks will be 30 feet long or shorter, and the number of truck trips generated will be relatively low. Based on previous studies, it is expected that the project will not generate more than four or five truck trips per day, and these trucks are likely to be primarily delivery trucks, such as FedEx and UPS, with some additional deliveries for the retail/restaurant use. Moreover, the Applicant does not plan to provide function space in the hotel, such as banquet or meeting room facilities, so no larger truck loading will be necessary for activities typically associated with those types of uses. Therefore, the loading facilities proposed for the Site will be adequate to accommodate the needs of the development and relief can be granted without substantial detriment to the public or on the Zone Plan.

Finally, providing courts that have a narrower width than the minimum width required by the Zoning Regulations will improve the experience of hotel guests and will not negatively affect occupants of the adjacent buildings. The proposed courts provide sufficient space between the proposed building and the adjacent buildings to the east and west, and they fully comply with the Building Code requirement to provide sufficient light and air for building occupants. The courts allow the Applicant to construct a hotel building with windows on all four sides, which will improve the experience of hotel guests without encroaching on their privacy or the privacy of users of the adjacent buildings. Thus, the courts as proposed will not have an adverse impact to the public good or the Zone Plan.

**V.**  
**THE APPLICANT MEETS THE TEST FOR**  
**SPECIAL EXCEPTION RELIEF**

The Applicant seeks special exceptions from the roof structure requirements and the rear yard requirements of the Zoning Regulations, as described herein.

**A. Standard for Approving Special Exception Relief**

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, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

**B. Description of Roof Structure Relief Requested**

The Applicant seeks special exception approval pursuant to Sections 770.6 and 411 of the Zoning Regulations regarding roof structure setbacks in commercial districts. Section 770.6(b) of the Zoning Regulations requires that every roof structure must be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located. As shown on the Plans, the Applicant proposes to provide a single roof structure with enclosing walls rising to a height of 18 feet, 6 inches. This roof structure will contain two stair towers, the elevator override and other mechanical equipment, and an enclosed rooftop storage area. Although the roof structure is set back more than the required 1:1 distance from the north and south elevations, the roof structure is built up to the east court wall, providing no set back at all, and is only set back 5 feet, 11 inches from the west court wall, where 18 feet, 6 inches is required. Thus, the Applicant requests special exception relief to deviate from the strict compliance of the Zoning Regulations, as permitted under Sections 411.11 and 3104.1 of the Zoning Regulations.

**C. Standard of Review for Roof Structure Special Exceptions**

Under Section 411.11 of the Zoning Regulations, 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 the light and air of adjacent buildings shall not be affected adversely." *Id.* As described above, the roof structure does not meet the setback requirements pursuant to Section 770.6(b) of the Zoning Regulations.



The Applicant requests relief from Section 770.6(b) in order to create a roof structure that contains all of the required mechanical equipment and complies with the intent of Section 411 to the greatest extent possible. The location of the proposed roof structure is driven by the building's core functions, the layout and design of the hotel rooms, and the requirements for mechanical equipment on the roof. The stair towers and elevator penthouse are also required to provide access to the roof, including handicapped access.

Given the set backs created by the courts on the east and west sides of the building, the proposed location of the roof structure will not adversely affect the light and air of the adjacent buildings. In addition, the roof structure set back will be greater than the 1:1 minimum distance on the north and south sides of the building, so that only a small portion of the structure will be visible from H Street or from the rear alley. Moreover, the surrounding walls will be of a quality material to integrate the roof structure into the overall design of the building.

Thus, although the roof structure does not meet the set back requirements, it does comply with the spirit and intent of the roof structure provisions and the Zoning Regulations by ensuring adequate light and air to adjacent properties and abutting streets. Furthermore, the building itself was designed to be respectful of the adjacent buildings. Accordingly, the proposed roof structure is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Section 411.11.

**D. Description of Rear Yard Relief Requested**

In the C-3-C District, a building must provide a rear yard with a minimum depth of 2.5 inches per foot of vertical height, but not less than 12 feet. 11 DCMR § 774.1. The depth of the rear yard may be measured from the center point of an alley. 11 DCMR § 774.9. Based on the overall proposed building height of 110 feet, the Applicant is required to provide a rear yard of

22 feet deep. In this case, however, the Applicant proposes to provide a rear yard of 15 feet deep, measured from the center point of the rear alley, or seven feet less than what is required under the Zoning Regulations. Pursuant to Section 774.2 of the Zoning Regulations, the Board may waive the rear yard requirements pertaining to a C-3-C District provided that the following standards are met:

1. *Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.*

The Site has a 30 foot wide public alley at its rear, which is wide for an alley in the downtown core. Across the alley from the Site are three- and four-story mixed-use buildings that have frontage on I Street, N.W. The 30 foot wide alley alone provides more than enough distance to ensure sufficient light and air to the buildings across the alley and to protect the privacy of the buildings' occupants. In addition to the alley, the buildings across the alley have deep rear yards and are thus significantly set back from the public alley right-of-way. Based on these existing conditions, the hotel windows will be separated from the existing buildings across the alley at a distance sufficient to provide adequate light, air, and privacy for all building occupants.

2. *In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.*

The proposed building was designed to limit the angle of sight lines and maximize the distance of penetration of sight lines into habitable rooms. Principal windows that overlook the rear alley are positioned so that privacy is adequately protected. The seven foot rear yard relief will have little impact on the angle of sight lines due to the wide 30-foot public alley and the

substantial setbacks that separate the proposed building from the rear windows of the existing buildings to the north.

3. *The building plan shall include provision for adequate off-street service functions, including parking and loading areas and access points.*

The proposed building plan provides adequate off-street service functions. Although the building will not provide on-site parking, the Site's central location, high walk score, and close proximity to numerous public transportation facilities eliminates the need to provide on-site parking. The building will provide adequate loading facilities for its proposed uses, which will be accessed from the public alley.

4. *Upon receiving an application for an approval under §774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Department of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.*

The Applicant has met with the Office of Planning and the District Department of Transportation in compliance with Section 774.2 of the Zoning Regulations.

## **VI.** **COMMUNITY SUPPORT**

The Applicant has worked with the community and has obtained support for the project. On May 12, 2014, at its regularly scheduled, duly noticed Advisory Neighborhood Commission 2C ("ANC 2C") meeting, with two of the three commissioners present, ANC 2C voted 1-0-1 to support the application. Residents from the community expressed concern relating to the extent of Chinese expression and motifs in the design of the building. The Applicant committed to continue to work through these design elements through the Chinatown Design Review process and agreed to return to the ANC after further study of those elements.

**VII.**  
**EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION**

- Exhibit A:               A portion of the Zoning Map showing the Site
- Exhibit B:               A Portion of the Future Land Use Map
- Exhibit C:               Updated Architectural Plans and Elevations for the Project
- Exhibit D:               Parking and Loading Assessment prepared by Gorove Slade
- Exhibit E:               Outlines of Testimony
- Exhibit F:               Resumes of Expert Witnesses

**VIII.**  
**WITNESSES**

- A.     Conrad Cafritz, Cafritz Interests
- B.     Aaron Katz, Modus Hotels
- C.     Doug Carter and Hiro Nirmalani, DCS Design, architects for the project
- D.     Erwin Andres, Gorove/Slade, traffic consultant for the project
- E.     Steven E. Sher, Director of Zoning and Land Use Services

**IX.**  
**CONCLUSION**

For the reasons stated above, the requested relief meets the applicable standards for variance and special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to grant the application.

Respectfully submitted,

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Christine Moseley Shiker, Esq.

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