**BEFORE THE DISTRICT OF COLUMBIA**
**BOARD OF ZONING ADJUSTMENT**

**International Real Estate and High Tech Investment Group**
**1320 9th Street, NW**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

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## I. Background:

The Subject Property (Lot 823 in Square 367), with premises address of 1320 9th Street, NW, is located on 9th Street, mid-block between O Street and N Street, NW. The new convention center is located diagonally south of the Subject Property. Abutting the Subject Property to the north is additional residential property, and to the east, across 9th Street, NW, is a gasoline service station. The Subject Property is bounded to the west by a public alley. The Subject Property is zoned C-2-A, and is located within the Blagden Alley Historic District.

The Subject Property is improved with a two-level, four-unit apartment building that includes 992 square feet of ground level retail. The building, constructed in 1900, has been determined to contribute to the character of the historic district. International Real Estate and High Tech Investment Group (the "Applicant") proposes to construct a third story to the existing building in order to allow an additional apartment unit (the "Project").

In order to accomplish the Project, the Applicant seeks the following items of variance relief from the Zoning Regulations: (1) variance from the percentage of lot occupancy requirement, §772; (2) variance from the rear yard requirement, §774; and (3) variance from the regulations limiting alterations to nonconforming structures, §2001.3.

## II. Burden of Proof:

### A. Variance Relief

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

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**(1) Exceptional Condition or Situation:**

The Subject Property is improved with a structure that has been determined to "contribute" to the character of the Blagden Alley Historic District. This determination places significant limitations on the redevelopment potential of the Subject Property. The Subject Property is also exceptionally narrow, creating challenges for the configuration of residential units.

**(2) Resulting Practical Difficulty:**

§772 - Variance from the Percentage of Lot Occupancy Requirement

Section 772 of the Zoning Regulations requires that buildings in the C-2-A District provide a maximum of 60% lot occupancy. The existing building already is in excess of this percentage, occupying 83.2% of the Subject Property, which represents one component of its nonconforming status and makes it impossible to comply with this regulation. The proposed addition will increase the lot occupancy by only fifty square feet, creating a total lot occupancy of 85%. This addition represents the minimum necessary in order to accommodate an additional level and make full use of the Subject Property. This increase is due in large part to the exceptional narrowness of the Subject Property, and the requirement to have an additional stairway leading to and from the rooftop.

§774 - Variance from the Rear Yard Requirement

Section 774 of the Zoning Regulations requires that buildings in the C-2-A District provide a rear yard of no less than 15 feet in depth. Utilizing the measurement standard established in §774.7, the Project provides no rear yard. This, however, is a preexisting condition that is part of the structure's nonconforming status. The additional unit will simply continue along the existing building line in order to provide adequate space for a fifth apartment unit.

§2001.3 - Variance from the Regulations Limiting Alterations to Nonconforming Structures

Section 2001.3 of the Zoning Regulations allows enlargements or additions to nonconforming structures provided that the structure conforms to lot occupancy and use and structure requirements and not increase any existing, nonconforming aspect of the structure nor create any new nonconformity of structure and addition combined. As discussed above and shown on the attached plans, a fifth unit will maximize the residential use of the Subject Property. The additional unit will follow existing building lines and create an attractive rooftop recreation space.

**(3) No Harm to Public Good or Zone Plan:**

The addition of a single residential unit to an existing nonconforming structure in the Blagden Alley Historic District presents no harm to the public good or the zone plan. The Subject Property will maintain its existing use and its existing façade, as the proposed addition will be architecturally consistent with the existing building.

For all the above reasons, the Applicant satisfies its burden of proof for area variance approval from §§772, 774, and 2001.3 of the Zoning Regulations.

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