BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of 1515 14TH STREET LLC
1515 14th Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

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I. Background

The Subject Property is located at 1515 14th Street, N.W and includes Lots 114, 115, 116 and 841 in Square 241. Square 241 is bounded on the north by P Street, on the south by P Street, on the west by 14th Street, and on the east by Kingman Place. The Subject Property is rectangular in shape, approximately 12,320 square feet in area, and abuts 14th Street on the west and a public alley on the east. The Subject Property is located within an ARTS/C-3-A District and the 14th Street Historic District and is currently partially occupied by a three-story building of approximately 14,700 square feet that was originally a Hudson Automobile Dealership and contributes to the Historic District.

The Applicant proposes to convert and renovate the existing building into a mixed-use development that will include three floors of art galleries, 2,900 square feet of ground floor retail, and 30 apartment units. Two levels of underground parking and surface parking will be provided to provide a total of 40 parking spaces. The renovation will include restoration of the historic façade, replacement of the storefront with steel frame windows similar to the existing windows above, and a new handicapped compliant elevator that will replace the existing auto lift.

The proposed uses are consistent with the Subject Property's ARTS/C-3-A zoning designation. The project's restoration and conversion of an existing historic structure, however, creates the need for several areas of relief from the Zoning Regulations: 1) Variance relief from §1902.1 to allow a roof structure to extend

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beyond 83.5 feet above the measuring point used for the building; 2) Variance relief from §773 to allow 10% of the residential area to be provided as recreation space instead of 15%; and 3) Special exception relief from §411 to permit an elevator penthouse that does not meet the setback requirements of §770.6.

Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. In that Statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested variance relief. Following herein, as required by the Board's application process, is a summary statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof

A. Variance Relief

The test for variance relief is in three-parts: (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.

(1) Exceptional Condition or Situation:

As noted above, the Subject Property includes a three-story historic automobile dealership that was typical of the character of the 14th Street corridor in the 1920s. The development proposal involves the retention and restoration of the historic structure, which will ultimately comprise the eastern half of the final

building. Developing a mixed-use project around an existing historic structure on the Subject Property creates several design constraints, as does the Subject Property's inclusion in an ARTS overlay district, which requires that no less than fifty percent (50%) of the ground level of the building be devoted to retail, service, and arts uses.

(2) Resulting Practical Difficulty:

The Applicant will demonstrate that the strict interpretation of the Zoning Regulations will result in a practical difficulty upon the Applicant.

(a) Roof Structure Height, Section 1902.1

Strict adherence to Section 1902.1 of the Zoning Regulations would require all roof structures to extend no more than 83 feet and 6 inches above the measuring point for the proposed building. While the mechanical penthouse and stairs extend only 83 feet and one inch above the measuring point, the elevator penthouse extends 89 feet and 9 inches above the measuring point, requiring a variance of 6 feet and 3 inches.

As noted below, the rooftop of the proposed building is the only area in which residential recreation space may be located. In order to accommodate ADA regulations, the rooftop must be accessible by an elevator. The overrun of the elevator is required to be at least 14 feet per OSHA standards, in order to allow for an area of escape for workmen while in the elevator shaft. The total height of the elevator therefore exceeds the height limitation for rooftop structures set forth in the Zoning Regulations. Here is a situation where provisions of the Regulations are in conflict; the height limit of 83.5 feet and the requirement to provide residential recreation space.

(b) Residential Recreation Space, Section 773

Section 773 of the Zoning Regulations requires that residential uses in the C-3-A District provide 15% of their gross floor area as qualified residential recreation space. Strict adherence to the Zoning Regulations would require that the proposed development would be required to provide 5,764.5 square feet of residential recreation space, fifty percent (50%) of which would be required to be outdoor recreation space. The proposed development includes 4,100 square feet of residential recreation space, one hundred percent (100%) of which is outdoors, as there are no feasible opportunities for indoor recreation space. The residential recreation space is located on the rooftop, in the form of roof terraces.

As noted above, the ARTS Overlay District requires that all buildings with a width of fifty feet (50') or greater that front on 14th Street provide retail uses (among other options) on no less than fifty percent (50%) of the ground level. This requirement eliminates space that could potentially be used for recreation space. Due to both zoning requirements and physical site constraints, the Applicant has no viable additional options for locating residential recreation space within the project.

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

The Applicant will demonstrate that the proposed project can be undertaken without harm to the public good and without threat to the integrity of the zone plan. The conversion of a historic automobile dealership in an ARTS overlay district will significantly contribute to the vibrancy of the neighborhood while supporting the City's goals for this area. The proposed development has the preliminary approval

of the Historic Preservation Review Board, as well as related support from Advisory Neighborhood Commission 2F with regard to concept and massing.

(a) Roof Structure Height, Section 1902.1

The height of the development, including the mechanical penthouse as proposed, will be entirely consistent with the adjacent building. In fact, the adjacent building has a roof structure that is the same height as the roof structure for the proposed development. An additional 6 feet and 3 inches will not reduce access to light or air for surrounding land uses. Further, the roof structure is setback from the Subject Property's frontage on 14th Street, and will not be visible to vehicular or pedestrian traffic.

(b) Residential Recreation Space, Section 773

The proposed development is providing ten percent (10%) of the area devoted to residential uses as recreation space. The 4,100 square feet of recreation space provided on the rooftop will effectively serve the building residents. The proposed development also includes 3,500 square feet of private recreation space in the form of terraces and gardens. Further, the galleries and retail uses on the ground and first levels will provide additional recreational outlets for building residents.

B. Special Exception Relief for Roof Structure Setback

In order to accomplish the proposed development, the Applicant seeks special exception approval pursuant to §§770.6 and 411 of the Zoning Regulations regarding roof structure requirements in commercial zoning districts.

(1) Section 770.6

Section 770.6 of the Zoning Regulations provides that, if housing for mechanical equipment or a stairway or elevator penthouse is provided on a building's roof, it must be erected or enlarged in compliance with the provisions of §770.6, as follows:

> (a) It shall meet the requirements of §411.
> (b) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located;
> (c) [Applicable only to C-5 zoned properties]; and
> (d) It shall not exceed more than 18 feet 6 inches in height above the roof on which it is located, nor shall mechanical equipment extend above the permitted 18 feet 6 inch height of the housing.

The penthouse structure for the proposed building measures 15 feet in height and thus complies with §770.6(d). Because the penthouse structure is not set back from all exterior walls a sufficient distance, it does not comply with the provisions of §770.6(a) (by reference to §411.2) or with §770.6(b), and thus requires special exception approval by the Board pursuant to §411.11.

(2) Section 411

Section 411 establishes numerous criteria for roof structures in all districts. Section 411.11 provides the Board authority to approve as a special exception the location, design, and other aspects of roof structures, including setbacks. In order to obtain such special exception approval, an applicant must demonstrate that: (1) compliance with the roof structure regulations 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 Chapter 400 and the Zoning Regulations are not materially impaired by the structure and the light and air of adjacent buildings are not adversely affected.

In this case, special exception approval is required because the proposed roof structure does not meet the normal setback requirements of the Zoning Regulations. Roof structures are permitted up to a maximum height of 18 feet, 6 inches above the roof upon which they are located, provided that they are set back from all exterior walls one foot for each foot of height above the roof. The roof structure is 15 feet in height, and meets the 1:1 setback requirement on three sides of the building. However, it does not meet the setback requirement on the north side of the building.

(a) Compliance with the roof structure regulations 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

The placement of the penthouses is a direct result of the retention of the existing building, which necessitates that the building's core be located in the area of new construction in order to maintain the structural integrity of the historic structure. Within this area of new construction the site chosen is the one which best accommodates the building and prevents floor plan and operating difficulties.

(b) The intent and purpose of Section 400.7 of the Zoning Regulations are not materially impaired and the light and air of adjacent buildings are not adversely affected

The penthouses harmonize with the main structure in architectural character, material, and color. Any impact of the structure on light and air to adjacent buildings would be comparatively minimal, because the penthouse is centered between the alley and 14th Street. The roof structure is setback from the edge of the building fronting on 14th Street, reducing visual impact along this corridor.

For all these reasons, special exception from the roof structure setback provisions is appropriate.