BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Logan II, LLC
Square 241, Lots 803, 804, 805, 806, 807 and 848
1529 14th Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The Subject Property is located mid-block on the east side of 14th Street, N.W., south of Q Street, and north of P Street. The Subject Property is zoned Arts/C-3-A and is included within the Greater U Street Historic District. An existing three-story building on the subject property was built in 1928 and previously used as an automobile showroom. However, the building is currently vacant.

The Applicant wishes to incorporate the existing structure into a six-story apartment house on the Subject Property, with ground floor retail use. The Applicant proposes to construct a north addition and a south addition to the existing building, and also proposes to construct a two-story addition to portions of the existing structure.

The Applicant seeks a special exception from the roof structure requirements of 11 DCMR §411, and a variance from the residential recreation space requirements of 11 DCMR §773. The Applicant will establish through its Statement of the Applicant to be filed no fewer than fourteen days prior to the hearing on the subject application, as well as through testimony and evidence at the public hearing, that the subject application meets the burden of proof for the granting of the requested special exception and variance. A preliminary summary of how the application meets the required burden of proof follows.

II. Burden of Proof for Special Exception

In order to obtain approval of the requested special exception, the Applicant must show that: 1) compliance is impractical 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 and 2) the intent and purpose of the Zoning Regulations are not materially impaired by the proposed roof structures and the light and air of adjacent buildings are not adversely affected. The Applicant proposes to meet its burden as follows:

A. Compliance With Burden of Proof

Special exception approval is required pursuant to Section 411.11 of the Zoning Regulations for the following reasons: (a) there will be multiple roof structures (§411.3); (b) two of the roof structures will not be set back from all exterior walls a distance equal to their height

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above the roof (§400.7); and (c) the enclosing walls of the roof structures are not all of the same height (§411.5).

The Applicant proposes to provide three roof structures. One roof structure, located near the center of the roof, contains the elevator penthouse and lobby for rooftop access. However, the walls of this roof structure are not all of an equal height. This roof structure is in three segments. Two of these segments are 8'2" in height and the third is 11'8" in height. Moreover, two stair towers measuring 5'6" in height will be located on the north and south ends of the proposed building. These stair towers will provide required access under the Building Code to and from the roof area where the residential recreation space is located.

The Applicant requests special exception relief from the Zoning Requirements with respect to the roof structures. The intent and purpose of the Zoning Regulations will not be materially impaired by these roof structures, and the light and air of the adjacent buildings will not be adversely affected. Strict compliance would require the Applicant to have one much larger enclosure which serves numerous functions, and even then, it would not meet the set back requirements. This is impractical and will result in operating difficulties because of the internal configuration of the building, and the design requirements for placing the mechanical equipment in the appropriate internal locations. Moreover, the Building Code provides that when residential recreation space is located on the roof of a building, two separate means of egress to the bottom floor of the building must also be located on the roof. Thus, the roof structures located on the north and south ends of the roof are required, but cannot feasibly be designed to meet the set back requirements. In proceeding with the rehabilitation of the existing building, the Applicant is constrained by the building's existing conditions, and conditions imposed by the HPRB. Forcing compliance with the roof structure regulations will result in internal configurations that are impractical and render the project prohibitively costly and impose restrictions which are unreasonable. Finally, the Applicant's proposal to provide more than one roof structure, which will break up the overall massing on the roof and provide a more attractive view of the roof, is consistent with the purpose of the Zoning Regulations, and will help ensure that the light and air of adjacent buildings are not adversely affected.

III. Burden of Proof for Variance

In order to obtain approval of the requested variance, the Applicant must show that: 1) the subject property is affected by an extraordinary or exceptional situation or condition; 2) strict application of the Zoning Regulations will result in peculiar and 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 proposes to meet its burden as follows:

A. Compliance With Burden Of Proof

The Applicant requests a variance from the residential recreation space requirements since it proposes to provide a total of 2,616 square feet of residential recreation space which meets all of the requirements of the Zoning Regulations, as opposed to the required total of

6,356.25 square feet. As discussed above, the Applicant proposes to incorporate an existing building into the design of its proposed apartment house. The subject property is located in the Greater U Street Historic District, and the HPRB has deemed the existing building on the subject property to be a contributing building in the historic district. Incorporating the existing historic building, which previously served a commercial use, into the proposed residential development has created a set of physical constraints and design challenges which the Applicant must address in the proposed building. These constraints result in an exceptional and extraordinary condition inherent in the subject property.

The proposed building will contain three separate complying roof terraces that provide 2,256 square feet of residential recreation space. Additional rooftop space totaling 823 square feet is also available, but it does not meet the minimum required 25 foot width dimension in all instances. The large terrace on the fifth level is accessible only by several of the units, and therefore also is not eligible to be counted. All available areas of the roof are devoted to outdoor passive recreation space.

During the HPRB public review of this project, the Board's staff and members of the community voiced concerns about the location of various enclosures on the roof. Thus, the Applicant designed the placement of various roof enclosures and the location of the residential recreation space in response to such concerns. Accordingly, forcing strict compliance with the Zoning Regulations will result in exceptional practical difficulty to the Applicant since the Applicant has designed the roof top residential recreational space to reflect the needs of the Applicant, and the input received by the HPRB and members of the community concerning the design of the building.

The building, as designed, is below the permitted maximum height and FAR due to historic preservation concerns. As a result, removal of additional indoor dwelling space for residential recreation purposes would make the project financially unfeasible.

Relief from a strict application of the residential recreation space regulations can be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose or integrity of the zone plan since the Applicant proposes to provide a significant recreation area on the roof of the project. The separate roof terraces help achieve the goal of the residential recreational space requirement of the Zoning Regulations by providing inviting and attractive recreation space for the proposed building's residents.

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