

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

Application of The Holladay Corporation
ANC 1A

BZA Application No. 18875
Hearing Date: December 9, 2014

APPLICANT’S STATEMENT IN SUPPORT

This is the final statement of The Holladay Corporation¹ (the “**Applicant**”) for variance and special exception relief to allow for the redevelopment of an existing commercial site into new residential buildings. Specifically, the Applicant seeks conversion of an existing four-story commercial and industrial building to residential use (“**Building B**”) and the construction of a new residential building directly east of the existing building (“**Building C**”).² The property that is the subject of this application is located at 713-735 Lamont Street, NW (Square 2893, Lots 875 and 879) (the “**Property**”).

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (“**BZA**” or “**Board**”) approve variances from the following two sections of the Zoning Regulations:

1. Section 774 (rear yard): Rear yard relief is required only for Building C. The required depth of the rear yard in the C-2-A zone is 15 feet. The proposed rear yard for Building C will require a variance of 0.5 to 7.5 feet for the first floor and a variance of approximately 8 feet for the remainder of the building.³

¹ The Holladay Corporation is the contract purchaser of the site and is authorized to seek this relief.

² Building A, which will also be constructed on Lamont Street adjacent to the Property, complies with the Zoning Regulations.

³ In the C-2-A Zone, the depth of a rear yard is measured from the center line of the 15 foot alley at the rear of the lot for the first 20 feet of building height and from the rear property line for the remainder of the building height.

2. Section 2201 (loading): Both Building B and Building C are each required to include a 55 foot loading berth. Each building will include a 30 foot berth and a service delivery space but neither will include a 55 foot berth.

The Applicant also requires the following special exception relief:

1. Section 1330.1 (Georgia Avenue Overlay review): Review is required for any new construction or enlargement by 50% or more of an existing building on a lot with an area of more than 12,000 square feet. Such relief is required only for Building C.
2. Section 411.11 (penthouse): Relief is required to allow the proposed penthouses on Building C. Specifically only one penthouse of uniform height is permitted under Sections 411.3 and 411.5. The Applicant has proposed three small penthouses that are not of equal height and are not connected.

II. JURISDICTION OF THE BOARD

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

III. DESCRIPTION OF PROPERTY AND SURROUNDING AREA

The Property is located in the Petworth section of Ward 1. It is a mid-block site on the north side of Lamont Street between Sherman Avenue and Georgia Avenue. Square 2893 is bounded by Morton Street to the north, Lamont Street to the south, Georgia Avenue to the east and Sherman Avenue to the west. The site is within walking distance to and less than ½ mile from the Georgia Avenue Metrorail Station, which is located north of the subject property; the site is also within walking distance to and approximately ½ mile from the Columbia Heights Metrorail Station, which is located west of the subject property.

The Property consists of a total land area of 63,413 square feet on two lots, Lots 875 and 879, and has nearly 450 feet of frontage on Lamont Street. The western portion of the Property is improved with a four-story commercial and industrial building. The eastern portion of the Property is improved with a one-story industrial building. A surface parking lot accessory to the existing buildings is located to the west of the Property along Lamont Street.

The Property is located within the C-2-A Zone district, which permits a variety of medium density residential and commercial uses. The Property is also located in the Georgia Avenue Commercial Overlay District, which is intended to guide the development of the Georgia Avenue commercial corridor. The general area is characterized by a variety of commercial and residential uses ranging from townhouses and apartment houses on the south side of Lamont to an apartment house directly east of the site on Lamont and commercial uses along Georgia Avenue.

IV. THE PROPOSED PROJECT

The proposed project will redevelop the existing buildings and surface parking into three new residential apartment buildings with a total of approximately 225 residential units, as shown on the attached plans.

- Building A. Building A will be a 4-story, approximately 8-unit residential building located on the surface parking lot immediately west of the Property.
- Building B. The Applicant proposes to adaptively reuse the existing four-story industrial building on the western portion of the Property⁴ into a residential building with approximately 76 units.

⁴ Through the subdivision process, the Applicant will adjust the lot line between what are currently Lots 875 and 879 to eliminate the existing nonconforming side yard for Building B and create a conforming side yard for Building C.

- Building C. The Applicant proposes to retain the front façade of the existing building and construct a new five-story addition at the rear of the site, with a total of approximately 141 residential units.

Building A

Building A complies with the Zoning Regulations and does not require relief.

Building B

The residential conversion of Building B largely complies with the Zoning Regulations. Section 771.3 of the Zoning Regulations specifically permits the conversion and occupancy of an entire commercial building to residential use, even if the building otherwise exceeds the maximum matter of right limits. Therefore, Building B may be occupied entirely for residential use, even though the existing structure does not comply with the FAR, lot occupancy, or rear yard requirements for the underlying zone. The layout of the existing four-story building is ideal for conversion from commercial use to residential use. Courts will be carved out of the east and west facades to provide additional light and air to the units; this will also slightly reduce the density of the building.

Building B will have a total FAR of approximately 3.32 and occupy approximately 83% of its lot. Building B will have internal loading facilities able to accommodate 20- and 30-foot trucks, but relief is requested from the requirement for a 55-foot loading berth.

Building C

Building C generally complies with the height, FAR, and lot occupancy limitations. However, variance relief from the rear yard requirement is needed to accommodate the incorporation of the existing front façade into the development plan. The Applicant will retain the one-story façade of this building and incorporate it into new two-story rowhouse-style multifamily units to maintain a pedestrian scale along the site's rather long frontage along Lamont Street and

respond to the two-story rowhouse context across Lamont Street to the south. As a result, the primary mass of Building C is shifted to the rear (north), so that it is basically equidistant between the rowhouses to the north and rowhouses to the south, but rear yard relief is needed to accommodate this design. The sensitive massing of the building has been designed to minimize impacts on nearby properties and provide light, air and open space to the residents of the units.

Building C will have a total FAR of approximately 2.86 and occupy approximately 70% of its lot at ground level. Building C will include parking within a one-story underground garage. Building C will also have internal loading facilities able to accommodate 20- and 30-foot trucks, but again relief is requested from the requirement for a 55-foot loading berth.

V. THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF

The burden of proof for area variance relief is well established. The Applicant must demonstrate that (1) the property is affected by an exceptional or extraordinary situation or condition, that (2) the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that (3) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). As discussed in detail below, this application meets the three-part test for area variance relief from the rear yard and 55-foot berth loading requirements.

A. *The Property is Affected by an Exceptional Condition*

The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical

improvements on the land, but applies also to the history of the property. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors.” Id. Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood.

Here, the size of the Property is unusually large because of its long history of commercial and industrial use. While there are some relatively large-scale residential buildings to the east and west, there is no property in the immediate vicinity that has such size. The Property has a total lot area of 1.5 acres and nearly 450 feet of frontage along Lamont Street. The land on which Building C sits alone is nearly an acre and has 300 feet of linear frontage along Lamont Street—this is the length of typical north-south city block along Georgia Avenue. Furthermore, the Property is improved with existing buildings. The size and location of these buildings—and the Applicant’s desire to adaptively reuse portions of these structures—also creates a unique condition. The 300-foot long one-story façade of the existing building on the eastern portion of the Property is, in particular, an exceptional and unique condition. Together, the site’s unusually large size and the amount of linear frontage along Lamont Street, much of which is now devoted to a one-story building, call for a sensitive approach to the massing of the new building on the eastern lot.

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

The appropriate test is whether the strict application of the zoning regulations results in a “practical difficulty.” In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. Board of Zoning Adjustment, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily

burdensome. [Footnote omitted.] 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.” In area variances, such as the variance requested in the subject application, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1365 (D.C. 1992) (citing Gilmartin v. Bd. of Zoning Adj., 579 A.2d 1164, 1167 (D.C. 1990)). Finally, it is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ . . . increased expense and inconvenience to applicant for a variance are among the factors for BZA’s consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171. Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

Rear Yard

In this case, complying with the Zoning Regulations with respect to rear yard and loading creates a practical difficulty for the Applicant. The lot size and length, combined with a portion of the existing one-story building along Lamont Street, create a need to shift the massing of Building C to the rear in an effort to preserve the scale of the existing streetscape along Lamont Street. Absent the requested relief, the Applicant would have difficulty retaining the existing facade and creating rowhouse-style units along Lamont Street.

- As designed, Building C includes townhouse-style units along Lamont within the retained facade. The townhouse units mirror the scale of the townhouses across the street Lamont Street to the south. However, the creation of the townhouse units and the

necessary open space between those units and the main apartment building requires that the primary mass of the apartment building be set further back from the street. The resulting building is set back approximately 7 feet from the property line, requiring a variance of approximately 8 feet. (Note, however, that when combined with the alley, the building is set back over 22 feet from the adjacent properties to the north.)

- At the ground floor, the building is also set back approximately 7 feet from the property line. The C-2-A zone includes half of the public alley width in the measurement of the rear yard for the first 20 feet of height, meaning that the rear measures over 14.5 feet at this level, requiring a variance of just 0.5 feet.
- However, the juxtaposition of the apartment building above ground and the ramp down to the parking level creates an awkward structural condition at the ramp; specifically, the column line for the building lines up in the middle of the parking ramp. As a result, the Applicant proposes to extend the structural support for the building over the width of the ramp to the property line. This structural support technically extends the structure to the property line at this location and therefore reduces the rear yard to 7.5 feet (one half of the width of the alley) for this portion of the building.
 - The Applicant cannot accommodate the structural support through cantilevering. The building extends about 12 feet over the ramp, which is too long to cantilever given the proposed construction type. Furthermore, cantilevering would require a beam so thick that it would eliminate the floor above.
 - Extending the columns straight down through the ramp would require that the ramp be relocated further to the south or widened, which would narrow the first floor and parking levels of the building.

The structural support will consist of approximately 4-5 slender columns and beams, will only be one story high, and will be limited to the length of the parking ramp.

Loading Berths

The lot size and existing buildings also create a practical difficulty in accommodating a 55-foot loading berth for either Building B or Building C. The existing retained building portions on Lamont Street preclude a curb cut directly from Lamont to such loading facilities; therefore, any loading must be accessed via the public alley system in the square. Both lots are adjacent to a 15-foot wide alley that connects on its western end to Lamont Street with another 15-foot alley and

connects on its eastern end to Morton Street with a 10-foot wide alley. The width of the alley system and location of the existing building on the western part of the property create significant challenges for maneuvering a large truck into the site or into the building. Furthermore, for Building B, the retention of the existing building makes it difficult to accommodate a 55-foot berth, because the berth would not only take up significant portions of the ground floor but also the second floor, owing to the height clearance needed for the larger truck. For Building C, a 55-foot berth would significantly eat into the ground floor plan and second-floor plan as well, because the mass of the building has been shifted back in order to allow the retention of the one-story façade along Lamont Street.

C. Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan

The requested variance relief would not be detrimental to the public good or the zone plan or otherwise impair the intent of the Zoning Regulations. The variances allow for the adaptive reuse of the existing structures, which is generally supported by multiple public policies that promote the retention of existing structure when feasible and is specifically supported by Section 771.3 of the Zoning Regulations, which allows for the conversion of existing commercial buildings to residential use. Similarly, the conversion to residential use is consistent with the Georgia Avenue Overlay, which calls for additional residential uses in the Georgia Avenue corridor. These additional residential units—and the affordable housing units that will be created within Building C through the Inclusionary Zoning program—are also consistent with policies that promote housing and affordable housing. Finally, the adaptive reuse will eliminate the existing commercial and industrial operations (and the associated truck traffic), which represents an improvement. For similar reasons, the elimination of the 55-foot loading berth will ensure that such large trucks do not need to navigate through the narrow residentially-scaled alley system.

The variances will not have adverse impacts on surrounding properties. The project as a whole will reduce impacts over existing conditions. Attached as Exhibit B is the Applicant's Loading Statement, which concludes that there will be no adverse impacts from the proposed loading variance. The conversion to residential use will significantly reduce the amount of commercial and industrial truck traffic in the block; the prohibition on 55-foot trucks in the alley will further ensure limited truck impacts in the future. The rear yard variance will also not have adverse impacts. As discussed above, the rear yard variance facilitates the retention of the one-story façade along Lamont Street and setback from the low scale two story townhouses to the south of the Property across Lamont Street. The slight shifting of the mass of the building to the north by less than nine feet will not have a significant adverse impact on the townhouses to the north of the Property. The Morton Street townhouses have long rear yards and, when combined with the public alley, Building C will be located approximately 100 feet from the rear of those townhouses.

VI. THE APPLICANT MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION APPROVAL
UNDER THE GEORGIA AVENUE OVERLAY

The project is located in the Georgia Avenue Neighborhood Commercial Overlay District ("GA Overlay"), which sets forth a series of use and design requirements intended to promote appropriate development along the corridor. Most of the GA Overlay requirements do not apply because the Project fronts on Lamont Street rather than Georgia Avenue. However, the GA Overlay requires that new construction enlargement of an existing building by 50% or more on a lot that has more than 12,000 square feet of land area be approved by the BZA as a special exception. See 11 DCMR § 1330.1(b) and (c). Therefore, the construction of Building C requires such special exception approval.

A. *Neighborhood Commercial Overlay Standards*

Under Section 1330.1, the Board is permitted to grant special exceptions from the GA Overlay District pursuant to the general standards of Section 1304 for exceptions from the Neighborhood Commercial Overlay districts, which are set forth below:

- (a) The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC Overlay District and the particular NC Overlay District, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;
- (b) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver;⁵
- (c) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and
- (d) 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 NC Overlay District and the particular overlay district.

Here, the design of Building C, at the size, intensity, and location proposed, will advance the purposes of the GA Overlay, including the development of additional residential uses, which is a key purpose of the Overlay. See 11 DCMR § 1327.3. In addition, for the reasons discussed above, Building C will not adversely affect neighboring property or be detrimental to the general welfare of

⁵ This provision is not applicable here, as no waiver from either the general NC standards or the specific GA Overlay standards is sought.

nearby residents and workers. Rather, Building C will represent a positive addition to the neighborhood as an adaptive reuse and infill development that respects and enhances the surrounding context with appropriate urban design.

Furthermore, Building C will not result in dangerous or objectionable traffic conditions. Access to vehicular parking as well as building service and loading all takes place from the existing public alley at the rear of the building, which improves pedestrian safety and mobility along Lamont Street. The proposed project actually results in the reduction of truck traffic and operations over existing conditions and therefore improves pedestrian safety in the project vicinity. Building C also provides a consistent streetwall along Lamont Street through the retention of the existing facade, which activates the streetscape and further improves the pedestrian experience. At the same time, the upper stories of Building C are set back in order to reduce the apparent mass of the building from the street, which is particularly important given the lot's exceptionally long frontage.

B. Georgia Avenue Overlay Standards

The Georgia Avenue Overlay does not apply any additional standards for special exception approval of new construction or enlargement of an existing building on a lot greater than 12,000 square feet.

C. General Special Exception Standards

Finally, the design of Building C is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to adversely affect the use of neighboring property. Again, the adaptive reuse of the site will meet a key goal of providing additional housing and affordable housing, and will reduce truck traffic and impacts from existing conditions. The overall project will result in the addition of new housing opportunities and activate the streetscape,

therefore fulfilling the purposes and intent of the Zoning Regulations for the Georgia Avenue corridor.

VII. SPECIAL EXCEPTION – ROOF STRUCTURES

The Applicant requests relief from the roof structure requirements pursuant to § 411.11 in order to permit the construction of multiple roof top structures of varying heights on the roof of Building C. In order to obtain relief, the special exception must be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and must not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps.

Section 411.3 requires a single enclosure, and Section 411.5 requires that the enclosing walls be an equal height. Section 411.11 of the Zoning Regulations provides, however, that “[w]here 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 of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the ... location, design, number, and all other aspects of such structure..., even if such structures do not meet the normal setback requirements...; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.” 11 DCMR § 411.11.

Here, the proposed building will have three separate rooftop structures of varying heights (the roof structure that contains the elevator override will be taller than the other two structures, which correspond to the stairway penthouses). To create a single roof structure would require an unnecessarily large penthouse because of the length and size of the lot. Similarly, requiring that the stairway penthouses be constructed to the same height as the elevator penthouse unnecessarily adds height to those penthouses.

The multiple structures and varying heights are not inconsistent with the purpose and intent of the Zoning Regulations and Zoning Map, since the relief is minor and the resulting structure will still comply with the setback and height requirements. The relief will not adversely affect the use of neighboring property. To the contrary, the Applicant is reducing the possibility of adversely affecting neighboring property owners by limiting the roof structure mass and height to what is necessary rather than creating a single, overly tall structure.

VIII. EXHIBITS

Exhibit A	Updated Plans
Exhibit B	Loading Statement and Analysis
Exhibit C	Outlines of Witness Testimony
Exhibit D	Resumes of Expert Witnesses

IX. CONCLUSION

For of the foregoing reasons, this application satisfies the criteria for area variance and special exception, and the Applicant respectfully requests that the Board approve this application.

Respectfully submitted,
GOULSTON & STORRS, P.C.

_____/s/____

Allison Prince

_____/s/____

David Avitabile

November 24, 2014