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September 22, 2015

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

**Re: Application No. 19056 – 3324 Dent Place NW (Square 1278, Lot 251)
Prehearing Statement of the Applicant**

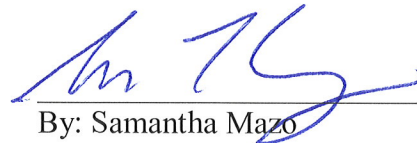
Chairperson Jordan and Honorable Members of the Board:

On behalf of CLYDECO 2015, LLC, please find enclosed the Prehearing Statement for the above-referenced application. The application is scheduled to be heard before the Board of Zoning Adjustment on October 6, 2015.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP


By: Samantha Mazo

Enclosures:

Cc: Advisory Neighborhood Commission 2E
c/o Ron Lewis, Chair and SMD 2E02 (via email)
Office of Planning (via email)

Board of Zoning Adjustment
District of Columbia
CASE NO. 19056
EXHIBIT NO. 33
WWW.WASHLAW.COM

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

APPLICATION NO:

**APPLICATION OF
CLYDECO LLC**

**3324 DENT PLACE NW
ANC 2E02**

PREHEARING STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of CLYDECO 2015, LLC (the “Applicant”), the contract purchaser of property located at 3324 Dent Place NW, Lot 251 in Square 1278 (the “Property”), in support of its application for variance relief, pursuant to 11 DCMR §3103.2, from the requirements regarding minimum lot width (§401) and minimum off street parking requirements (§2101.1) to allow the Applicant to construct two new row dwellings on proposed lots 850 and 851 (the “Project”) in the R-3 District at the Property.

II. EXHIBITS IN SUPPORT OF THE APPLICATION

Exhibit A: Revised Plans (referred herein as the “Revised Plans”)
Exhibit B: Email regarding curb cuts from Ryan Westrom at DDOT
Exhibit C: Documentation of available street parking on Dent Place.

III. REVISED PLANS

Previously submitted plans proposed two row dwellings at 1,443 s.f. each, with 58% lot occupancy each. As shown in the Revised Plans included at Exhibit “A”, the Applicant has substantially reduced the size of each proposed dwelling to 1,050 s.f., and 40% lot occupancy. This constitutes an approximately 27% reduction in total project size and shows a clear intent on the Applicant’s part to propose and construct modest row dwellings that are consistent with the

surrounding uses along Dent Place. The facades of the proposed row dwellings are designed to be flush with the fronts of the adjacent dwellings at 3322 and 3330 Dent Place. Further, as revised, the rear of the new row dwellings will be 18-feet less than the rear wall of the structure at 3322 Dent Place, and will extend only approximately 10-feet beyond the rear of the adjacent structure at 3330 Dent Place. Both dwellings will provide approximately 80-foot rear yards. These proposed modest structures will ensure no impact on the light, air or privacy to the adjacent homeowners.

Moreover, the Revised Plans at Exhibit “A” include illustrative renderings to provide the Board and the neighbors with an improved understanding the Project’s design aesthetic. As proposed, these dwellings will not be “same-old, same-old townhouses” as has been alleged by one of the neighbors who has filed for party status in opposition to the Project, but will, instead be high-quality, well-constructed and designed row dwellings that will enhance the neighborhood and complete the streetscape by filling in the currently vacant Property that is out of character with the rest of the area.

IV. ARCHAEOLOGICAL SURVEY

In June 2015, City Archaeologist for the District of Columbia under the auspices of the District’s State Historic Preservation Office commenced an archaeological study of the Property. Although the study is still on-going, based on discussions with the City Archaeologist, it is understood that the study has not located relevant archeological evidence regarding the life or times of Mr. Yarrow Mamout, but may have found evidence of a second structure located near the rear of proposed lot 850.

V. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF

The Board is authorized to grant an area variance where it finds that the Applicant fulfills the three-prong area variance standard. As described in the Initial Submission, supplemented in this Prehearing Statement, and as will be further explained at the public hearing, all three prongs of the area variance test are satisfied.

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 variance test applies not only to the land, but also to the property’s history and the configuration of a building on the land. *See, Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). As described in the initial submission, the Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) the shape and size of the lot, including the 35-foot width making this lot one of the widest on the block; (2) the removal of a historic structure due to an emergency; (3) historic pattern of development of row homes on the block that includes adjacent lots with 17.5-foot widths (lots 837 and 836) as well as multiple, other lots with 17-foot or narrower widths along the street; and (4) the inability to access the rear of the lot to provide parking to the proposed row dwellings, the preferred use in the R-3 Zone District.

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

Strict application of the zoning regulations regarding lot width (§401) and parking (§2101.1) would result in a practical difficulty to the Applicant.

1. *Lot width (§401)*

Pursuant to 11 DCMR §401.3, the minimum lot width for a row dwelling in the R-3 Zone District is 20 feet. The total width of the Property is 35 feet. The proposed lot width of each, new lot is 17.5 feet. Dent Place NW is located in the Georgetown Historic District. Strict compliance with the minimum lot requirement would eliminate the ability to construct two row dwellings at the Property, and would result in the development of a large single family detached home that would be out of character for the neighborhood and disrupt the orderly character of row houses and small, single family detached homes that characterizes this unique street. Further, as shown on the Baist Map included at Sheet A101 in Exhibit “A”, adjacent lots 836 and 837 are 17.5-feet in width. Further, five other lots to the west of the subject Property are 17-feet or narrower in width. Accordingly, 17.5-foot wide lots, as proposed here, epitomize the character of the street. Wider lots, such as the Property’s existing 35-foot width are out of character, and a large dwelling on such a lot would look inappropriate compared to the surrounding properties. Therefore, the goal of constructing row dwellings that align with the historic nature of the block and the size of the surrounding lots directly impacts the Applicant’s ability to comply with the lot width requirement. Moreover, due to the exceptional depth of the Property, strict compliance with the lot width requirement would result in inefficient use of the Property during a time when the District policies support provide additional housing.

2. *Parking (§2101.1)*

Under §2101.1, each row dwelling is required to provide one off street parking space. Most properties in Georgetown are exempt from the off-street parking requirement, including this Property, until the emergency razing of the historic wooden frame building that was on the

Property. However, due to the razing of the historic wooden frame building coupled with the Applicant's goal of constructing structures that align with the historic nature of Dent Place, this Property is currently subject to the parking requirement. As stated above, the Property has no rear access, and the construction of two row dwellings on the Property renders the lots too narrow to provide access from the street to the rear of the structures to allow off-street parking. Consequently, the Applicant requests a parking variance.

It is also important to note that DDOT most likely would not support new curb cuts on the Property because both adjacent properties have off-street parking via existing curb cuts from Dent Place. As discussed in the email from Ryan Westrom, one of DDOT's Senior Transportation Planners, included as Exhibit "B", DDOT's policies are to maintain at least a 24-foot offset between adjacent driveways, and, where new curb cuts do not meet this guidance, DDOT "do[es] not typically support their proposal."

As shown on Sheet A100 included in the Revised Plans at Exhibit "A", the edgeline of the existing curb cuts are located on both the Property's east and west lot lines. Accordingly, to satisfy DDOT's standards for even one curb cut, the Property would have to be a minimum of 48 feet wide to provide a 24-foot offset from each curb cut. As stated above, even without a subdivision, the Property width is 35 feet, and does not satisfy this requirement. Consequently, strict application of the Zoning Regulations would result in a practical difficulty because the required curb cuts necessary to create off-street parking spaces would not be supported by DDOT due to the proximity of existing curb cuts along the Property's east and west lot lines. Finally, based on the photos of Dent Street taken at approximately 9:30 a.m. and 6:00 p.m. on two recent weekdays attached as Exhibit "C", it appears that because many of the houses on the block have off-street parking spaces, on-street parking spaces are available. Accordingly, these photos document that

would be sufficient on-street parking to accommodate the potential vehicles generated by the proposed Project.

C. No Substantial Detriment to Public Good or Inconsistency with Zone Plan

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The proposed Project restores an unimproved lot to a productive use that is in character with the rest of the block. Furthermore, the development completes the block by constructing modest, infill row dwellings that have been reduced in scale to approximately 40% lot occupancy to ensure the adjacent neighbor's access to light, air and privacy on their own property. Also, the privately owned-subject Property is not public space or a public park, and, accordingly, the neighbors have no legal right to restrict development thereon for their own purposes even though they may have grown used to looking at the Property as a vacant lot. *See [Application No. 17737 of District Properties.com LLC](#)* (approving an area variance to allow construction of a dwelling on a formerly vacant lot and holding that "the lot [in that case] has been vacant for many years, and the neighbors have grown used to that condition, but it is a lot which is subject to development with zoning relief.") Lastly, the development of the Property has allowed for a full archeological survey to be performed that, as the Applicant understands, has resulted in locating no evidence of historical significance on the Property regarding the life and times of Mr. Yarrow Mamout. For these reasons, approval of the zoning relief requested will not cause a detriment to the public good or zone plan and will instead enhance the neighborhood by construction of high-quality, well-designed row dwellings that complement the surrounding properties and complete the streetscape.

VI. COMMUNITY OUTREACH AND INPUT

Following the submission of the Initial Application, the Applicant presented before the full ANC 2E on June 29, 2015.

The Applicant is aware that the Citizens Association of Georgetown, certain neighbors and the ANC 2E have filed for party status in opposition to the Project. In sum, the opposition has argued that the Application should be denied because the Property is historic, the Project is too dense and results in a loss of open space, and new row dwellings will make parking more difficult in the neighborhood. These claims lack a basis in fact and should be rejected for the reasons discussed below.

First, as to the historic nature of the Property, the Applicant has allowed, and indeed encouraged, the archeological study on the site by providing unfettered access to HPO and the City Archeologist. Although the final report is still pending, it is the Applicant's understanding that, as discussed above, this study has not resulted in locating any substantial evidence regarding Mr. Mamout's life (or his remains or burial ground) that would warrant halting development on the Property. Accordingly, the opposition's arguments that this development would cause harm to a historic site fall flat. To the contrary, it is the Applicant's belief that development of this Property has raised the awareness of Mr. Mamout and his contributions to Washington and Georgetown. Indeed, it has come to the Applicant's attention that in late September, Georgetown University will be conducting a seminar on Mr. Mamout, highlighting the archeological work on the Property; such research could not have been conducted without the assistance of the Applicant by providing access to the site and allowing the archeological dig to occur there. The Applicant further notes that, as the Board is aware, final design of the Project will require approval from both the Old Georgetown Board and Historic Preservation Review Board, which will make the ultimate determinations of whether the proposed design is in keeping with the Property's historic nature.

Second, in response to the argument that the Project is too dense for the Property, the Applicant has responded by reducing the total lot occupancy to 40%, leaving a spacious, 80-foot rear yard behind both homes as depicted in the Revised Plans at Exhibit “A”. As revised, the rear of the row dwelling on proposed lot 851 will be 18-feet less than the rear wall of the existing home at 3322 Dent Place, having no impact on that property’s rear yard, air, light, and/or privacy. The row dwelling on proposed lot 850 would extend 10-feet beyond the existing structure at 3330 Dent, but this is a modest improvement that will, similarly, have no substantial detriment to that property. Importantly, the sun studies included at sheet A501 of the Revised Plans at Exhibit “A”, illustrate that the Project will cast limited shadows on the certain portions of the adjacent properties and will not entirely deprive those areas of light.

Also, it is worth noting that the opposition appears to argue that one, single home would be more compatible with the neighborhood. However, as stated above and in the Initial Submission, based on the Property’s lot width and depth any single-family structure on the Property would be designed in such a large and inefficient manner, that such a structure would, most likely, result in more density on the Property than the proposed, modest row dwellings, which would be less, not more, compatible with the surrounding properties.

Finally, it is apparent that the neighbors wish to keep the Property vacant, or in an underutilized state, in order to preserve what they believe to be neighborhood green and open space. However, as this Board has found in the past on property that is privately owned, like the subject Property, the neighbor’s desire to keep a property vacant is simply not an appropriate reason to do so.

Lastly, as to the opposition's concerns about lack of parking availability, based on observations on one recent weekday morning and weekday evening, ample on-street parking spaces were available on Dent Place. Indeed, as shown in the photo of Dent Place from Monday, September 21 at approximately 9:30 a.m., sufficient parking was available to allow multiple contractors and landscaping services to park their trucks on the street. Therefore, it appears that the oppositions' concerns about the lack of on-street parking are perceptions that are not based on fact.

Also, as stated above, based on the email at Attachment "B", it is unlikely that DDOT would grant permits for new driveway curb cuts due to the narrow width of the Property and the location of the two, adjacent driveway curb cuts. Moreover, it is unlikely that even one new curb cut would be granted for a single-family dwelling, because the Property is not 48-feet wide – the minimum width needed to satisfy the required 24-foot offset from both existing curb cuts for a new curb cut.

Based on the above, the arguments raised in opposition to the Project should be discounted. Instead, this Application should be granted because it satisfies the requirements for area variances as set forth in 11 DCMR §3103.2. At the Board's direction, the Applicant will be happy to continue discussing the Project with the ANC, surrounding neighbors and any other interested parties.

VII. WITNESSES

The following witnesses will appear on behalf of the Applicant:

1. John Casey, on behalf of the Applicant
2. KC Price, Design Consultant

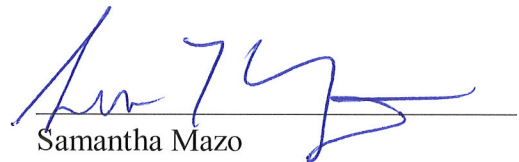
3. Any other witnesses necessary to counter testimony given by the parties in opposition.

VIII. 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 October 6, 2015.

Respectfully submitted,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
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