STATEMENT OF BURDEN OF PROOF FOR VARIANCE AND SPECIAL EXCEPTION RELIEF

The Monterey Cooperative, Inc. (the "Applicant") requests variance relief so that it may renovate the existing apartment building, known as the Monterey Apartment building, located at 2902 Porter Street, N.W. (the "Property"). The Applicant is entitled to variance relief pursuant to 11 DCMR §3103.2, because it can demonstrate: (1) an extraordinary or exceptional situation or condition of the Property; (2) practical difficulty in satisfying the strict application of the Zoning Regulations; and (3) no harm to the public or to the zone plan.

The Property is subject to an extraordinary and exceptional situation because it is a non-conforming apartment building that was constructed in 1922, prior to the enactment of the 1958 Zoning Regulations. The existing building is non-conforming as to: height; floor area ratio (FAR); lot occupancy; rear yard; side yard and roof structure. In addition, the building is located in the Cleveland Park Historic District. The proposed renovations have been submitted to the Historic Preservation Review Board ("HPRB") and will be reviewed at HPRB's September Public Meeting.

The Applicant also faces a practical difficulty in satisfying the strict application of the Zoning Regulations. In order to upgrade the building it is necessary to modify the existing roof structure. Since the existing building and roof structure exceed the permitted height in the CP/C-2-A Zone District and the existing roof structure does not satisfy the 1:1 setback requirements, a practical difficulty arises from the fact that any modifications that impact the roof structure will require variance relief from §2001.3(c).

In regards to satisfaction of the final part of the variance relief standard, the proposed renovations to the Monterey Apartment building will not cause any harm to the public or the

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Zone plan. The proposed roof structure will allow for the addition of significant residential recreation space for all residents of the building. Presently, such recreation space does not exist in the building. No adverse impact will occur to neighboring properties as the proposed roof structure will have virtually no additional impact on the amount of light and air that neighboring properties currently receive. For all of these reasons, the Applicant will be able to satisfy the standards necessary to grant variance relief in this case.

In addition, the Applicant requests special exception relief regarding the proposed roof structure pursuant to 11 DCMR §411.11. This section of the Zoning Regulations states:

> Where impracticable because of operating difficulties, size of building lot, or other conditions related to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such structure regulated under §411.3 through §411.6, even if such structures do not meet the normal setback requirements of §§400.7, 530.4, 630.4, 770.6, 840.3, or 930.3. . . . Provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

In this application, the proposed roof structure does not satisfy the requirements of §411.5.

As noted in the discussion of the Applicant's satisfaction of the variance relief standard, the Monterey Apartment building was initially constructed in 1922. Construction of a roof structure that fully complies with the Zoning Regulations would be unduly restrictive due to the existing non-conformity of the apartment building. The addition of residential recreation space on the roof of the building allows for a more attractive and marketable residential building. Moreover, approval of the proposed roof structure will allow a more architecturally pleasing roof structure that will not adversely affect the light and air that adjacent properties receive. For these reasons, the Applicant's proposal satisfies the requirements of 11 DCMR §411.11.