BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

PN HOFFMAN
1151-3 14TH STREET, N.W.
SQUARE 247, LOTS 870 AND 874

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background:

Lots 870 and 874 of Square 247 (the "Property") are located east of 14th Street, mid-block between Massachusetts Avenue and L Street. The Property is generally south of Thomas Circle and is approximately 13,322 square feet in area. East of the Property is part of the west frontage of the Thomas House Retirement Home ("Thomas House"), located at 1330 Massachusetts Avenue, NW. Thomas House was previously separated from the Property by a ten foot (10') alley, which was closed in March of 1993. At the time the alley was closed, five feet (5') were allotted to the Property and five feet (5') were allotted to the Thomas House property. Thomas House determined it had no use for this additional area and in the process of selling its portion of the alley to the applicant. The applicant's Property, including its original portion of the closed alley, was and still is zoned C-4. But because the centerline of the alley marked a change in zoning designation, the resulting Property, with Thomas House's original portion of the closed alley, is now split-zoned C-4 and DD/R-5-E. It is only the final five feet (5') along the eastern boundary of the Property that maintains DD/R-5-E zoning.

The R-5-E District requires that the rear yard be open to the sky from the ground up. For the subject Property, strict adherence to that requirement would result in a five foot (5') well at the rear of the Property that would be neither useful nor accessible. This area would very likely serve only to collect trash and rodents. The C-4 District, however, permits the rear yard be open to the sky from twenty feet (20') above the mean finished grade. Extending the provisions of the C-4 District will eliminate a well of dead space and allow for a uniform rear plaza area for the proposed apartment building.

This application seeks special exception relief in order to extend the provisions of a less restrictive district into a more restrictive district under §2514.2.

II. Burden of Proof:

As discussed above, the subject property is split-zoned, resulting in portions of the subject property having differing levels of restriction for zoning purposes. Of the two zoning classifications for the property, the DD/R-5-E classification, accounting for

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approximately 1,104 square feet of land area, is the more restrictive. The Applicant seeks a special exception pursuant to §2514.2 in order to extend the lesser restrictive zoning classification, C-4, into the existing DD/R-5-E zoning district to less than the 35 foot (35') depth allowed by the Regulations.

The Applicant requests this extension in order to allow the first floor of the proposed apartment building to extend to the limit of the property line, which, as described above, includes the width of a previously closed alley. The extension created by special exception will maximize the subject property's residential use and will have no adverse impact upon surrounding uses or the character of the neighborhood.

Section 2514.2 of the Zoning Regulations provides that, "[i]f approved by the Board of Zoning Adjustment, the regulations applicable to that portion of a lot located in a lesser restrictive use district that control the use, height and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use district ..." In order for the Board to approve such an extension of the zoning boundary, certain enumerated requirements must be met by the Applicant, as set forth in Section 2514.2 (a), (b) and (c).

The first of these requirements reads, "(a) [t]he extension shall be limited to that portion of the lot in the more restrictive use district but not exceeding thirty-five feet (35 ft.); ..." As illustrated on the attached Plan, the Applicant proposes to extend the C-4 zoning line only five feet (5') across the portion of the property that is zoned DD/R-5-E in the direction of and across the previously closed public alley.

Section 2514.2(b) further provides that, "[i]n authorizing an extension, the Board shall require compliance with §2514.1(d); ..."Section 2514.1(d), in turn, addresses density calculations and limits density for certain of the residential zones, none of which are applicable to the DD/R-5-E zone.

Section 2514.2(c) requires demonstration that the extension will have "no adverse effect on the present character and future development of the neighborhood; ..." The proposed project satisfies this requirement by providing the 14th Street community with a residential building that includes first floor retail. The proposed development is highly consistent with the Zoning Regulations, the Comprehensive Plan – which designates the Property for mixed-use high density residential and high density commercial uses – and existing surrounding land uses.

For all the above reasons, the Applicant satisfies its burden of proof for special exception relief from §2514.2 of the Zoning Regulations.