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

The Applicant is seeking four items of relief from the Board: a special exception from the height limitation of Section 1402.1 of Title 11, of the District of Columbia Municipal Regulations (the "Zoning Regulations" or "Regulations") pertaining to buildings within the Reed-Cooke Overlay District; a special exception pursuant to Section 411.11 of the Regulations from the roof structure requirements of the Regulations; a variance from the lot occupancy requirement of Section 403.1; and a variance from the floor area ratio requirement of Section 402.4. The Applicant will establish through its Statement of the Applicant to be filed no fewer than 14 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 is as follows:

I. Special Exception from the Height Limitation of Section 1402.1 of the Regulations and Roof Structure Requirements of Chapter 4 of the Regulations

a. Height Limitation

In order to meet the criteria for approval of the requested special exception from the 40 foot height limitation of Section 1402.1 of the regulations pertaining to buildings in the Reed-Cooke Overlay District, the Applicant will be required to show, in addition to other criteria specified in Section 1403.1, that the special exceptions: 1) will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map; and 2) will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map.

The Applicant proposes to meet the criteria for a special exception from the height limitation follows:

(1) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the Reed-Cooke Overlay District(1403.1(a)):

The use of the building as a residential apartment building providing 68 units substantially advances one of the stated purposes of the Reed-Cooke Overlay District, one of which is to encourage the development of new housing in the Reed-Cooke Special Treatment Area outlined in the Comprehensive Plan for the District of Columbia and the District of Columbia Generalized Land Use Policies Map.

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(2) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition (Section 1403.1(b));

The entrance to the below-grade parking for the building will be conveniently located on Kalorama Road more than 40 feet from the intersection of Kalorama Road and Champlain Street, and will not create any objectionable or dangerous traffic conditions.

(3) Adequate off-street parking shall be provided for employees, trucks, and other service vehicles (Section 1403.1(c));

The Applicant proposes to provide sufficient parking, loading and service/delivery spaces in accordance with the requirements of the Zoning Regulations.

(4) If located with a C-2-B zone, the use shall not be within twenty-five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley (1403.1(d));

This requirement is not applicable since the property is located in the R-5-B District.

(5) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences (1403.1(e));

The use of the property as residential dwelling units will not create objectionable noise conditions that will affect adjacent or nearby residences.

(6) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted (1403.1(f)); and

The Applicant does not propose the outdoor storage or materials or the outdoor processing, fabrication or repair.

(7) The use, building, or feature at the size, intensity and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area (1403.1(g)).

The use of the building as a 68-unit residential apartment building will help to upgrade the area in the vicinity of the property and thus will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

(8) 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 in accordance with the Zoning Regulations and Map.

Approval of a special exception from the height limitation will be in harmony with the purpose and intent of the Reed-Cooke Overlay District to encourage new residential construction within the boundaries of the District. Moreover, the building bulk and design has been planned in a manner so as to complement the use and design of neighboring property.

b. Roof Structure Requirements

In order to meet the criteria for approval of the requested special exception from provisions of the regulations regarding roof structure setback (400.7) and varying wall heights (411.5), the Applicant will be required to show that compliance with said provisions would be impracticable 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...provided that the intent and purpose of [of the Regulations] shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be adversely affected (Section 411.11). The Applicant intends to meet the requirement as follows:

The Applicant will show that the narrow width of the building would make it difficult for the Applicant to meet the roof structure setback requirement on the north side of the building. The Applicant also proposes to shield a nearby apartment building from view of the roof structure by varying the wall height of the roof structure.

III. Variances from the Lot Occupancy (403.2) and FAR (402.4) requirements of the 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 or

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 intents to meet its burden as follows:

1) Extraordinary or Exceptional Condition

The Applicant will provide evidence of the narrow and irregular shape of the property.

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

The Applicant will show that the narrow and irregular shape of the property would make it unreasonably burdensome for the Applicant to comply with the provisions of the Regulations regarding floor area ratio and lot occupancy.

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

The Applicant also will show that the conversion of the subject property from its current service and retail uses to a residential apartment building will be of a substantial benefit to the community and to the District of Columbia as a whole.