

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

**APPLICATION OF
1325 D STREET, LLC
1325 D STREET, SE**

**BZA APPLICATION NO. 19035
HEARING DATE: JULY 21, 2015
ANC 6B**

STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This statement is submitted by 1325 D Street, LLC (the "Applicant"), on behalf of International Graduate University of Washington DC, present owner of the property located at 1325 D Street, SE (Square 1042, Lot 0827) (the "Subject Property"), in support of its application to the Board of Zoning Adjustment for the following special exception and variance relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3104.1 and 3103.2: (i) a special exception from the minimum lot width requirement of Section 2604.3; (ii) a variance from the minimum lot area requirement of Section 2604.3; (iii) a variance from the maximum lot occupancy requirement of Section 403.2; and (iv) a variance from the limitation on the number of principle buildings allowed on a single record lot under Section 3202.3. The relief requested will permit development of the western portion of the Subject Property (the "BZA Site") for one- and two-family residential uses in the R-4 District. The proposed development is appropriate for the BZA 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 BZA Site

The BZA Site consists of the western portion of the Subject Property (Lot 827 in Square 1042). Square 1042 is located in the southeast quadrant of the District of Columbia and is bounded by D Street to the north, 14th Street to the east, E Street to the south, and 13th Street to the west (the “Square”). The Square is bifurcated by a 16-foot public alley running north-south between D and E Streets, with the Subject Property encompassing the portion of the Square west of the alley.

The Subject Property encompasses approximately 92,899 square feet of land area and is improved with a series of two- and three-story connected brick buildings that are currently vacant. The buildings were constructed and expanded starting in 1895 as a District of Columbia Public School, the Buchanan School, until it closed in 1994. According to the 1903 Baist Map of the Square, a copy of which is attached as Exhibit A, the first school building was surrounded to the north and west by a series of 16- to 20-foot wide lots along 13th and D Streets. A large brewery and its outbuildings stood to the east, where today exists a Safeway grocery store. As the school was expanded to the north, the land on the west side of the buildings became a series of playgrounds and play areas.

For the most part, the existing school buildings (with the exception of a later addition of an auditorium) stand approximately 165 feet east of the Subject Property's lot line along 13th Street, SE. This large swath of land area between the buildings and 13th Street currently sits mainly vacant. The BZA Site encompasses the majority of this portion of the Subject Property, and contains approximately 37,608 square feet. The BZA Site has approximately 290 feet of linear frontage on 13th Street, approximately 148.5 feet of linear frontage along D Street, and lacks public alley access. Finally, the BZA Site slopes from north to south, with the elevation along D Street being approximately three feet higher than the elevation along the BZA Site's south boundary.

B. Description of Surrounding Area

The neighborhood surrounding the BZA Site is reflective of a typical Capitol Hill neighborhood consisting of moderate-density residential uses comprised primarily of one-family row dwellings and flats interspersed with apartment buildings, neighborhood-serving retail, light-industrial, and institutional uses. The Subject Property is bounded to the east by a public alley and the Safeway grocery store, to the south along E Street by a mix of homes and light industrial automotive uses, to the north along D Street by the Kentucky Court Apartments and a collection of 16- to 20-foot wide townhomes, and to the west by Watkins Elementary School and recreation fields across 13th Street. Payne Elementary School is located approximately 0.2 miles to the northeast. Pennsylvania Avenue is located approximately 0.2 miles to the south where there are several neighborhood serving commercial uses, including a Harris Teeter grocery store. The Potomac Avenue Metrorail Station is located approximately 0.25 miles to the southeast near the intersection of Pennsylvania Avenue and Potomac Avenue, SE; the Eastern Market Metrorail Station is located approximately 0.5 miles to the west.

C. Existing Zoning

As indicated in the Zoning Map, attached as Exhibit B, the BZA Site is zoned R-4. The R-4 District permits as a matter-of-right one-family dwellings, flats, and conversions of pre-1958 buildings to apartment house use subject to limitations and conditions. The maximum permitted building height in the R-4 District has been 40 feet or three stories. However, on June 8, 2015, the Zoning Commission took final action to approve several amendments to the R-4 District, including amendments to permitted building height. Under the amended R-4 regulations which went into effect on June 26, 2015, the maximum permitted building height is now 35 feet or three stories, with 40 feet permissible for new construction of three or more immediately adjoining residential row dwellings built concurrently on separate record lots. Because this application meets this condition, the maximum permitted height is 40 feet.

The minimum lot width and area for row dwellings and flats in the R-4 District is 18 feet and 1,800 square feet, respectively. Lots for one-family semi-detached dwellings are required to be 30 feet wide and 3,000 square feet in area. However, for R-4 developments that are subject to the Inclusionary Zoning (“IZ”) requirements of Chapter 26, lots can be reduced as a matter of right to 18 feet wide and 1,500 square feet in area, with a further reduction in lot width to 16 feet possible by special exception. The lot occupancy requirement for single-family dwellings and flats in the R-4 District is 60%, the minimum rear yard requirement is 20 feet, and the minimum side yard requirement, if one is provided, is eight feet.

The Future Land Use Map of the Comprehensive Plan (January 2013), adopted as part of the District Elements of the Comprehensive Plan for the National Capital (the “Comprehensive Plan”), designates the BZA Site as Moderate Density Residential, as shown in the attached

Exhibit C. The Moderate Density Residential land use category is described as “the District’s row house neighborhoods as well as its low-rise garden apartment complexes.”

The Comprehensive Plan Generalized Policy Map (January 2013) identifies the BZA Site as a “Neighborhood Conservation Area”, with such areas being generally described on the map as areas with very little vacant or underutilized land that are primarily residential in character. Over the next 20 years, major changes in land use and density are not expected in these areas, and where change does occur, it is expected to be modest in scale. The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods, maintain land uses and building types and to promote compatibility of scale and architecture between new and existing development.

Finally, the BZA Site is located in the Capitol Hill Area Element of the Comprehensive Plan which contains policies that promote protection of the moderate density land use pattern of the area, the conversion of obsolete or vacant non-residential structures to housing, and the conservation of important architectural resources.

D. Project Description

The Applicant proposes to develop the BZA Site for residential use, with the goal of providing three- to four-bedroom townhomes to help fulfill the increasing demand for family-sized and family-friendly dwelling units in the District of Columbia. In addition, through its proposed site plan the Applicant also seeks to achieve the following series of objectives:

- Orient the plan such that it promotes visual and physical connections to the oldest portion of the former Buchanan School;
- Create open, inviting and safe pedestrian connections and green spaces that tie together and strengthen the fabric of the surrounding blocks;

- Ensure vehicular access is in keeping with the form of exemplary “alleys” found in Capitol Hill, including a friendliness to pedestrians, a use of varied paving materials, and welcoming proportions;
- Provide “tuck-under” parking within the homes to maximize convenience for residents and limit the visual and physical impacts of vehicles on the overall site plan and to pedestrian spaces;
- Create homes that are sized to achieve pricing comparable to the market to allow for reasonable absorption and timely build out of this currently underutilized property; and
- Establish compelling viewsheds that encourage pedestrian circulation and engagement through the depth of the property, and prioritize sight lines to noteworthy facades of the former Buchanan School.

To achieve its objectives, the Applicant will subdivide the BZA Site into 17 separate lots and construct a total of 34 dwelling units – 22 one-family townhouses and six flats. As shown on the revised plat included with the updated architectural drawings attached as Exhibit D, the subdivision will result in five lots fronting along D Street (identified as Lots 1, 3, 5, 7, and 9) and 12 lots fronting along 13th Street (identified as Lots 10 – 21).

As discussed in detail below, the areas of relief requested in this application are a direct result of the large size and depth of the BZA Site, the limited amount of street frontage relative to the land area, and unique access considerations, which create practical difficulties to efficiently subdividing the BZA Site. If the BZA Site had a more conventional depth given the land area, and typical public alley access, it could be developed with approximately 40 dwelling units in full compliance with the Zoning Regulations and not including any incentives provided by IZ. However, due to the stated constraints, the Applicant proposes only 34 dwelling units (22 one-family townhouses and six flats) within the site and needs the stated relief in order to achieve even this reduced density.

Along D Street, Lots 1, 3, 5, and 7 will be improved with “side-by-side” flats, while Lot 9 will be improved with a traditional stacked flat (one unit over the other). The proposed building height of approximately 36’4” and three stories, measured in accordance with § 400.15, will be in accordance with § 400.1, which now incorporates the recently approved amendments to the R-4 District. A rear yard of at least 20 feet will be provided in accordance with § 404.1. The Applicant is requesting variance relief from the minimum lot area and lot occupancy requirements for Lot 9 (§ 2604.3 and § 403.2). The Applicant no longer requests variance relief from the minimum lot area and lot occupancy requirements for Lots 1, 3, 5 and 7 (formerly identified as Lots 1 through 8). These lots now comply with both of these requirements, having been converted from one-family dwellings to side-by-side flats. However, as a precaution, the Applicant requests variance relief to permit two principle buildings on a single record lot for Lots 1, 3, 5, and 7 (§ 3202.3), as is further discussed below.

Along 13th Street, the Applicant proposes to construct two separate one-family dwellings on each of Lots 10 - 20. The dwellings will be arranged such that one will face 13th Street and the second dwelling located at the rear of the lots will abut a landscaped pedestrian thoroughfare, or “mews.” Lot 21 will be improved with a flat. The dwellings proposed along 13th Street, and along the pedestrian mews, will measure approximately 36’4” high and have three stories. A rear yard of at least 20 feet will be provided in accordance with § 404.1. The Applicant is requesting a variance to permit two principle buildings on a single record lot for Lots 10 – 20, and a special exception to permit a minimum lot width of 16 feet for Lots 10- 14 and Lots 17 – 20 (§ 2604.3).

As required by Section 2101.1, each lot proposed for the BZA Site will be provided with at least one parking space. With the exception of Lots 9 and 21, the parking for each dwelling is provided within a “tuck-under” garage located in the lower level of the dwelling and accessed

from the rear of the structure. The tuck-under parking is considered an important feature of the plan, both from a convenience standpoint for the homeowner as well as a means to reduce the visual impact of surface parking on viewsheds and newly created pedestrian spaces. The parking for Lots 9 and 21 is provided on the surface within the rear yard. Due to the lack of a public alley, a new private driveway connecting to 13th Street will provide access to the rear of the dwellings and provide parking through a series of recorded easements across the lots. In addition to vehicular access, this driveway provides both pedestrian and visual connections into the site, including to the elaborated window entry feature of the Buchanan School building.

The architecture of the proposed townhomes is inspired by traditional Capitol Hill row house architecture. The massing fits comfortably into the surrounding neighborhood context. The townhomes will have a height of approximately 36'4" and contain three stories and a cellar. The third story will be setback approximately 18'8" from the front of the dwelling, establishing a massing and scale that is compatible with the surrounding neighborhood. Three distinct architectural styles will be utilized (bay front, porch front, and flat front) and will be constructed in groupings similar to how Capitol Hill was developed over time, where similarly designed row homes were often times constructed in groups of three or more by the same builder. Other architectural characteristics common to the neighborhood such as recessed entries, stoops, well-defined cornices, and mansard roofs are proposed, as are typical high-quality materials such as brick, steel, and stone.

The proposed site plan is oriented to create a compelling streetscape along 13th and D Streets, while also focused on clear visual and physical connections with the oldest of the former Buchanan School buildings that sit deep inside the block. The site plan offers viewsheds to and through the BZA Site as well as a series of attractive and useable green spaces and pedestrian

circulation nodes that create important connections with the neighboring blocks. The Capitol Hill neighborhood is known for its walkability due to its consistent block pattern and safe network of sidewalks. In addition, Capitol Hill is known for its secondary network of pedestrian connections, or mews, created along smaller-scale walkways between buildings, through landscaped courtyards, and along historic alleys. Examples of these in Capitol Hill include Justice Court and the Car Barn development. This secondary network contributes to the local character of the neighborhood and encourages pedestrians, especially neighborhood residents, to meander and explore through a series of lesser-known interconnected nodes. The Applicant endeavors to strengthen this secondary network by creating a publicly-accessible pedestrian mews that connects D and E Streets, between the former Buchanan School and the townhouses proposed at the rear of Lots 10 – 20, and that also connects to the Kentucky Court mews immediately across D Street to the north. The proposed site plan also includes a new east-west pedestrian connection leading from 13th Street to the new pedestrian mews which is also visually on axis with the prominent architectural entryway of the former school building.

The new pedestrian mews, which the Applicant intends to designate with appropriate signage as “Buchanan Walk,” will be intimately scaled and contain a robust palette of ground-level seasonal plantings and flowering understory trees. Seating along the mews will establish individual nodes where the public can gather, where some of the seating will be constructed of wood reclaimed from trees removed from the BZA Site. In addition, the sculptural elements designed by William Tarr that currently exist on the Subject Property will be incorporated into the landscape design and placed to create focal points to draw pedestrians into and through the space. The repurposing of these modernist sculptural elements will also pay respect to the former Buchanan School which were commissioned as part of a major playground renovation project in

the late-1960s, and their design evokes the former use of the site as a school. Metalwork archways will be introduced at each end of Buchanan Walk to further emphasize the public nature of the space.

At the midpoint of Buchanan Walk, the site plan includes a large landscaped open space containing a lawn area that can accommodate picnics and other activities. It will be a central node amongst smaller green nodes that will punctuate the pedestrian experience along Buchanan Walk. This open space will also establish a viewshed that provides views from 13th Street to the articulated façade of the Buchanan School as well as a reciprocal view towards Watkins Elementary School and the recreational fields to the west.

To ensure the success of Buchanan Walk as a safe, intimate environment for pedestrians to travel through the block, the Applicant has purposefully kept the space free from cars and vehicular circulation. It will be an important space for the neighborhood to connect with the architectural resources represented by the former school buildings as well as an invitation to meet and interact with new neighbors who will live in the proposed townhomes.

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

The Applicant seeks a special exception from the minimum lot width requirement of Section 2604.3 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 Minimum Lot Width Relief Requested

The Applicant seeks special exception approval pursuant to Section 3104.1 from the minimum lot width requirement of the Inclusionary Zoning ("IZ") provisions set forth in Chapter 26 of the Zoning Regulations. Section 2604.3 permits IZ developments located within the R-4 District to reduce the required minimum lot width for attached- and semi-detached dwellings to 16 feet if approved by the Board as a special exception.

The Applicant requests the special exception to permit Lots 10 - 20 to have a minimum lot width less than 18 feet. No special exception is requested for Lots 1, 3, 5, 7, 9 and 21, which will each be developed with a flat and have lot widths ranging from 20 – 32.5 feet, in accordance with Section 401.1.

C. Standard of Review for Special Exceptions from IZ Minimum Lot Area

The provisions of Chapter 26 do not contain a specific standard of review that is to be applied to requests for special exceptions from the minimum lot width requirement of Section 2604.3. Rather, in reviewing such requests the Board is guided by the general special exception standard set forth in Section 3104.1, which authorizes the Board to grant the relief if the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.

The requested special exception can be granted as the proposed lot widths are in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not

adversely affect the use of neighboring properties. The purpose and intent of the minimum lot width requirement is to establish an appropriate development scale and character for an area, in addition to controlling density and overcrowding. The proposed widths for these lots are consistent with many of the lots found in the blocks surrounding the BZA Site and is common throughout Capitol Hill. Indeed, as shown in Exhibit E, approximately 43% of the lots contained within the blocks that immediately surround the BZA Site have widths of 16 feet or less. This percentage would be even higher if the nearby lots containing apartment houses and larger non-residential uses were excluded from the calculation. Therefore, development of these particular lots with attached row dwellings would result in a building type that is compatible in scale and character with the existing moderate density residential development that surrounds the BZA Site and is typical of the Capitol Hill neighborhood. It would also be consistent with the guiding philosophy for Neighborhood Conservation Areas as described in the Comprehensive Plan.

Granting the requested special exception will also not adversely affect the use of neighboring properties. None of the lots abut an existing dwelling, and the slightly narrower lot width is consistent with the lot width of the existing dwellings located across D Street. Finally, as described below, the overall development of the BZA Site does not result in overcrowding of the land as it is being developed with less density than would be permitted as a matter of right based on the land area of the BZA Site and assuming it were more regularly shaped.

V.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

The Applicant is requesting area variances from the requirements of Section 2604.3 (minimum lot area), Section 403.2 (lot occupancy) and Section 3202.3 (number of principle buildings on a single record lot). The variances from lot area and lot occupancy are requested for Lot 9. While Section 2604.3 requires a minimum lot area of 1,500 square feet for IZ

developments, the area proposed for Lot 9 is 1,335 square feet, but could be reduced to as low as 1,310 square feet depending upon slight changes to the lot depth for those lots fronting D Street. Regarding lot occupancy, Section 403.2 permits a maximum lot occupancy of 60%. The Applicant requests a variance to permit a lot occupancy of up to 69% for Lot 9. Finally, the Applicant is requesting a variance from the number of principle buildings allowed on a single record lot for Lots 1, 3, 5, 7, and 10 – 20.

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 affected by exceptional 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, the Applicant meets the three prongs of the area variance test.

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 BZA Site is affected by several exceptional conditions. Consisting of approximately 37,608 square feet of land area, the

BZA Site is exceptionally large compared to the lot sizes typical of the R-4 District. Indeed, there are only six other properties within a quarter-mile of the BZA Site that are zoned R-4 of similar or greater size, almost all of which are currently used for institutional or recreational purposes. These properties include:

Address	Use
312 13 th Street, SE	Multiple dwelling
13 th Street & D Street, SE	Watkins Recreation Center
400 12 th Street, SE	Watkins Elementary School
1445 C Street, SE	Payne Elementary School
738 10 th Street, SE	Tyler Elementary School
1345 Potomac Avenue, SE	Friendship Public Charter School

The BZA Site is also exceptionally deep, caused by the manner in which the former school building is situated on the Subject Property. The former school building is generally rectangular in shape and oriented in a north-south direction with frontage along E Street. Measured from E Street, the building extends approximately 245 feet into the Subject Property, or about 66% of the distance between D and E Streets. This size and orientation results in the BZA Site being exceptionally deep, measuring approximately 136 feet from 13th Street to the BZA Site's east boundary, and 165 feet to the former school building. This exceptional depth presents challenges to efficiently subdivide the BZA Site without leaving a considerable amount of underutilized land at the interior of the site, even after taking into account access needs.

In addition, as a result of its exceptional depth, a substantial amount of land area is located interior to the BZA Site. This creates an unbalanced relationship between the amount of land area available to be developed and the limited amount of street frontage available to establish lots. Finally, the BZA Site has unique access considerations caused by the lack of a public alley and changes in grade across the Subject Property. The ability to extend the existing public alley in the square to the west to provide access to the BZA Site is constrained due to the

presence of the former school building and changes in grade. The lack of public alley access creates a need to provide access by means of a private driveway somewhere along the already limited street frontage.

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

1. Minimum Lot Area (§2604.3)

Section 2604.3 of the Zoning Regulations permits a minimum lot area of 1,500 square feet for IZ developments in the R-4 District. The Applicant is requesting a variance from this minimum lot area requirement to allow Lot 9 to have a lot area of no less than 1,310 square feet. The strict application of the minimum lot area requirement of Section 2604.3 results in a practical difficulty due to constraints relating to the site plan caused by the unbalanced relationship between the size of the lot and the amount of street frontage available to create lots. The total land area of the five lots proposed along D Street is approximately 9,900 square feet. In subdividing this area, the Applicant sized Lots 1, 3, 5, and 7 to what is necessary to provide the side-by-side flats, with each resulting individual unit having a minimum width of 16 feet. This results in Lot 1 having a width of 32.5 feet and a lot area of 2,169.4 square feet, and Lots 3, 5, and 7 having a width of 32 feet and a lot area of 2,136 square feet, all of which meet the minimum requirements for lot width and lot area. However, due to the limited amount of street frontage along D Street, and the unique size and depth of the BZA Site, this leaves a limited amount of land area for the flat on Lot 9, which sits most prominently at the corner and which is proposed to have a lot area of no less than 1,310 square feet. Thus, a variance of approximately 190 square feet below the minimum lot area requirement of 1,500 square feet is requested.

To meet the required lot area, the depth of Lot 9 would need to be increased by up to 9.5 feet, which in turn would likely require a similar increase in the depth of the other lots along D

Street. The result would be an unnecessarily large rear yards of 36 to 41 feet which, as a result of the unique characteristics of the BZA Site, would be more detrimental to the development and surroundings than beneficial. While providing the additional lot depth would cure the zoning deficiency for Lot 9, it would not result in any benefit to the dwellings proposed along D Street or the overall development due to the need to access the rear garages of the dwellings proposed for Lots 1, 3, 5 and 7 by private driveway. Therefore, any additional lot depth provided on Lot 9 would only result in additional area devoted to vehicular circulation or vehicular parking behind Lot 9. In addition, increasing the depth of this lot as well as the four other compliant lots would result in a loss of at least two dwelling units (i.e., those proposed for Lot 10), thereby reducing the number of high-demand, family-sized dwelling units that are provided.

2. Lot Occupancy (§403.2)

The strict application of the 60% lot occupancy requirement of Section 403.2 to Lot 9 results in a practical difficulty for the Applicant. The larger lot occupancy variance requested for Lot 9 is a result of the proposal to improve this lot with a traditional stacked flat and the lot's corner location.

In order to construct a stacked flat on this lot, a slightly longer building footprint is necessary to accommodate the internal circulation required for this type of structure and to create the cellar/basement level unit. A reduction of the building width or depth to meet the lot occupancy requirement would make it practically difficult to design the structure as a stacked flat. Furthermore, increasing lot depth to meet the lot occupancy requirement would require the lot to be approximately 9.5 feet deeper which results in the same loss in dwelling units and increase in paved vehicular circulation space noted above.

In addition to requiring a slightly larger footprint to accommodate the circulation requirements of a stacked flat, it is also necessary to establish a strong corner condition to help seamlessly transition from the D Street frontage to the 13th Street frontage of the BZA Site without having an unnecessarily wide gap in the streetwall. Because the flat extends further to the south than the homes on Lots 1, 3, 5, and 7, the building serves to hide the entrances to the lower level garages, create a viewshed through the project to the pedestrian mews, provide activity on both 13th Street and D Street with entrances to the unit from both streets, and create a strong streetwall along 13th Street. Having to increase the depth of the lot, or reduce the building footprint, would have a detrimental effect on these important aspects of the overall site plan and on the ability to define the corner in a manner that reflects a traditional condition within the Capitol Hill neighborhood.

3. Number of Principle Buildings Allowed on a Single Record Lot (§3202.3)

Restricting Lots 1, 3, 5, and 7, and Lots 10 – 20 to one principle building would result in a practical difficulty to the Applicant as a result of the BZA Site's size, depth, and amount of available street frontage.

For Lots 1, 3, 5, and 7, the Applicant believes that the configuration of the side-by-side flat meets the intent of the regulations and should be treated in the same manner as a more traditional stacked flat. However, as a precaution, the Applicant requests variance relief to provide two structures for each of these lots arranged in a side-by-side configuration in the event the Zoning Administrator determines that internal communication or circulation is required for the units to be deemed a single building on a single lot. The construction of two dwelling units within the same building on a single record lot is permitted by-right in the R-4 District and is known as flat. Traditionally, flats are arranged in a stacked configuration where the second unit

is often located in the basement or cellar of the structure, such as what is proposed for Lot 9. In this traditional configuration, the flat would be considered a single building and each unit would be separately accessible from the street. There would be no vertical communication or circulation between the two units. As a result of the unique aspects of the BZA Site, and for site plan purposes, the Applicant proposes to effectively turn a traditional stacked flat onto its side and have the dwellings arranged side-by-side. However, this configuration results in the dwellings units being separated entirely from the ground up; and therefore, it is possible that the Zoning Administrator would consider them as separate buildings under the Zoning Regulations. In that case, the Applicant would need to provide a meaningful above-grade connection which, as a result of the unique aspects of the BZA Site, is practically difficult for the Applicant to provide while maintaining the family-sized single family dwellings. Thus the request for a variance from Section 3202.3.

As discussed above, the BZA Site has a unique size and depth compared to lots that are typical of the R-4 District. As a result of these unique aspects, the depth of the lots along D Street has been constrained so that the BZA Site can be subdivided in a way that most effectively utilizes the large amount of land area located at the interior of the site. This shortened depth results in the footprints of the buildings proposed for Lots 1, 3, 5, and 7 to also be shorter to meet the 60% maximum lot occupancy requirement. This shortened footprint makes it practically difficult for the Applicant to provide the internal connection that may be required to allow the side-by-side dwellings proposed for these lots to be considered a single building. Such connection or communication would result in the loss of a considerable amount of living space on the main level of the dwelling units to accommodate a new common area. Furthermore, the addition of a common area would shorten the already constrained amount of horizontal space

available to accommodate the required vertical circulation within each of the dwelling units. Finally, creating an internal connection within the side-by-side flat in lieu of a common area would give rise to building code issues as it would violate the continuity of the fire wall between the separate units.

For Lots 10 – 20, given the considerable depth of the BZA Site, approximately 136 feet, a single building on each of these lots would result in either an unreasonably large rear yard and substantial amount of underutilized land at the interior of the BZA Site. The “dead space” that would result in the central portion of the BZA Site, especially as it abuts Buchanan Walk and the existing Buchanan School building, would lack pedestrian activation. Siting the townhomes in a manner where entries and windows directly face and interact with Buchanan Walk and the former Buchanan School will create a safe, useable and activated public space. If vehicular circulation or garages were adjacent to this space, the homes would in effect turn their back on the pedestrian space, resulting in a vehicle-oriented, less safe pedestrian environment and loss of a community amenity.

Requiring only one principle building to be constructed on these lots would be practically difficult for the Applicant because it would result in very long and narrow building footprints that are exceedingly large for one-family dwellings and difficult to design as flats that have sufficient access and natural light. To comply with the Zoning Regulations, the two proposed structures could be combined in a back-to-back configuration; however, this would result in a very unattractive and long building mass that is out of character with the neighborhood. In addition, such a configuration would result in the loss of at least one bedroom in each dwelling unit as the central portion of the flat would lose any source of natural light. Furthermore, connecting the two structures would result in the loss of rear access to the garage for the units

fronting along 13th Street, thereby necessitating access to the garage from the front through multiple curb cuts. Instead, splitting the flat into two, one-family dwellings with a zoning compliant court between them creates better circulation within the BZA Site, results in a superior site plan and leads to no additional units than would otherwise be permitted.

Given the very limited number of uses permitted in accessory buildings located in the R-4 District, requiring the Applicant to eliminate the dwellings proposed along the mews, and instead establish one of the permitted accessory uses would also create a substantial practical difficulty for the Applicant and would be detrimental to the public good. In the R-4 District, the only uses permitted in an accessory building include a private garage, private stable, parking garage, storage, and an artist studio. In Application Nos. 17586 and 18225, this very limited range of uses was acknowledged by the BZA as an important contributing factor to an applicant's practical difficulty for a variance from Section 3202.3 of the Zoning Regulations, and the potential inappropriateness of these uses relative to the surroundings in certain instances. In this particular application, restricting use of the rear of these extraordinarily deep lots to this very limited set of accessory uses would require elimination of 11 dwelling units, which could be built by-right if the dwellings were connected. Furthermore, as described below, using the rear of these lots for one of these accessory uses would have greater impact on the public good.

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**

The requested area variances can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose or integrity of the zone plan. Overall, the density and number of dwelling units proposed is less than what is permitted by-right in the R-4 District. As noted above, if the BZA Site had a more conventional depth it could

be developed with approximately 40 dwelling units in full compliance with the Zoning Regulations. However, due to the exceptional conditions described above, the Applicant is proposing only 34 dwelling units (22 one-family dwellings and six flats) on the BZA Site and requires the stated relief to achieve this reduced density.

Furthermore, the proposal to subdivide the BZA Site and construct one-family dwellings and flats is a compatible use with the surrounding neighborhood. The proposed development will contribute to the vibrancy of the neighborhood and activate an underutilized property through thoughtful architectural design and sensitive site planning. The height, mass, number of stories, and architectural design is reflective of the Capitol Hill neighborhood and is well-suited to the immediate surroundings. Finally, the project will support the city's housing and affordable housing goals by providing much-needed family-sized housing in an area that is adjacent to Watkins Elementary School and well-served by transit and amenities.

The variance from the minimum lot area requirement of §2604.3 and lot occupancy requirement of § 403.2 is now only requested for Lot 9, or only one of the proposed 17 lots. Specifically, the lot area and lot occupancy requested for Lot 9 are characteristic of the surrounding neighborhood. In fact, as demonstrated in Exhibit F, approximately 53% of the lots within the blocks that immediately surround the BZA Site have a lot area less than 1,500 square feet. In addition, Exhibit F also shows a common condition found throughout Capitol Hill in which lot areas and depths get smaller near intersections due the change in lot orientation and the existing alley system. In addition, the requested lot area variance will result in a better utilization of the land area and street frontage available along D Street, and will help meet the growing demand for family-sized dwellings.

With regard to the slightly higher lot occupancy variance for Lot 9, the larger building footprint will help establish a strong architectural presence on this corner which is commonly seen in the Capitol Hill neighborhood. It will also permit development of Lot 9 with a flat with entrances along both street frontage thereby activating both side of the corner rather than having only an unarticulated exterior wall of a single-family dwelling on one of the street frontages. The slightly larger footprint for this lot will also reduce the gap in the streetwall along 13th Street and screen the rear view of the lots along D Street, specifically of the rear garages.

Finally, with an average lot area of approximately 2,212 square feet, and overall lot occupancy of approximately 57%, development across the entire BZA Site is within the matter-of-right limits of the Zoning Regulations. The proposal will not overcrowd the BZA Site and will result in a scale and pattern of development that is compatible with the surrounding neighborhood. Based on the land area of the BZA Site, the property could be subdivided into 25 lots with areas of 1,500 square feet if it had a more conventional depth, greater street frontage, and public alley access. As a result of the site constraints described above, primarily the large amount of land area that is locked within the interior of the BZA Site and lacking public alley access, the Applicant is only able to provide 17 lots despite the requested reductions in lot area and lot width

Granting the variance from the limitation on the number of principle buildings allowed on a single lot will result in a much more efficient use of the BZA Site and an overall better site plan, especially along Buchanan Walk. For Lots 1, 3, 5, and 7, allowing the proposed side-by-side dwelling units to be constructed without requiring an internal connection will not result in additional density that is out of character with the surrounding neighborhood. In fact, as discussed above, what the Applicant proposes is a flat, a permitted use in the R-4 District, only in

a less traditional, side-by-side configuration that makes it practically difficult to provide an internal connection due to some unique site constraints.

For Lots 10 – 20, rather than combine the proposed buildings into one unreasonably large one-family dwelling, or poorly configured flat, with vehicular access adjacent to, and visible from Buchanan Walk, the dwellings are separated such that the rear dwellings will abut the mews and provide a more welcoming, safer pedestrian environment for residents and the neighborhood. This configuration results in a more productive use of the interior of the BZA Site and prioritizes the pedestrian by hiding vehicular access between the two structures.

Finally, as mentioned above, permitting the additional dwellings at the rear of these lots instead of limiting it to the very narrow range of permitted accessory uses will in fact benefit the public good. Limiting use of the rear of these lots to the accessory uses discussed above would substantially reduce the number of family-sized units provided, and more negatively impact the surrounding neighborhood in terms of traffic, parking, noise, and safety. For example, using the rear of these very deep lots for parking garages, private stables, or storage would increase traffic in the neighborhood. This could likely result in the need for additional curb cuts and private driveways to provide access to these uses, resulting in the elimination of Buchanan Walk. Further, artist studios would have similar impacts on traffic, and additional impacts on public parking caused by workers, visitors, and patrons coming to the site.

Rather than having utilitarian accessory uses located at the interior of the BZA Site, and adjacent to the former Buchanan School, the proposal will activate the interior of the site and establish a new public amenity in the form of Buchanan Walk, a publically accessible mid-block pedestrian connection between D and E Streets that offers seating, welcoming landscaping, and interesting sculptural focal points. Permitting construction of the dwellings proposed for along

Buchanan Walk will also benefit public safety by putting more “eyes on the street” rather than having a collection of less active uses within the interior of the BZA Site.

The variance from §3202.3 can also be granted without substantially impairing the intent, purpose, and integrity of the Zone Plan. A two-family dwelling, or flat, is a matter-of-right use in the R-4 Zone District. As proposed, separating the two dwellings units rather than connect them in some manner above the private driveway only to make them “one building” for purposes of zoning facilitates better utilization of available land area in this unique circumstance and results in an alley condition that is more reflective of what is seen throughout Capitol Hill and the city. Finally, no increase in the number of dwelling units would result from granting the variance, and apart from being located in two separate structures, all other applicable use and area requirements such as density, rear yard, courts, and lot occupancy will be met.

VI. COMMUNITY SUPPORT

The Applicant has worked with the community and has obtained support for the project. On June 9, 2015, at its regularly scheduled, duly noticed Advisory Neighborhood Commission 6B (“ANC 6B”) meeting, with nine of the ten commissioners present, ANC 6B voted 9-0-0 to support the application. A copy of the support letter is attached as Exhibit G

VII. EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

<u>Exhibit A:</u>	Excerpt of 1903 Baist Map (Vol 2, Plate 29)
<u>Exhibit B:</u>	Map of BZA Site and surrounding zoning
<u>Exhibit C:</u>	Portion of Comprehensive Plan Future Land Use Map
<u>Exhibit D:</u>	Updated architectural plans and elevations
<u>Exhibit E:</u>	Map of properties with lot widths of 16 feet or less

- Exhibit F: Map of properties with lot areas of 1,500 square feet or less
- Exhibit G: Advisory Neighborhood Commission 6B letter of support
- Exhibit H: Outlines of testimony
- Exhibit I: Resumes of expert witnesses

VIII.
WITNESSES

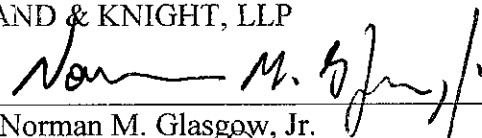
- A. Sarah Davidson, Partner, Insight Property Group
- B. Maurice Walters, AIA, LEED AP, Architect
- C. Trini Rodriguez/ Mila Antova, Landscape Architect, Parker Rodriguez Inc.
- D. Shane L. Dettman, AICP, Director of Planning Services, Holland & Knight LLP

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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