STATEMENT OF EXISTING AND INTENDED USE AND
STATEMENT OF SATISFACTION OF APPLICANT'S BURDEN
OF PROOF FOR AREA VARIANCES

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Application of U.S. Property Development Corporation

January 27, 2003

This statement ("Statement") is of the existing and intended use of the building and an explanation as to the manner in which the application ("Application") of the U.S. Property Development Corporation meets the specific tests and burden of proof identified in the Zoning Regulations for the area variances described below. This Statement is submitted on behalf of the U.S. Property Development Corporation, property owner, by Mid-City Development Company, LLC ("Applicant"), by its attorneys, Greenstein DeLorme & Luchs, P.C., by Jacques B. DePuy, Esquire and Lyle M. Blanchard, Esquire.

Summary of Application. The Application seeks area variances pursuant to the Zoning Regulations, 11 DCMR § 3103.2, from the maximum lot occupancy requirement under subsection 772, from the minimum area and other requirements pertaining to residential recreation space under subsection 773 and from the minimum court width requirement under subsection 776.

Property Description; Existing Zoning Authority. The northern portion of the property consists of 1410 Church Street, N.W. (Square 209, Lot 837) and 1510 – 1520 14th Street, N.W. (Lot 916)(collectively the "North Portion"). The prior use of the 1410 Church Street, N.W. parcel was as an automobile repair garage. The prior use of the 1510 - 1520 14th Street, N.W. parcel was as an automobile showroom. The current use of 1512 14th Street, N.W. is as a restaurant and club. The current use of 1510 14th Street, N.W. is as offices, showroom and manufacturing space for a plaster moldings company. (See copies of certificates of occupancy in Exhibit "A".)

The southern portion of the property is located to the south of an east-west public alley and has street frontage on both Fourteenth and P Streets, N.W. The east-west alley was closed to facilitate the construction of an underground parking garage and is now a part of the Site. This southern portion of the property consists of 1502 and 1506 14th Street, N.W. (Square 209, Lots 800 and 801) and 1401 and 1413 P Street, N.W. (Square 209, Lots 802 and 803)(collectively the "South Portion"). The prior use of the 1502 Church Street, N.W. parcel was as a store selling general merchandise. The prior use of 1506 14th Street, N.W. parcel was as a delicatessen. The prior use of 1401 P Street, N.E. is not know as it has been a vacant lot for many years. The prior use of 1413 P Street was as a theater. (See copies of certificates of occupancy in Exhibit "B".) The North Portion and the South Portion are collectively referred to as the "Site".

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Board of Zoning Adjustment
District of Columbia
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The Site is zoned C-3-A/Arts and is located in the Greater Fourteenth Street Historic District. The Historic Preservation Review Board ("HPRB") gave its preliminary approval to the proposed renovation of the existing historic buildings and the design of the new additions on the South and North Portions of the Site in July and September 2002, respectively.

Existing and Intended Use. The Applicant intends to construct a six-story residential building with ground floor retail on the Site. As noted above, the building consists of two portions which are connected across a former ten (10) foot east-west public alley. The alley was closed (pursuant to D.C. Act 14-608, enacted January 7, 2003) to facilitate the construction of an underground parking garage. The garage will contain 65 parking spaces that will serve both portions of the project.

The North Portion will contain 37 residential units and approximately 5,020 square feet of ground floor retail space. The South Portion will contain 18 residential units and approximately 6,270 square feet of ground floor retail space. The building will exceed the 50% minimum retail space use requirement for the Uptown Arts-Mixed Use Overlay District required by 11 DCMR § 1901. The building is not subject to any parking and loading requirements because the new improvements constitute additions to existing historic buildings located within the Greater 14th Street Historic District.

Statement of Satisfaction of Burden of Proof for Zoning Relief Sought. The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction therewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted subsequent hereto, it will satisfy and comply with the applicable legal standards and burdens of proof for the area variances requested.

Specifically, the Application will satisfy the requirements of Section 3103.2 of the Zoning Regulations. This section requires the Applicant to show that the property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition.

The Site is unique in that it contains three (3) historic properties. On the North Portion, there are two matching 1928 classical revival auto showroom buildings at 1510 – 1520 14th Street, N.W. These historic buildings will be converted to residential use with the provision of space on the ground floor for retail use. On the South Portion, there is a historic building at 1502 14th Street, N.W., a classical revival commercial building designed by architect Paul Peltz in 1897. This historic building will be converted to residential and commercial with ground floor retail.

The property comprising the Site is also unique in that its size is larger than typical lots in the area and its shape is unusual. The Site is unusually large, comprising all but one lot on the western side of the 1500 block of 14th Street, N.W. (as shown on the Plat of Computation

prepared by the D.C. Surveyor) and a total of 9 lots. Its shape is unusual because of the narrow strip (formerly a public alley) which links the North and South Portions.

The second prong of the area variance test is that strict application of the Zoning Regulations would result in a peculiar and exceptional practical difficulty. The Applicant submits that the Application complies with this requirement because the unique condition of the Site results in and causes such practical difficulty. Because of three (3) historic buildings located on the Site and its unusual size and shape, the renovation, rehabilitation and re-use of the existing historic buildings has resulted in an overall architectural design that contains additions on top of, and immediately adjacent to, the historic structures. These additions do not comply with lot occupancy and court requirements because insufficient space exists on the Site to accommodate all building components, and it is not feasible to provide parking within or under the historic buildings and a large portion of the ground floor is devoted to required retail space. The new construction in the vacant portions of the Site -- which is required by the Zoning Regulations to be devoted to the satisfaction of parking and ground floor retail requirements -- resulted in a design which caused such lot occupancy and court area variances. In addition, the lot occupancy area variance results from the need to provide substantial areas for core systems (elevator banks, stairwells and utility systems) in the small portions of the Site which are not occupied by the historic buildings. Lot occupancy is further impacted by the practical difficulty of providing vehicular access by ramp in the North Portion of the Site to the underground parking garage. Finally, lot occupancy was dramatically impacted by the direction of the Historic Preservation Review Board to step the new portion of the building back from 14th Street in a significant manner. These required setbacks cause the building of a significant portion of the building on the rear portion of the site.

The need to accommodate the existing historic buildings and overall architectural design of the additions also impact the Applicant's ability to strictly comply with the court requirements. The Applicant is proposing a closed court on the ground level of the rear of the South Portion which opens onto the closed portion of the alley. This closed court is five (5) feet narrower in width than the requirement under Section 776.3 and 100 square feet less than the requirement in 776.4. On the second level of the South Portion there is an open court which is eight (8) feet less than the required width in Section 776.3. On the second level of the North Portion there is an open court which is two (2) feet less than the required width in Section 776.3.

These same practical difficulties for lot occupancy and courts adversely impact the Applicant's ability to provide the amount of required residential recreation space. Residential recreation space is often provided at the rear of the building, on the roof, or below grade to optimize the use of such areas. The Applicant proposes to devote approximately 1,880 square feet of interior and exterior open space to residential recreation space. This residential recreation space is provided through the North Portion roof terrace, the North and South Portion lobbies and the South Portion multi-purpose room. In addition, a significant majority of the units will include private terraces and balconies. If the public and private residential recreation space were

to be combined, the amount of total residential space provided would equal 13,820 square feet or 17.3%. This amount exceeds the fifteen percent (15) requirement of Section 773.

No additional outdoor recreation space is reasonably available. The design of roof on the North and South portions is such that each of the roofs have been minimized to allow for smaller upper stories (set-backs in the massing of building) so as to better relate to the size and scale of the historic buildings on 14th Street. Incorporating additional outdoor recreation space is prevented due to these reduced upper stories, the mechanical systems space and the building code requirements which limit the amount of roof area that can be devoted to recreation space served by one means of egress, and the building code requirement that rooftop public space requires elevator access which would require elevator machine room height in excess of that allowed.

On the ground level, no additional outdoor residential recreation space can be provided. As discussed above, the alley easement bisects the Site from east to west, creating two residential wings connected at grade by a covered walkway. The loading facilities are located in this area as well. Therefore, no additional area is available for outdoor residential recreation space on the ground level.

The interior of the ground level is substantially devoted to meeting the Uptown Arts – Mixed Use Overlay District objectives of 50% retail space and thus cannot be devoted to residential recreation space. The balance of the ground floor space services the residential above. In addition, any disruption of the at-grade parking spaces on the west side of North Portion will displace parking which is extremely important to the neighborhood. Thus, the indoor residential recreation space of the lobbies and the South Portion multi-purpose room cannot be supplemented by additional recreation space without compromising the objectives of the Arts Overlay District or reducing much needed on-site parking.

Finally, no recreation space can be provided below grade due to the high water table located three feet below the existing buildings' foundations. Although the Site includes two levels on the western side of the Site for below-grade parking, the Applicant is unable to feasibly excavate below grade under the existing historic buildings (except for the existing below grade Peltz building which is suitable only for mechanical and retail storage due to its location). Further, as mentioned above, any exchange of below ground recreation space for parking will counter an extremely important community goal. Thus, no residential recreation space can be provided below grade.

Under the third prong of the variance test, the substantial benefits to the community – including underground parking, ground floor retail and quality residential space -- and the lack of adverse impacts from the variances requested result in no "substantial detriment to the public good" and no substantial impairment of "the intent, purpose and integrity of the Zoning Regulations and Map."

The Site is within the C-3-A zone district, which permits medium density residential/office development. The Site is also within the Uptown Arts – Mixed Use Overlay District, and meets the purpose and intent of the objectives of the overlay district under 11 DCMR § 1900.2 in the manner discussed below (objectives are in *italics*):

(a) *encourages a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrians and vehicular movement* – the proposed retail entrances on 14th Street are "bookend-ed" by residential access on Church and P Streets. The parking garage ingress and egress on Church Street will not impact the parking garage of a similar residential development which has ingress and egress on P Street;

(b) *require retail, entertainment and residential uses that encourage pedestrian activity* – the restoration of the historic properties blended with infill residential and ground floor retail will revitalize pedestrian activity in the 1500 block of 14th Street and the surrounding neighborhood;

(d) *expand the area's housing supply in a variety of price ranges* – the residential unit spaces have a considerable range in size and price;

(f) *strengthen the design character and identity of the area* – the designs, as approved by the HPRB, will successfully preserve the historic properties and relate new portions with compatible balance while still providing visual interest; and

(g) *encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings* – the adaptive reuse of the historic automobile showrooms and the Peltz commercial building as retail uses on 14th Street with new and attractive infill buildings providing ground floor retail and residential housing above and behind on Church and P Streets will fully meet these objectives.

In addition, the proposed development is consistent with the Comprehensive Plan Generalized Land Use Map designation for the Site of Moderate Density Residential Land Use Category. The proposal also meets the following Uptown Arts Special Treatment Objectives under § 1130 (objectives are in *italics*):

(a) *promote the historic character of the area* – the HPRB has approved the design as being in conformance with the historic character of the area;

(e) *encourage street level retail and service uses* – the proposal includes appropriately scaled street level retail on 14th and P Streets;

(k) *address the narrow commercial sites to encourage suitable scale and massing* – the massing above the narrow Peltz historic building was moved back significantly from the front façade at the request of HPRB;

(l) *adequate parking facilities to support development policies* – even though the project is exempt from the parking requirements as additions to contributing buildings within the Greater 14th Street Historic District, the proposal provides parking spaces well in excess of what would be otherwise required; (*51 spaces would be required. The project is providing 65 spaces.)*

(n) *the provision of new housing opportunities* – the project maximizes new opportunities with a wide variety of condo units for a variety of residents types and incomes; and

(o) encourage the retention of historic buildings – three historic classical revival buildings will be retained, the matching 1928 automobile showrooms on the North Portion as well as the 1897 commercial building designed by architect Paul Peltz.

In addition to the considerable public and community benefits of the proposal, the Applicant's project -- and specifically the requested variances -- will not create any adverse impacts or detrimental effects on the public. The lot occupancy variance does not cause any light or air to be blocked or result in any adverse effect on any abutting residential owners or tenants because there are no abutting residents on P Street and the abutting building on Church Street contains a blank wall. Similarly, the court variances will not have any adverse effects for the same reasons and, in addition, because the open and closed courts open onto the adjacent alleyway or an adjacent blank wall. The residential recreation space variance will have no adverse impact because of the extensive amount of "private" recreation space provided in the form of terraces, balconies and similar areas.

Conclusion. For the reasons set forth above, Mid-City Development Company, LLC, for U.S. Property Development Corporation, by and through counsel, submits that its Application has satisfied (and will satisfy) all applicable zoning requirements and the requisite burden of proof and, therefore, should be granted.

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