EXHIBIT "B"

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

Re: Statement in Support of Application for Special Exceptions to Construct a Mixed-Use Project at 1290 U Street, N.W.

I. Nature of Relief Sought

This is an application for special exception relief pursuant to section 3104 of the Zoning Regulations for a new mixed-use (office and retail) building at 1290 U Street, N.W., Lot 133, Square 274 (the "subject property"). The following relief is being requested: (1) a special exception to deviate from the ARTS overlay design standards (§ 1906) and (2) a special exception to reduce the amount of required parking (§ 2107), or, in the alternative, for a variance to reduce the amount of required parking (§ 3103). The subject property is zoned ARTS/C-2-A.

II. Jurisdiction of the Board of Zoning

The Board of Zoning Adjustment has jurisdiction to grant the relief requested pursuant to Sections 3104 and 3103 of the Zoning Regulations.

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III. Subject Property Description and Background

The subject property is located in Square 274 which is bounded by U Street, T Street, 13th Street, and 11th Street, N.W. The subject property is owned by the Washington Metropolitan Area Transit Authority ("WMATA") and is located at the southeast corner of the intersection of 13th and U Streets. It has a land area of 18,813 square feet and is vacant except for the entrance platform and set of escalators which lead down to the U Street/Cardozo Station, on Metro's Green Line.

WMATA has selected Blue Horseshoe LLC (the "developer") to develop the subject property with a three-story, 33,676 square foot mixed-use project which will contain office space and ground level retail uses. The developer has entered into an agreement with the City to rent the office space to the D.C. Commission on Mental Health.

The subject property is also located in the Greater U Street Historic District. An application for concept approval of the project design has been submitted to the Historic Preservation Review Board.

A zoning certification has also been requested from the Zoning Administrator.

BZA
Case No. 16868
Exhibit No. 4
Board of Zoning Adjustment
District of Columbia
CASE NO.16868
EXHIBIT NO.4

IV. Subject Property Zoning

The subject property is located in both the C-2-A District and the Uptown ARTS-Mixed Use ("ARTS") Overlay District. The C-2-A District is a mixed-use community business district zone which provides for a maximum height of 50 feet and a maximum FAR of 2.5, with nonresidential uses limited to 1.5.

The ARTS overlay district provides for bonus density for specified preferred uses and imposes design standards for new development. The ARTS District was designed to encourage pedestrian activity, especially retail, entertainment, and residential uses in the 14th and U Streets corridor and to foster 18-hour activity and increased public safety. Under the ARTS District, bonus density is generated by including preferred uses in a project. A public agency office use is a preferred use and the intended use of the majority of the prepared project (*i.e.*, office of the D.C. Commission on Mental Health). A public agency use generates bonus density (at a ratio of 1 square foot of preferred use to 1.5 square feet of bonus density). Under the ARTS Overlay, the bonus density may be used on-site to increase density in a C-2-A District up to a maximum FAR of 3.0. The proposed project will utilize approximately 5,253 square feet of bonus density.

Physical design standards are imposed in the ARTS District for the purpose of strengthening the design character and identity of the area. Design standards are imposed on properties fronting on certain designated "pedestrian" streets including U Street on which the subject property fronts. These design standards include mandatory placement of a minimum percentage of building streetwalls on the property line, as well as required amounts of glass and entrance doors at the ground level.

V. Detailed Description of Zoning Relief Requested

The following two special exceptions are being requested for the project:

- pursuant to § 2107 of the Zoning Regulations, a special exception to reduce the parking requirements for the project from 31 required spaces to 12 provided spaces, or, in the alternative, a parking variance; and

- pursuant to § 1903 a special exception for two deviations to the ARTS overlay design standards applicable to U Street, which is a designated "pedestrian" street in the ARTS Overlay zone.

A detailed description of the relief requested and the standards therefor are provided as follows:

16868

A. ***Design Standard Deviations Special Exception***. Section 1903 of the Zoning Regulations provides for certain design standards for the major pedestrian streets within the ARTS Overlay including U Street on which the subject property fronts. This application requests permission to deviate from the following Section 1903 standards:

- § 1903.3 – Each new building on a lot that fronts on a pedestrian street shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than fifteen feet (15 ft.) shall be constructed to the property line between the subject lot and the abutting street right-of-way.

- § 1903.4 – Not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building on a lot that fronts on a pedestrian street shall be devoted to display windows and to entrances to commercial uses or to the building.

    (a) [not applicable]

    (b) Entrances to the building, including entrances to shops and to the main lobby, shall be separated by not more than forty feet (40 ft.) on average for the linear frontage of the building.

This application is seeking a special exception to deviate from the 75% streetwall requirement at the property line because Metro easements do not permit any construction at the property line in front of the Metro escalators. The proposed project is set back from the property line for a substantial distance around the escalators in accordance with these easements, which were designed to protect the visibility of the station entrance and to protect WMATA's access to utilities and structure in and around the Metro station below.

The application also seeks a deviation from the requirement to provide entrances at the ground level within every 40 feet on average for the linear frontage of the building. Because the building must be pulled back from the escalators as described above, the linear frontage of the building is very lengthy. As a result, the entrance requirement of every 40 feet on average is excessive for the proposed project, far exceeding the reasonable needs of prospective tenants. If enforced, such a requirement would probably have the effect of discouraging, rather than encouraging, the kinds of retail and public agency uses preferred in the ARTS overlay district.

Section 1903 provides that exceptions to these requirements may be granted by the BZA based on the following criteria:

16868

(a) The use(s), building(s) or feature(s) at the size, intensity and location(s) proposed, will substantially advance the stated purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;

(b) Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits, in lieu of the excepted uses or features, that are of comparable value to the public in achieving the purposes or this chapter and of the Comprehensive Plan;

(c) The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; Provided, that if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;

(d) 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 and objectionable traffic conditions; and

(e) The Board may impose requirements pertaining to design appearance, signs, size, landscaping, or other such requirements as it shall deem necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District.

B. ***Parking Reduction Special Exception or Parking Variance.*** Section 2107 authorizes the BZA to reduce or eliminate the amount of required parking spaces for nonresidential buildings or structures located outside the Central Employment Area where the building has a direct connection to a Metrorail station currently in operation or for which a construction contract has been awarded.

Section 2107 does not define what is meant by a "direct connection" (*i.e.*, whether there has to be a physical link between the Metro escalators or station and the project or whether it is sufficient for the project site to be directly linked to the Metro station). Further, there are no BZA case precedents which define what degree of connection is required. We believe that the latter was intended and should be deemed sufficient in this case. In this case, an actual physical connection is precluded by the aforementioned WMATA easements.

16868

Given the lack of definition as to the Section 2107 requirement of a "direct connection" to Metro, the applicant requests that a variance from the parking requirements also be advertised "in the alternative" in this case. As will be further detailed in the Applicant's prehearing submission, a variance is warranted due to the uniqueness of the subject property, which is improved with a Metro station entrance, but encumbered with easements which preclude the construction of any physical improvements (*i.e.*, connections) around the escalators as well as below-grade excavation for parking.

In addition to a Metro connection, Section 2107 requires evidence that the parking spaces normally required are not necessary to serve the use located in the building or structure. In determining whether the parking spaces are necessary, the Board is directed to give consideration to the following criteria set forth in Section 2107.2:

"(1) The nature and location of the building or structure and the nature and location of the connection to Metrorail;

(2) The maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;

(3) The amount of traffic congestion existing or which the building or structure can reasonably be expected to create in the neighborhood;

(4) The quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood which can reasonably be expected to be available when the building or structure is in use; and

(5) The availability of public transportation service in the area, or a ride-sharing program approved by the District of Columbia Department of Public Works." (§ 2107.2)

VI. General Rationale for Granting Zoning Relief Requested

As indicated above, the proposed project is being developed on WMATA property which is improved with the escalators which lead down to the U Street/ Cordozo Metrorail Station. WMATA has selected Blue Horseshoe Partnership to develop the property with a three-story building which will be devoted to offices and ground-level retail uses.

16868

Due to the location of the escalators above, and the Metrorail station and tunnel below, WMATA has encumbered the property with various easements which basically preclude construction of improvements in front of and around the escalators on U Street as well as the construction of below-grade space on the site. Further, the developer cannot meet the street frontage design requirements of the ARTS District which require that 75% of the project streetwalls along U Street be constructed to the U Street property line or the requirement for the placement of entrances every 40 feet on average at the ground level.

The Applicant will demonstrate in detail that the applicable special exception standards (set forth above) are met with the project as proposed. The deviations from the street frontage design requirements are necessary to successfully develop the WMATA site and such development is in the best interests of the public. The proposed project will promote activity and security around the Metrorail Station as desired by the City.

The parking reduction special exception is also justified in this instance due to the proximity of Metro. As will be demonstrated in the Applicant's prehearing submission, the reduced amount of parking which is proposed to be provided in the project will be adequate for the needs of the D.C. Commission on Mental Health which will occupy the majority of the building.