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

Application of Conrest Associates Limited Partnership
on behalf of The Leland Stanford Junior University

August 23, 2004

This statement ("Statement") is of the intended use of the Property (as hereinafter defined) and an explanation as to the manner in which the application ("Application") of Conrest Associates Limited Partnership on behalf of The Leland Stanford Junior University ("Applicant" or, as appropriate, the "University"), meets the specific tests and burden of proof identified in the Zoning Regulations for a special exception and area variances. This Statement is submitted on behalf of the Applicant by its attorneys, Greenstein DeLorme & Luchs, P.C., by Jacques B. DePuy, Esquire and Stephanie A. Baldwin, Esquire.

Summary of Application. The Application seeks a special exception pursuant to the Zoning Regulations, 11 DCMR § 3104.1, for relief from the requirement that fifty percent (50%) of the gross floor area of the ground level of a building be dedicated to specified retail and service uses in a NC Overlay District pursuant to Sections 1302 and 1304. In addition, the Application seeks area variances pursuant to 11 DCMR §3103.2 from the requirement that a non-conforming structure conform to the percentage of lot occupancy if an addition is made to the structure under Section 2001.3, from the requirements for residential recreation space under Section 773, and from the minimum width and minimum area requirements of a closed court of a building devoted to residential uses under Section 776 of the Zoning Regulations.

Site and Surrounding Area Description. The subject property is located in the Woodley Park neighborhood of northwest Washington, D.C. at 2655 Connecticut Avenue, N.W. (Square 2204; Lot 834) ("Property" or "Site"). The Property is improved with a one-story limestone fronted commercial building which was built in 1934. The buildings in the Woodley Park neighborhood along Connecticut Avenue include commercial, office and residential apartment buildings. There are also two hotels in the vicinity. Generally, the buildings along the 2600 block of Connecticut Avenue are commercial in use, comprised of a mixture of former early 20th century townhome residences converted to commercial use, as well as one- and two-story commercial buildings built in the 1930s. These commercial establishments serve the neighborhood residents, those who work in the area, guests staying at the nearby hotels and visitors to the nearby National Zoological Park.

The existing building on the Property occupies one hundred percent (100%) of the lot on which it sits. To the north of the Property is an adjacent four-story masonry building at 2661

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Connecticut Avenue, N.W. owned and occupied by the University and used for residential, classroom and related purposes (the "Existing Stanford Building"). To the east of the Property is a public alley that runs parallel to Connecticut Avenue. To the south of the Property there is an adjacent three-story masonry building with a ground floor restaurant.

The Site is zoned WP/C-2-B. In addition to being located within the Woodley Park Neighborhood Commercial Overlay District, it is also located within the Old Woodley Park Historic District.

Existing and Intended Use. The Property is currently used as a restaurant. The University seeks to use it for academic purposes. The University also proposes to improve the Property by the construction of a three-story rooftop addition and to connect to the Existing Stanford Building with passageways between the two structures (the "Stanford Addition").

The Existing Stanford Building is used by the University for its "Stanford in Washington" program (the "SIW Program"). The SIW Program is offered by the University's undergraduate degree program. During each term, twenty-five to thirty Stanford University juniors and seniors are selected to participate in the SIW Program. The SIW Program combines internships with governmental and non-governmental organizations throughout the Washington, D.C. area with seminars and classes taught by Stanford University faculty and Washington, D.C. policy experts. The SIW Program has been described by an accreditation review panel as "the jewel in the crown" of the Stanford University undergraduate education.

The use of the Property by the University for academic purposes is a matter of right in an WP/C-2-B District pursuant to Sections 701.6(f) of the Zoning Regulations. The Property, together with the Existing Stanford Building, will be used primarily as residential (dormitory) space and ancillary space that serves such a residential use for both students and faculty. In addition, the space will include lounge and study rooms, a kitchen, a dining room, a library, classrooms and a small amount of associated administrative space.

The University seeks to expand the space used in conjunction with the SIW Program by connecting the existing building (including the Stanford Addition) to the Existing Stanford Building. However, the University does not seek to increase the number of students or faculty as a result of the expansion. The main goal of the development of the Property is to enhance the SIW Program's facility and increase the efficiency of the living facilities and academic spaces. Through the renovation of the Existing Stanford Building and the construction of the rooftop addition on the Property, the University will be better able to provide dorm rooms for students with special needs and will be able to offer its faculty an apartment for long term stays. Additionally, the new construction will provide a separate dining room. [The current use of the Existing Stanford Building results in the largest available lecture space doubling as the dining room.] As well, the proposed development will update the SIW Program space by providing a new distance-learning facility and a larger library with a more functional computer cluster.

Historic Nature of the Property and Building. The Property is located within, and contributes to the character of the Old Woodley Park Historic District. Thus, the Applicant presented the proposed addition to the Historic Preservation Review Board ("HPRB"). The Applicant also worked closely with HPRB staff and the community in the development of the proposed project. HPRB staff recommended conceptual approval of the project. The HPRB voted to approve the project at its June 24, 2004 meeting. (Copies of the adopted HPRB Staff Report(s) are attached hereto as Exhibit "A").

Description of the Building and Addition on the Property. The University proposes to construct a three-story addition to the Property's existing one-story building at 2655 Connecticut Avenue, N.W., and to connect it internally to the Existing Stanford Building at 2661 Connecticut Avenue, N.W. The Property will thus be used,together with the Existing Stanford Building, for the University's SIW Program. The Existing Stanford Building will not be expanded.

As proposed, the existing ground floor of the building on the Property and the three-story Stanford Addition will include student dormitory rooms, a lounge, a library, a study, a kitchen, an art gallery and ancillary administrative office space. Student dorm rooms will be located on the third and fourth floors of the Stanford Addition, the library on the third floor and the lounge and study rooms on the second floor. Also on the second floor will be a rooftop deck and "green area," as described below. The kitchen, an art gallery and a small amount of administrative space will be located on the ground floor of the building. The kitchen will be used in conjunction with the dining room in the Existing Stanford Building and will serve the student and faculty residents of both the Property and the Existing Stanford Building. The art gallery will be located in the front of the building and will thus be visible to pedestrians walking along Connecticut Avenue. The art gallery will be visible through a large storefront-like window which is to be constructed by the University in accordance with the original 1934 plans for the Property (as discussed below). The lower level of the building, which has a walk-out basement in the rear of the building, will include a distance learning center, restrooms and a mechanical room. (See "Floor Plans", attached hereto as Exhibit "B").

The Applicant plans to reconstruct the original storefront of the Property's existing building in accordance with the original construction drawings which were filed with the 1934 building permit for the structure. (See "1934 Storefront Façade Plans", attached hereto as Exhibit "C"). The proposed three-story Stanford Addition will be glass-faced and set back ten feet (10 ft.) from the front façade of the existing building. The rear of the Stanford Addition will be set back thirty-two feet, two inches (38' 2") from the property line.

The rear yard set back of the Stanford Addition creates approximately eight hundred ninety-five square feet (895 sq. ft.) of open space on the roof of the first floor. However, due to building code requirements, which are discussed below, only approximately three hundred forty-three square feet (343 sq. ft.) of the rooftop can be dedicated to rooftop use. Thus, the remaining five hundred fifty-two square feet (552 sq. ft.) of open space will be filled with plantings and greenery ("Rooftop Green Area").

The Property will be connected internally to the Existing Stanford Building. The first floor of the existing building will have two internal doorway connections to the Existing Stanford Building. The second through fourth floors of the Stanford Addition will have one internal doorway connection to the Existing Stanford Building.

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 special exception and area variances requested.

A. Special Exception.

By this Application, a special exception is sought pursuant to the Zoning Regulations, 11 DCMR Sections 3104.1 and 1304, for relief from the requirement that specified retail or services uses occupy fifty percent (50%) of the gross floor area (GFA) of the ground floor within a Neighborhood Commercial Overlay District ("NC Overlay District") pursuant to Section 1302.

This Application submitted by the University will satisfy the requirements of a special exception under Section 3104.1 of the Zoning Regulations. Those regulations require a special exception to "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and to not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps... ."

In addition, the Application will comply with Section 1304 of the Zoning Regulations which sets forth additional conditions to be met for the special exception. These additional conditions are set forth and discussed below.

As required by the building code and in order to provide required egress from the Stanford Addition, approximately 1,966 square feet -- constituting sixty-one percent (61%) of the first floor of the existing building -- will be required to be devoted to stairways, an elevator, egress corridors and related core functions and facilities. The largest portion of the remaining space on the first floor will be devoted to a kitchen that will be connected internally to a new dining room to be located in the Existing Stanford Building. The University proposes to locate an art gallery in the front portion of the ground floor of the building, facing Connecticut Avenue. The art gallery is a part of a required egress corridor and, as such, cannot be allocated to a separate use nor be cordoned off by the construction of walls or other obstructions. A small amount of administrative space will also be located on the first floor.

Requirements of Section 3104.1 of the Zoning Regulations.

The University's proposed uses of the ground floor of the building will not adversely affect neighboring or nearby property. The University proposes to provide approximately four hundred sixty-three square feet (463 sq. ft.) of GFA of the ground floor as art gallery space. With the original storefront design reconstructed, the art gallery, which will hold rotating art exhibits, will be viewable from the sidewalk by passersby. During the evening and nighttime hours, the art gallery will be lighted so to preserve a street presence. Such an use is pedestrian friendly and as such, is consistent with the Connecticut Avenue neighborhood streetscape. Additionally, the reconstruction of 1934 façade contributes to the historic character of the Old Woodley Park Historic District.

Furthermore, the SIW Program has been a long standing contributing member of the Woodley Park neighborhood since 1988. The University takes an active and supportive role in the Woodley Park Business Association. The SIW Program's first director was a founding member of the Woodley Park Business Association. The Existing University Building is often used as a meeting place for the Association. Additionally, the Stanford University students and faculty who come to the SIW Program become a part of the neighborhood community, contributing to its vitality and culture. As a part of their curriculum, students organize several public service activities each term, working with local groups and organizations on projects such as neighborhood clean-ups, school renovation and children's events at shelters and after-school centers. As well, students and faculty alike take advantage of the many restaurant and retail establishments in the neighborhood. For these reasons, the University's use of the ground floor of the building, as well as, its presence in the neighborhood are in harmony with the intent of the Zoning Regulations and will not adversely affect the use of neighboring properties.

Requirements of Section 1304 of the Zoning Regulations.

The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC Overlay District and the particular NC Overlay District, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity. (§ 1304.1(a));

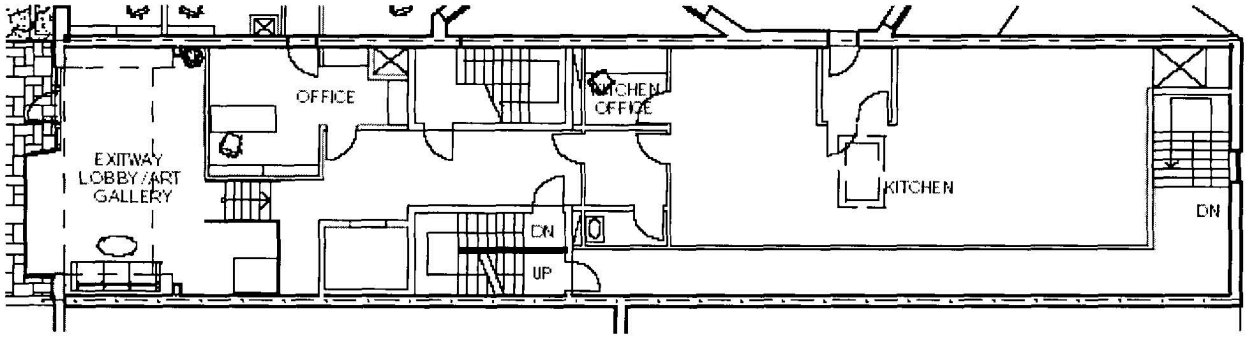
The stated purposes of the NC Overlay District include the following: encouraging a scale of development, mixture of uses and other attributes (such as safe and efficient conditions for pedestrian and vehicular movement); ... and to limit the maximum permitted height of new buildings so as to encourage a general compatibility in scale between new and older buildings.

The Applicant's use of the building for university and academic purposes, which is a matter of right use of the Property, will not adversely affect the neighborhood or nearby property. Furthermore, the Applicant's proposed use of the Property advances the purposes of the NC Overlay District. The art gallery at the front of the ground floor of the building will be set off by

the distinct attractive and historic storefront façade that will be inviting for passersby to view. The operation of the art gallery will contribute to the variety of uses along Connecticut Avenue, and is in keeping with the goal to maintain an attractive and pedestrian friendly environment along the street. Moreover, as previously discussed, the SIW Program is a contributing and active part of the Woodley Park community. Thus, the use by the University advances the purposes of the NC Overlay District and will not adversely affect neighboring property or the welfare of the neighborhood.

Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver (§ 1304.1 (b)).

Due to exceptional circumstances, Applicant's request for relief from the requirement of no less than fifty percent (50%) of the GFA of the ground floor level of the building as retail or service use of the Property is justified.



FIRST FLOOR

As indicated above, in accordance with building code requirements, approximately sixty-one (61%) of the ground floor is dedicated to egress and circulation uses. Due to the code requirements, two stairways and an elevator are required in the building. In addition, space must be dedicated to exit corridors and to related core functions and facilities. The art gallery is a part of a required exit corridor, and is allocable for egress and circulating purposes.

Furthermore, approximately thirty percent (30%) of the ground floor (first floor) of the building is dedicated to use as a kitchen. As indicated in the floor plan above, the kitchen will directly adjoin the dining room which is located on the ground floor of the Existing Stanford Building. The kitchen cannot be located in the basement or on another floor of the building. Doing so would be inefficient and potentially unsafe because of the large amount of traffic and activity between the kitchen and dining room. The only remaining space, which constitutes

approximately two hundred ninety-seven square feet (297 sq. ft.) of area and nine percent (9%) of the total ground floor, is proposed to be dedicated to a kitchen office, an administrative office and a janitor's closet.

Thus, after the core areas and kitchen are subtracted from the total available space, very little ground floor space remains which could be dedicated towards a retail or service establishment use. As a result of these exceptional circumstances, Applicant's request of relief from the requirement to dedicate fifty percent (50%) of the ground floor to a retail or service establishment is justified.

Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions (§ 1304.1 (c)).

No vehicular access or egress is located on the Property. No students who participate in the SIW Program are allowed to bring automobiles to the neighborhood during their stay.

Thus, the requirements for a special exception pursuant to Section 1304 are met. The request for relief from the ground floor retail requirement will not have any adverse impacts on surrounding properties nor create any other objectionable conditions, and is justified due to exceptional circumstances.

B. Area Variances.

By this Application, variance relief is requested from the requirement that a non-conforming structure conform to the percentage of lot occupancy if an addition is made to the structure allowed under Section 2001.3, from the requirements for residential recreation space under Section 773 and from the minimum width and minimum area requirements of a court in a building devoted to residential uses, under Section 776. The variances requested by the Applicant will satisfy the requirements of Section 3103.2 of the Zoning Regulations.

First, the Applicant must show that the Property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition. The Property is affected by several extraordinary or exceptional conditions including the following: (i) the lot and the existing structure are deep and narrow in shape and, as a result, create a large amount of windowless interior space; (ii) the existing structure occupies one hundred percent (100%) of the lot on which it sits and as a "contributing" building to the character of the Old Woodley Park Historic District, cannot be demolished or substantially altered; and (iii) due to certain building code requirements, a significant amount of space on each floor must be dedicated to necessary egress and core uses.

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 conditions of the Property result in and cause such practical difficulty.

Lot Occupancy of Non-Conforming Structure.

Pursuant to Section 772 of the Zoning Regulations, the maximum lot occupancy in the WP/C-2-B District is eighty percent (80%). Because the existing structure on the Property occupies one hundred percent (100%) of the lot, the structure is "non-conforming." This is an existing condition over which the Applicant has no control.

According to Section 2001.3, enlargements or additions may be made to a non-conforming structure provided that "the structure shall conform to percentage of lot occupancy requirements." However, because the existing structure occupies one hundred percent (100%) of the lot on which it sits, the structure cannot conform to the percentage lot occupancy requirements of Section 772. The existing structure was built to its existing size in 1934 and has been designated as "contributing" to the character of the Old Woodley Park Historic District. As such, it is protected from demolition.

It should be noted that the Stanford Addition to the existing building will conform to percentage of lot occupancy requirements. In fact, with a lot occupancy of approximately sixty percent (60%), the Stanford Addition will be considerably lower than the allowable eighty percent (80%) lot coverage maximum. The Stanford Addition will not increase or extend the nonconforming lot occupancy of the existing building.

Residential Recreational Space.

According to Section 773.3 of the Zoning Regulations, the minimum required percentage of gross floor area of a building which must be devoted to residential recreation space ("RRS") in a C-2-B District is fifteen percent (15%). Additionally, pursuant to Section 773.8, fifty percent (50%) of that total RRS must be located outdoors. Accordingly, the project is required to have a total of 1,340.49 square feet of RRS with 670.24 square feet of that total located outdoors. The Applicant proposes to provide a total of 739.35 square feet of RRS with 396.9 square feet of interior RRS and 342.45 square feet of outdoor RRS at the rear of the building on the roof top deck area.

Several conditions limit the amount of available indoor RRS. First, the amount of space available is limited by the deep and narrow shape of the lot and structure. Second, the egress and core functions required pursuant to building code regulations, including the two stairways and elevator as well as supporting exit corridors and mechanical systems facilities, occupy approximately two-thirds of the space on the ground floor and one-third of the space on each of the upper floors. Third, due to the obstruction of the sides of the building by the adjacent

properties, much of the interior space is windowless. Thus, space which has windows is dedicated to residential uses. Due to these factors, indoor RRS is limited.

No additional outdoor RRS is available. In order to increase the size of the proposed roof deck, an additional means of egress would be required pursuant to building code regulations. However, because of the narrow shape of the lot and structure, only one means of egress to the roof deck can be provided. Such means of egress must lead directly into the Stanford Addition through the study and into the second floor egress corridor. Furthermore, a stairway off the back of the rooftop cannot be accommodated due to the structure's one hundred percent (100%) lot occupancy. [Such a stairway would be located in the public alley.] Thus, despite the large amount of space available on the first floor roof top for a deck, only a portion of the roof top may be used as a deck and for RRS purposes.

As designed, the rooftop deck has been maximized as much as possible without giving rise to the requirement of an additional means of egress. The remainder of the rooftop, which cannot be used as a deck, is devoted to use as the Rooftop Green Area. (See the "Floor Plans" attached hereto as Exhibit "B").

It should be noted that the Existing Stanford Building, which will continue to be used by the University for the SIW Program, provides over one thousand one hundred square feet (1,100 sq. ft.) of RRS. This space will be available for use and shared by the residents of the Property. With the RRS provided next door, the University can provide almost nineteen hundred square feet (1,900 sq. ft.) of RRS. This cumulative total is approximately five hundred square feet (500 sq. ft.) more than the required amount of RSS. (See the "Residential Recreation Space Plans", attached hereto as Exhibit "D"). As well, the study on the second floor of the Property, which is approximately five hundred twenty-four square feet (524 sq. ft.) in size, and which was not included in the calculation of RRS, is a common area available to all residents of the Property for passive recreational activities.

Thus, although indoor residential recreation space and the outdoor recreation space cannot be further increased without compromising the requirements of the building code, the residential recreation space available in the Existing Stanford Building and additional common areas on the Property do provide sufficient amounts of recreation space for the occupants of the Property. Furthermore, the Applicant's request for a reduction of the amount of residential recreation space required is reasonable in consideration of the ample number of places to walk, jog, run and bicycle nearby in Rock Creek Park and the National Zoological Park.

Court.

Pursuant to Section 776.3 of the Zoning Regulations, "[w]here a court is provided for a building ... devoted to residential uses ... the width of [the] court shall be a minimum of four inches per foot of height, ... [and] in no case shall the width of [the] court be less than fifteen feet (15 ft.)". According to Section 776.4, "a court is provided for a building ... devoted to

residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than three hundred fifty square feet (350 sq. ft.)."

As proposed, the project includes a closed court on the second floor of the structure in the front portion of the building. The court is created by the two-story façade of the original building and the set back of the Stanford Addition. The width of the court is ten feet (10 ft.) and the area of the court is approximately two hundred thirty-three square feet (233 sq. ft.). Thus, a five foot (5 ft.) variance is requested from the width requirements and a variance of one hundred seventeen square feet (117 sq. ft.) is requested from the area requirements.

The Stanford Addition is set back ten feet (10 feet) from the original building's façade to address design concerns raised by HPRB and in accordance with recommendations of the HPRB staff. In an effort to preserve the character of the building's historic façade, the HPRB recommended a set back so that the Stanford Addition would not detract from the front elevation's architectural elements. The HPRB approved the project with the ten foot (10 ft.) set back. As designed, the set back lessens the impression of a visual continuation between the existing building and Stanford Addition and keeps the new construction from standing out among the other buildings along the Connecticut Avenue streetscape.

Under the third prong of the variance test, relief granted cannot cause substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zoning plan (§3103.2). The development of the Property as proposed with the variances requested will not result in adverse impacts. Although the existing historic building on the Site occupies one hundred percent (100%) of the lot, the addition to the existing building conforms with lot occupancy requirements with occupancy of only sixty percent (60%). Such a lot occupancy will not increase or extend the nonconformity of the existing building. As well, the design of the proposed Stanford Addition is consistent in height and bulk with surrounding buildings and does not result in any loss of light or air to adjacent properties.

The residential recreation space variance will not negatively impact the public good nor substantially impair the integrity of the zoning plan because of the amount of recreation space available to the residents of the Property at the adjacent Existing Stanford Building and within the common areas of the Property itself, in addition to the ample amounts of outdoor recreation space available in nearby parks.

Finally, the variances from the required width and area of the court will not result in any adverse impacts to the public good or the zoning plan. On the contrary, the second floor set back, which creates the court, helps to preserve the character of the existing historic building without detracting from the Connecticut Avenue streetscape.

The project is also consistent with the preservation and historic features goal of Ward 3, under Section 1407.2 of the Comprehensive Plan. Section 1407.2 states that the "goal of historic preservation in Ward 3 is to preserve important historic features, especially (but not exclusively)

those that have been registered under local or federal preservation laws, while ensuring that any new development that may occur in the ward is responsive, sensitive, and compatible with these features." Applicant's proposed plan provides for the reconstruction of the building's original storefront design and an addition to the building which is sensitive to the historic façade of the building, as well as to the historic character of the adjacent buildings and the surrounding neighborhood.

Moreover, Stanford University is a well established part of the Woodley Park community. The students and faculty who come to live and study in Washington D.C., become members of the Woodley Park neighborhood, both enjoying the neighborhood and the city have to offer, and contributing to the neighborhood and city with their public service activities. As well, Stanford is an active member of the Woodley Park Business Association. The presence of Stanford University and the SIW Program in Woodley Park and Washington, D.C. is a positive facet of both the neighborhood and the city.

Thus, the variances requested for the proposed project on the Property will not have an adverse impact on the neighborhood nor cause any detriment to the public good.

Conclusion. For the reasons set forth above, the Applicant submits that its Application has satisfied (and will satisfy) all applicable zoning requirements and the requisite burdens of proof for a special exception and the requested area variances and, therefore, should be granted.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
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Exhibit "A"

Historic Preservation Review Board Staff Reports

Exhibit "B"

Floor Plans

Exhibit "C"

1934 Storefront Façade Plans