

LAW OFFICES
GRIFFIN, MURPHY, MOLDENHAUER & WIGGINS, LLP

MARK G. GRIFFIN (DC, MD)
BRIAN P. MURPHY (DC, MD)
ASHLEY E. WIGGINS (DC, MD, VA)
MERIDITH H. MOLDENHAUER (DC, MD, VA)
ERIC M. DANIEL (MD, DC)

DIRECT DIAL: 202-530-1482
DIRECT EMAIL: mmoldenhauer@washlaw.com

January 29, 2015

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

Re: Application No. 18891 – 14th & H Street NE (Square 1049N, Lots 5, 6, 802, 803, and 804)
Supplemental Statement of the Applicant

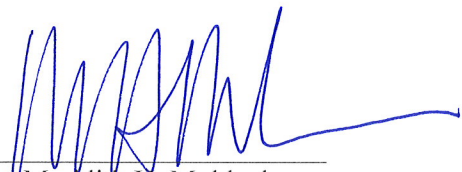
Chairperson Jordan and Honorable Members of the Board:

On behalf of 14 & H Street, LLC, please find enclosed the Supplemental Statement for the above-referenced application. The application was scheduled to be heard before the Board of Zoning Adjustment on January 6, 2015. The Board requested a supplemental filing and rescheduled the hearing for February 3, 2015.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP


By: Meredith H. Moldenhauer

Enclosures:

Cc: Advisory Neighborhood Commission 6A
c/o Nicolas Alberti, Chair
Andrew Hysell, SMD 6A06 Representative (via email)
Office of Planning (via email)

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

**APPLICATION OF
14 & H, LLC**

**BZA APPLICATION NO. 18891
HEARING DATE: FEBRUARY 3, 2015**

SUPPLEMENTAL STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 14 & H Street, LLC (the “Applicant”), the owner of property located at 1401 Florida Avenue NE and 1402, 1404, 1406 and 1410 H Street NE, Lots 5, 6, 802, 803, and 804 in Square 1049N (the “Property”) in support of its application for area variance relief from the requirements regarding lot occupancy (§772), FAR (§771), and parking (§2101.1); and special exception relief, pursuant to 11 DCMR §3104, regarding new construction on a lot greater than 6,000 sq. ft. (§1320.4), to allow the Applicant to construct a multifamily residential building with ground floor retail in the C-3-A/HS-A Zone District at the Property.

In response to a request from the Board for a supplemental filing, the Applicant has worked diligently with the District Department of Transportation (DDOT), providing additional information to DDOT regarding transportation in the surrounding area and further addressing loading at the Property. See Revised Architectural Plans at Exhibit A.¹ The Applicant also provides further explanation of the FAR relief requested.

II. EXHIBITS IN SUPPORT OF THE STATEMENT

Exhibit A: Revised Architectural Plans

Exhibit B: Gorove/Slade Comprehensive Transportation Review and TDM Measures

¹ The Architectural Plans have not changed since the Prehearing Statement other than simply removing diagrammatic references to the prior loading scheme in public space, which will be finalized by the Public Space Committee.

III. LOADING

While loading is not required at the Property, and will be fully vetted before the Public Space Committee, the Applicant has carefully considered the best way to address the loading needs of the Property. The Applicant, with the help of its traffic consultants at Gorove/Slade, has worked diligently with DDOT to provide additional information regarding transportation in the surrounding area and further addressing loading and parking for Property. See Gorove/Slade Comprehensive Transportation Review and TDM Measures at **Exhibit B**. Since the hearing the Applicant has retained a traffic consultant, met with DDOT, and coordinated with DDOT for a follow-up telephone call. The Applicant, with the assistance of its traffic consultant, and DDOT made substantial progress in connection with identifying practical loading options at the Property and believe we can move forward anticipating that the details will be finalized at the Public Space Committee.

IV. FAR

Under §771 and §2604, the maximum permitted FAR at the Property is 4.8 FAR. In the Initial Application, the proposed project had a total FAR of 6.0. In working with the ANC, which now unanimously supports the project, the Applicant has revised the plans to reduce the lot occupancy on several residential floors and reduce the total FAR to 5.2. The lot occupancy and FAR reductions were achieved by making strategic reductions in the massing on the upper floors, particularly toward the west along H Street NE. More substantial modifications were evaluated but determined not to be feasible. The revised massing provides a visual transition from the larger structures to the east, such as the Delta Towers, to the structures on H Street NE.

The Office of Planning requested additional data to support the difficulty associated with the high core factor at the Property. The exceptional circumstances at the Property and practical difficulty associated with the FAR relief requested were described in detail in the Initial Application and Prehearing Statement. The Architectural Plans, at **Prehearing Statement, Exhibit A, Plans 4.1-4.5**, include several

diagrams that provide detailed support for the practical difficulty associated with matter-of-right development.

As demonstrated in the chart below, several recent comparable projects illustrate the industry norm for residential projects is typically a much higher percentage of efficiency than the proposed project. Even with the requested relief, the project is below the industry standard for core factor and efficiency of design due to the unique size and restrictions associated with the site.

Address	Project Size	Efficiency
1827 Adams Mill Road, NW	40 Residential Units 12,000 SF of Retail	10% Core/90% Efficiency
14th and Maryland Ave, NE	84 Residential Units	15% Core/85% Efficiency
11th and I, SE	49 Residential Units	13% Core/87% Efficiency
Champlain Street (The Morgan)	40 Residential Units	16% Core/84% Efficiency
1634 4 th Street (The Aston)	31 Residential Units	14.5% Core/85.5% Efficiency
7 th & Kennedy, NW	28 Residential Units	15% Core/85% Efficiency
14 th & H Street NE	28 Residential Units 4,958 SF of Retail	Without relief: 21% Core/79% Efficiency With relief: 17% Core/83% Efficiency

Strict application of the FAR requirement would further decrease the already low efficiency of the proposed project. Compliance with the FAR would require an extremely inefficient partial top floor, which is not practical. Complete removal of the top floor, the most efficient with respect to core factor, to comply with the FAR requirement increases the overall core fact from the 17% proposed to 21%. For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings in this case, strict application of the FAR requirement would result in a practical difficulty to the Applicant.

V. NO HARM TO THE PUBLIC GOOD OR ZONE PLAN

The Applicant has described at length in the Initial Application and Prehearing Statement, the extreme inefficiency associated with developing on this narrow, cone-shaped Property with street frontage on all three sides, and the resulting design difficulties associated with complying with FAR at the

Property. As demonstrated in the chart below, the Board has approved other similar FAR requests in the past:

BZA CASE NO.	Relief Requested	Date Approved	Percentage Deviation	Deviation by Square Footage
13060	FAR (§ 3302.1)	9/17/79	2.95%	143.45 sq.ft.
13215	FAR (§ 3302.1)	6/4/80	3%	71.76 sq. ft.
14874	FAR (§ 931.2)	5/3/89	33.54%	2,730.75 sq. ft.
14469	FAR (§ 5301.11)	9/17/86	1.83%	50.53 sq. ft.
12544 (Lot 1)	FAR(§ 3302.11)	1/4/78	12%	259.25 sq. ft.
12544 (Lot 2)	FAR(§ 3302.11)	1/4/78	13.38%	295.72 sq. ft.
12544 (Lot 3)	FAR(§ 3302.11)	1/4/78	10.70%	238.25 sq. ft.
18688	FAR (§ 771)	2/11/14	16.7%	5,590 sq. ft.
18878	FAR (§ 1706)	1/6/15	8.5%	947 sq. ft.
18891	FAR (§ 771)	N/A	8.3%	2,659 sq. ft.

Furthermore, the H Street Corridor permits 0.5 FAR of additional density for façade preservation, recognizing that the requested density is within the zoning plans’ parameters. While the 0.5 FAR bonus associated with façade preservation is not feasible here, it demonstrates that the requested FAR relief is not inconsistent with the Comprehensive Plan. Preservation of the façade is not viable in this instance because it would conflict with other provisions of the H Street Overlay and the floor and window locations would not correlate with the building plate.

Zoning relief from the Board of Zoning Adjustment is the proper method for obtaining relief from the Zoning Regulations. The Property is not large enough to qualify for treatment as a PUD. Furthermore, a map amendment would not be appropriate at the Property. Rezoning this Property independently would likely be considered spot zoning. In addition, the Property is designated as Low

Density Commercial/Moderate Density Residential on the Future Land Use Map (“FLUM”). The issue is not that the property, as it is currently zoned, is inconsistent with the FLUM designations, but rather that development as a matter of right results in a practical difficulty to the Applicant due to the exceptional circumstances at the Property. The variance process is specifically designed to allow a deviation from the zoning regulations, be it rear yard, FAR, courts, setbacks, or otherwise, in such circumstances. More importantly, a map amendment changes the underlying zone without requiring that an applicant provide proposed plans for review by the Zoning Commission or by the general public. Thus, we respectfully submit that the BZA process, and the meaningful public input it has provided in this instance, is the appropriate forum.

VI. COMMUNITY SUPPORT

The Applicant has done considerable community outreach. In October and November, the Applicant presented to the ANC 6A Community Development Committee (“CDC”). On December 11, the Applicant presented to the full ANC 6A, which voted unanimously to recommend support for the project. During the process, the Applicant participated in several meetings with the Chair of the CDC to modify and revise the relief and detailing of the building to enhance the pedestrian experience and alter the massing. The Applicant contacted the adjacent neighbors and is not aware of any opposition to the Application. The Applicant has obtained 9 letters in support of the Applicant. See Letters of Support at **Prehearing Statement, Exhibit C.**

VII. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant’s prior filings in this case, we hereby submit that the application meets the requirements for area variance relief. We look forward to presenting our case to the Board on February 3, 2015.

Respectfully submitted,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



Meridith H. Moldenhauer

Eric M. Daniel
1912 Sunderland Place, N.W.
Washington, D.C. 20036
(202) 429-9000