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

The Applicant is seeking a modification to the architectural plans and drawings approved by the Board of Zoning Adjustment in Case No. 16744. The relief requested from the Board of Zoning Adjustment in that case was as follows: a variance from the permitted height (Section 770); a variance from the permitted FAR (Section 771); a variance from the required parking (Section 2101); and a variance from the required loading (Section 2201). A copy of the summary order approving that case is attached hereto. In addition to the relief previously requested, this application also includes a request for a special exception pursuant to Section 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 variances. A preliminary summary of how the application meets the required burden of proof follows.

I. Variances Pursuant to Section 3101 of the Zoning Regulations

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 Permitted Height and FAR (Sections 770 and 771)

1. Extraordinary or Exceptional Condition

The Applicant will provide evidence that the extremely small size and unusual shape of the property create exceptional conditions for this site. The site is extremely small, containing only 8,312 square feet of private land area, and has a long and narrow triangular shape, being only sixty-eight feet wide at its widest point.

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

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The Applicant will show that the unique size and shape of the property result in a practical difficulty to the Applicant. Specifically, the project will be viable only with a certain critical mass of space, which is extremely difficult to achieve on a site with this size and shape. Furthermore, the construction costs are much higher than a typical Class A office building in the District due to the adverse economies of scale for a site of this size and the significantly higher façade cost per square foot due to the building's frontage on four streets.

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 requested variance relief will not be detrimental to the public good and will not substantially impair the intent, purpose or integrity of the zone plan. The proposed height and FAR are compatible with surrounding structures and are consistent with the Comprehensive Plan.

B. Variances from the Parking Requirements (Section 2101)

1. Extraordinary or Exceptional Condition

As stated above, the Applicant will provide evidence that the extremely small size and unusual shape of the property create exceptional conditions for this site.

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

The Applicant will show that a strict application of the Zoning Regulations would result in a practical difficulty to the Applicant. Due to the narrowness of the site, the parking garage ramp must be located at the widest point of the site, which is on E Street. With the required grade for the ramp, there is not enough space within the property line to locate more than twenty-five spaces. However, at least forty-three spaces can be located within the vault space, providing a minimum of sixty-eight parking spaces for the project, which is more than the required number of spaces.

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

The Applicant will show that relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the zone plan. The project includes more than the

required number of parking spaces; however, because the parking spaces are not located completely within the property line, the parking provided does not satisfy the Zoning Regulations. The parking spaces will be in the same garage as those within the property line and will access the building in the same manner.

C. Variances from the Loading Requirements (Section 2201)

1. Extraordinary or Exceptional Condition

As stated above, the Applicant will provide evidence that the extremely small size and unusual shape of the property create exceptional conditions for this site.

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

The Applicant will show that a strict application of the Zoning Regulations would result in a practical difficulty to the Applicant. Due to required location of the entrance to the parking garage, the service area must be located along First Street. If the required loading berth were provided, the building would be cut in half at ground level due to the fact that the building is only forty-five feet wide at the point where the service delivery is located.

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

The Applicant will show that relief can be granted without substantial detriment to the public and without substantially impairing the intent, purpose and integrity of the zone plan. The service/delivery space should adequately satisfy all of the loading needs for this type of project, which will be characterized by a lower population density and which will generate fewer deliveries and deliveries by smaller trucks. Furthermore, an additional screened loading area will likely be provided along First Street, with the required approvals, to accommodate additional loading needs. Finally, a designated loading zone on First Street can be used as a third level of loading in the very rare situation that it may be needed.

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: Walls of Unequal Height for Roof Structures (Section 411.5)

The Applicant proposes a penthouse with walls of unequal height. As stated above, the site is extremely small and has a narrow, triangular shape. In order to meet the required setbacks, the penthouse must step from a maximum height of eight feet six inches to a minimum height of eleven feet six inches. At each height, the penthouse is set back from the exterior edge of the building a distance greater than the height. Incorporating the step-down in height helps reduce the overall size of the penthouse and minimizes any impacts. Accordingly, the intent and purpose of Chapter 400 and the Zoning Regulations and the light and air of adjacent buildings will not be adversely affected because the special exception relief requested will result in less roof structure than would otherwise occur.