Preliminarily Statement Outlining How The Application Meets The Required Burden of Proof

The Applicant is seeking the following relief from the Board of Zoning Adjustment: a variance from the residential recreation space requirement (Section 773.3); a variance from the rear yard requirement (Section 774); and a special exception from the roof structure requirements (Sections 411). The Applicant will establish through its Statement of the Applicant to be filed no fewer than fourteen days prior to the hearing on the subject application, as well as at the public hearing, that the subject application meets the burden of proof for the granting of the requested special exceptions and variances. A preliminary summary of how the application meets the required burden of proof follows.

I. Variances from the Residential Recreation Space Requirement (Section 773) and Rear Yard Requirements (Section 774)

In order to obtain approval of the requested variances, the Applicant must show that: 1) the subject property suffers from an extraordinary or exceptional condition; 2) strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty to the Applicant; and 3) relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Applicant intends to meet its burden as follows:

A. Variance from the Residential Recreation Space Requirement (Section 773)

1. Extraordinary or Exceptional Condition

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The Applicant will provide evidence of an extraordinary or exceptional condition. Specifically, the project is an addition to an existing building at 2440 M Street. As a result, certain development difficulties arise due to the existing shape and required connection to the adjacent development. Furthermore, the adverse subsurface soil conditions create an exceptional condition. Thus, fifteen percent residential recreation space cannot be accommodated in the addition.

2. Strict Application Would Result in a Practical Difficulty to the Owner

The Applicant will show that the connection to the existing building and the adverse soil conditions result in a practical difficulty to the Applicant. Specifically, the connection to the existing building dictates a certain

BZA
Case No. 16926
Exhibit No. 9

Board of Zoning Adjustment
District of Columbia
CASE NO.16926
EXHIBIT NO.9

configuration of the hallways and apartment units, limiting the amount of residential recreation space available in the interior of the project. Furthermore, additional residential recreation space cannot be gained by creating below-grade space due to the rocky subsurface conditions. Finally, no additional outdoor space can be devoted to residential recreation space, as the project already incorporates 34,485 square feet of outdoor residential recreation space both in the internal courtyard and the roof deck and swimming area.

3. No Detriment to the Public Good Nor Impairment to the Intent, Purpose and Integrity of the Zone Plan

The Applicant will show that the reduction in the required amount of residential recreation space will not be detrimental to the public good and will not substantially impair the intent, purpose or integrity of the zone plan. The amount of residential recreation space provided is more than sufficient for this location. The project includes a total of approximately 39,400 square feet devoted to residential recreation space, including a swimming pool, roof deck, running track, courtyard, gym, party room, library and lobby. Furthermore, the site is situated within one block of the Rock Creek Park and within less than one block for nearby playing fields. In addition, the site's location near Georgetown, Foggy Bottom, and George Washington University provide many recreational, educational and entertainment activities for the residents of the proposed apartment house.

B. Variance from the Rear Yard Requirement (Section 774)

1. Extraordinary or Exceptional Condition

The Applicant will provide evidence of an extraordinary or exceptional condition. Specifically, the project is an addition to an existing building at 2440 M Street. As a result, certain development difficulties arise due to the existing shape and required connection to the adjacent development. Although a fifteen foot rear yard is provided, bay windows project into this rear yard two feet.

2. Strict Application Would Result in a Practical Difficulty to the Owner

The Applicant will show that it would be practically difficult for the Applicant to comply with this provision due to the required layout of the project. The exterior wall of the project will be setback fifteen feet from the property line, complying with the rear yard requirement. However, as a design feature and enhancement to the façade, the project will include bay windows

which will project two feet into the rear yard, rendering the rear yard only thirteen feet in some places.

3. No Detriment to the Public Good Nor Impairment to the Intent, Purpose and Integrity of the Zone Plan

The Applicant will show that the reduced rear yard will not be detrimental to the public good and will not substantially impair the intent, purpose or integrity of the zone plan. First, the bay windows enhance the façade of the building and improve the views of the building from the Hospital and southern approach. Second, the bay windows will not infringe on the fifteen foot rear yard as they are located significantly above grade. Finally, the bay windows comprise a small percentage of the rear façade, and, thus, the impact of the projection is de minimus.

II. Special Exceptions from Roof Structure Requirements of Section 411

In order to meet the criteria for approval of the requested special exceptions, the Applicant will be required to show the following: (1) compliance is impractical 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 and (2) the intent and purpose of Chapter 400 and the Zoning Regulations are not materially impaired by the structure and the light and air of adjacent buildings are not adversely affected.

Special Exception: Multiple Penthouses (Section 411.3)

The project includes three penthouse enclosures which house the three separate elevators cores required for a project of this size. Although Section 411.4 permits multiple enclosures when separate elevator cores are required, a special exception must be requested when multiple enclosures include stairwells in addition to the elevator cores. Due to the size of the roof deck and swimming pool area, two means of access are required for the roof. Thus, one of the additional elevator core enclosures must include a second stairwell. The intent and purpose of Chapter 400 and the Zoning Regulations are not materially impaired by the inclusion of the additional stairwell, and the light and air of adjacent buildings will not be adversely affected. Each of the three enclosures have been minimized to the maximum extent possible and each are set back from the exterior walls of the building a distance at least equal to its height. Furthermore, the three enclosures are in fact permitted but for the inclusion of the second stairwell.