BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of JPI Development, Inc.
Contract Purchaser
1230 Pennsylvania Avenue, S.E., Washington, D.C.

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PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Introduction

JPI Development, Inc. ("JPI" or the "Applicant")[1] seeks an area variance under section 3103 for relief from the lot occupancy provisions of section 772.1 and the residential recreation space requirements under section 773.3, to construct a 47-unit condominium building at Lot 55 in Square 1019, premises address 1230 Pennsylvania Avenue, S.E., Washington, D.C. (the "Subject Property"). The property is located in the CHC/C-2-A District and the Capitol Hill Historic District. A portion of the property is presently improved with a small, two-story row house that will be incorporated into the new design.

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 said 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 special exception. Following herein, as required by the Board's application process, is a summary statement indicating how the Applicant will meet its burden of proof.

II. Property Description and Proposed Improvements

The Subject Property consists of a large, irregularly-shaped lot located mid-block on the north side of Pennsylvania Avenue, N.W. The lot is approximately 187 feet wide along Pennsylvania Avenue, and contains 20,370 square feet of land area. The existing house contains approximately 1700 square feet of space on two floors. The Applicant proposes to construct a new five-story multi-unit residential building that incorporates the existing historic structure into the design. Twenty-four surface parking spaces will be provided for the 47 units, with access off Pennsylvania Avenue.

Given the unusual shape of the lot, the existing building on the site, and the design requirements imposed by the D.C. Historic Preservation Review Board, the Applicant will exceed the maximum permitted lot occupancy of 60 percent by three percent, for a total lot occupancy of 63 percent. Additionally, the Applicant will be providing 6,560 square feet of residential recreation space, or approximately 12 percent, where 10,716 square feet is required.

[1] JPI is the contract purchaser of the property. Larry D. and Carol K. Quillian, the property owners, have authorized JPI to process this application on their behalf. *See* Owner's Authorization Letter submitted as part of this application.

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Thus, the applicant seeks area variances from the provisions of sections 772.1 and 773.3 of the Zoning Regulations, respectively, as described below.

III. Compliance with Burden of Proof

Pursuant to 11 DCMR 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

> (1) the property is unique because, *inter alia*, of its size, shape or topography; (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zoning plan.

French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995), *quoting Roumel v District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980). *See, also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

The proposed apartment house meets all three prongs of this test. First, the property is unique by virtue of its irregular shape and topography. Second, the Applicant will encounter substantial practical difficulties if the Zoning Regulations are strictly enforced because it would lead to a highly undesirable configuration of the building and location of residential recreation space on the site. Finally, the proposed variance relief will generate significant positive public good without substantially impairing the intent or purpose of the zoning laws.

The requested three percent deviation from the maximum permitted lot occupancy of 60 percent will allow the Applicant to retain a significant portion of the existing rowhouse, maintain the scale and height of the Capitol Hill Historic District, while provided the necessary modern amenities for the building. Given the configuration of the lot, the modest deviation will not adversely affect the light and air of the property. Further, the small reduction in the amount of residential recreation space will not result in any negative impacts for the project or the community. If the Applicant were forced to comply with the residential recreation space requirement, the number of dwelling units would need to be reduced, in contravention of the housing goals of the Zoning Regulations, the Comprehensive Plan and the city as a whole.