BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Multi-Employer Property Trust
Patriot Plaza - Square 537

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The Subject Property is located along 4th Street, S.W. and includes the entirety of Square 537 (Record Lot 30). Square 537 is bounded on the north by railroad tracks and a closed portion of Virginia Avenue, S.W., on the south by E Street, S.W., on the east by 3rd Street, S.W., and on the west by 4th Street, S.W. The Subject Property has approximately 369 feet of frontage along 4th Street, 161 feet of frontage along 3rd Street, 583 feet of frontage along E Street, and 619 feet of frontage along the railroad tracks. The Subject Property is currently improved with a hotel on the eastern portion of the site, and with an office building on the southwestern portion of the site that is under construction. The Applicant proposes to construct an additional two phases of office on the Subject Property to establish a single building on a single lot. The Subject Property contains approximately 154,439 square feet and is located in the C-3-C Zone District. The Subject Property is also located in the Southwest Receiving Zone, which permits a maximum height according to the 1910 Act to Regulate the Height of Buildings in the District of Columbia – in this case 130 feet – and a maximum FAR of 10.0.

In order to proceed with the development of the additional two office phases, the Applicant seeks variance relief from Section 775.5 of the Zoning Regulations, which requires that if a side yard is provided, it shall be at least two inches wide for each foot of height of the building, but not less than six feet.

BZA
Case No. 17328
Exhibit No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 17328
EXHIBIT NO. 5

Statement of Existing and Intended Use

The property is currently improved with a hotel and one office building that is under construction. Two additional phases of office are proposed to be developed.

2666380_v2

2005 JUN 24 PM 3:18

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

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.

A. Exceptional Condition or Situation:

As noted above, the Subject Property immediately abuts railroad tracks along its northern boundary. Development of the Subject Property along this northern boundary is thus affected by the support of the concrete footings and piles associated with the railroad tracks. The proposed development was designed in order to provide a setback from the existing supports which were constructed to retain the soil that supports the railroad tracks.

B. Resulting Practical Difficulty:

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

along the Subject Property's northern boundary must be setback somewhat from the existing construction in order not to undermine the railroad tracks. In creating a side yard on this boundary, the Zoning Regulations would require that the distance be almost twenty-two feet, given the matter-of-right height of 130 feet. It is neither necessary nor practical to set the buildings back twenty-two feet from its northern boundary along the railroad tracks. Doing so would significantly constrain usable building area for both structures while creating a challenge for a reasonable underground parking configuration. Eliminating twenty-two feet from the Phase 2 building would cause the allowable building to be unreasonably narrowed, making the establishment of a core and usable space impractical. Furthermore, since a side yard is not required, there is no practical difficulty from forcing additional open space, particularly where the abutting use is for a railroad.

C. 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 side yard relief is requested along the northern boundary of the Subject Property, which is bordered by railroad tracks. This area will not be visible to either pedestrians or motorists. Furthermore, because of the railroad tracks, adjacent development could not be constructed against this northern boundary of the site. A narrow side yard for the Subject Property would therefore not create a gap between adjacent developments. The proposed development will establish an important use in this area of the City.

For all the above reasons, the Applicant satisfies its burden of proof for variance relief from §775.5 of the Zoning Regulations.