BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of 13th Street Lofts LLC
1209-11 13th Street, NW

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

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Pursuant to section 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 modification of 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.

I. Description of Property

The Subject Property, Lots 8 and 26 in Square 281, with premises address of 1209-11 13th Street, N.W., is located on the east side of 13th Street, N.W., between M and N Streets, N.W. Lots 8 and 26 contain approximately 8696 square feet of land area. The site is L-shaped, with the top portion of the "L" fronting on 13th Street and the base of the "L" located at the rear of the site in the interior of the square.

Lot 26 at the interior of the square is presently improved with a three-story building known as the Proctor Alley Livery Stable, which is an individual landmark listed in the D.C. Inventory of Historic Sites. It is presently used for automotive and trade school related uses. The Livery Stable occupies 100% of the lot and thus constitutes a non-conforming structure under the Zoning Regulations. Lot 8, which fronts on 13th Street, is presently improved with a small-scale structure used for retail purposes. The project site is fronted on three sides by public alleys. The property immediately adjacent to the project site north along 13th Street, near the apex of the "L", is being developed with an eight-story condominium building.

II. Proposed Redevelopment

The Subject Property is located within the R-5-E District, a general residential area that permits all types of urban residential development. The R-5-E District permits relatively tall buildings developed to a medium density. The maximum permitted height is 90 feet and the maximum density allowed is 6.0 floor area ratio ("FAR") for apartment house and hotel use.

The Applicant proposes to demolish the existing structure on Lot 8 and construct a nine-story condominium building as an addition to the existing Proctor Alley Livery Stable located on Lot 26. The Livery Stable would be renovated and converted to residential use. The property will be subdivided into one lot of record to achieve the development proposal.

BZA
Case No. 17347
Exhibit No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 17347
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III. Areas of Relief Requested

Given the L-shaped configuration of the site, the non-conformity of the existing Livery Stable and its historic status, the Applicant is severely constrained in its ability to develop the property in strict compliance with all the requirements of the Zoning Regulations. Consequently, the Applicant seeks variance relief from (i) section 2001.3 to allow an addition to an existing non-conforming structure, and (ii) the lot occupancy provisions of section 403; and (iii) special exception relief from the roof structure setback requirements of section 411.

IV. Burden of Proof:

A. Variance Relief

The test for variance relief is three-part: (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:

The Subject Property is exceptional in that it is improved with a 3-story landmark building that must be retained and renovated as part of any redevelopment project. Landmark status creates a unique situation that affects a single property, which meets the first prong of the variance test. *See Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987) (extraordinary or exceptional condition must uniquely affect a single piece of property). Further, the project site is constrained by the L-shaped configuration, which has particularly narrow street frontage given the size of the project site. Finally, the Livery Stable is a non-conforming structure.

(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. Given the landmark structure on the site and the limitations imposed on the property by the Historic Preservation Review Board ("HPRB"), only the southern, narrow portion of the site may be developed to its full height potential. Further, the Livery Stable was constructed prior to lot occupancy requirements under the Zoning Regulations and currently consumes 100% of its lot area. Even after subdivision of the property, the site cannot conform to the lot occupancy requirements and allow for efficient development of a residential building.

(3) No Harm to Public Good or Zone Plan

The Applicant will demonstrate that the Application can be approved without harm to the public good and without threat to the integrity of the zone plan. In fact, the non-conformity of the Livery Stable will be reduced. Further, the deviation from the lot occupancy requirement will allow

for the thoughtful, well-planned development of a residential building, which is a high priority under the Comprehensive Plan and Zoning Regulations.

B. Special Exception

Pursuant to section 411.11 of the Zoning Regulations, the Board may grant relief from the roof structure provisions as a special exception. The Applicant must demonstrate that compliance is impracticable because of operating difficulties, size of building or lot, or other conditions relating to the building or surrounding area, because it would make full compliance unduly restrictive, prohibitively costly, or unreasonable. Here, the narrow street frontage of the site and the landmark status of the Livery Stable make it impracticable for the Applicant to comply with all aspects of the roof structure setback provisions of section 400.7. While the roof structure can be adequately setback along the exterior street frontage and at the rear of the property, a portion of the roof structure may not comply with the setback requirements along the interior north lot line of current Lot 8. Thus, the Applicant seeks relief, if necessary, from the setback provisions of section 400.7(b). As the Applicant will demonstrate at the hearing, the light and air of adjacent properties will not be adversely affected and the intent and purpose of the roof structure provisions shall not be materially impaired.

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Roster of Property Owners 200 Ft. Square 281, Lot 8

Square / Lot	Premise Address	Owner's Name and Address
0245 0027	1230 13th St NW	1230 LLC c/o Keener Mgmt Inc 1746 N St NW Washington, DC 20036-2907
0245 0825	1208 13th St NW	Jefferson At Logan Circle LP 8230 Boone Blvd Ste 340 Vienna, VA 22182-2632
0245 0842	1210 13th St NW	
0245 0841	1212 13th St NW	
0245 0827	1214 13th St NW	
0245 0821	1216 13th St NW	
0245 0834	1220 13th St NW	
0245 0028	1309 M St NW	
0245 0803	1311 M St NW	
0245 0838	1224 13th St NW	1224 13th Street LLC 1245 13th St NW Apt 912 Washington, DC 20005-5178
0281 0008	1209 13th St NW	Frances A Casey 1224 Potomac School Rd Mc Lean, VA 22101-2330
0281 0026	1211 - 1219 13th St NW	David Prendergast Et Al c/o Thomas Walsh Inc 3406 Connecticut Ave NW Washington, DC 20008-1306
0281 0032	1212 12th St NW	John F Settles 1212 12th St NW Washington, DC 20005-4338
0281 0046	1201 13th St NW	Landmark Holdings Inc Ste C-D 7211 Hanover Pkwy Greenbelt, MD 20770-2017
0281 0047	NW	District Of Columbia 1133 N Capitol St NE Washington, DC 20002-7561
0281 0049	1220 12th St NW	King Housing Inc. c/o NFAHS 11200 Rockville Pike Ste 250 Rockville, MD 20852-3153

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0281	0052	13th St NW	D C City Center LLC 3400 Idaho Ave NW Ste 500 Washington, DC 20016-3049
0281	2001	1200 N St NW Unit: 117	Mondrian Realty LLC c/o Arthur Weiner 166 Montague St Brooklyn, NY 11201-3530
0281	2002	1200 N St NW Unit: 118	
0281	2003	1200 N St NW Unit: 119	
0281	2004	1200 N St NW Unit: 120	
0281	2005	1200 N St NW Unit: 212	
0281	2006	1200 N St NW Unit: 213	
0281	2007	1200 N St NW Unit: 214	
0281	2008	1200 N St NW Unit: 215	
0281	2009	1200 N St NW Unit: 216	
0281	2010	1200 N St NW Unit: 218	
0281	2011	1200 N St NW Unit: 218	
0281	2024	1200 N St NW Unit: CS	
0281	2012	1200 N St NW Unit: P57	
0281	2013	1200 N St NW Unit: P58	
0281	2014	1200 N St NW Unit: P59	
0281	2015	1200 N St NW Unit: P60	
0281	2016	1200 N St NW Unit: P61	
0281	2017	1200 N St NW Unit: P62	
0281	2018	1200 N St NW Unit: P63	
0281	2019	1200 N St NW Unit: P64	
0281	2020	1200 N St NW Unit: P65	
0281	2021	1200 N St NW Unit: P66	
0281	2022	1200 N St NW Unit: P67	
0281	2023	1200 N St NW Unit: P68	
		1225 13th Street Condominium	Victor Marina, President 1225 13th Street Condominium Association 1225 13th Street, NW -- Apt 706 Washington, DC 20005-5174
		1225 13th Street Condominium	Joe Ament Building Manager 1225 13th Street Condominium 1225 13th Street, NW Washington, DC 20005
		The Park Princess Condominium	Mark Kimble, President The Park Princess Condominium Association 1245 13th Street, NW, Apt. 414 Washington, DC 20005-5180
		The Park Princess Condominium	Building Manager The Park Princess Condominium 1245 13th Street, NW Washington, DC 20005

Roster of Property Owners 200 Ft. Square 281, Lot 26

Square / Lot	Premise Address	Owner's Name and Address
0281 0008	1209 13th St NW	Frances A Casey 1224 Potomac School Rd Mc Lean, VA 22101-2330
0281 0026	1211 - 1219 13th St NW	David Prendergast Et Al c/o Thomas Walsh Inc 3406 Connecticut Ave NW Washington, DC 20008-1306
0281 0032	1212 12th St NW	John F Settles 1212 12th St NW Washington, DC 20005-4338
0281 0046	1201 13th St NW	Landmark Holdings Inc Ste C-D 7211 Hanover Pkwy Greenbelt, MD 20770-2017
0281 0047	NW	District Of Columbia 1133 N Capitol St NE Washington, DC 20002-7561
0281 0049	1220 12th St NW	King Housing Inc. c/o NFAHS 11200 Rockville Pike Ste 250 Rockville, MD 20852-3153
0281 0052	13th St NW	D C City Center LLC 3400 Idaho Ave NW Ste 500 Washington, DC 20016-3049

0281	2001	1200 N St NW Unit: 117	Mondrian Realty LLC
0281	2002	1200 N St NW Unit: 118	c/o Arthur Weiner
0281	2003	1200 N St NW Unit: 119	166 Montague St
0281	2004	1200 N St NW Unit: 120	Brooklyn, NY 11201-3530
0281	2005	1200 N St NW Unit: 212	
0281	2006	1200 N St NW Unit: 213	
0281	2007	1200 N St NW Unit: 214	
0281	2008	1200 N St NW Unit: 215	
0281	2009	1200 N St NW Unit: 216	
0281	2010	1200 N St NW Unit: 218	
0281	2011	1200 N St NW Unit: 218	
0281	2024	1200 N St NW Unit: CS	
0281	2012	1200 N St NW Unit: P57	
0281	2013	1200 N St NW Unit: P58	
0281	2014	1200 N St NW Unit: P59	
0281	2015	1200 N St NW Unit: P60	
0281	2016	1200 N St NW Unit: P61	
0281	2017	1200 N St NW Unit: P62	
0281	2018	1200 N St NW Unit: P63	
0281	2019	1200 N St NW Unit: P64	
0281	2020	1200 N St NW Unit: P65	
0281	2021	1200 N St NW Unit: P66	
0281	2022	1200 N St NW Unit: P67	
0281	2023	1200 N St NW Unit: P68	
0281	2194	1220 N St NW Unit: 1	Zeny C Magos 1220 N St NW Apt 1 Washington, DC 20005-5162
0281	2195	1220 N St NW Unit: 2	William T Hsieh 1220 N St NW # 02 Washington, DC 20005-5114
0281	2196	1220 N St NW Unit: 1A	Robert J Kern 1220 N St NW Apt 1A Washington, DC 20005-5161
0281	2197	1220 N St NW Unit: 1B	Wendy Stuart 1220 N St NW Apt 1B Washington, DC 20005-5161
0281	2198	1220 N St NW Unit: 2A	Beverly A Carlson 1220 N St NW Apt 2A Washington, DC 20005-5161
0281	2199	1220 N St NW Unit: 2B	Jerrold T O'Rourke 1220 N St NW Apt 2B Washington, DC 20005-5161

0281	2200	1220 N St NW Unit: 3A	Alan D Perrin 1220 N St NW Apt 3A Washington, DC 20005-5161
0281	2201	1220 N St NW Unit: 3B	Peter A Ziebert 1220 N St NW Apt 3B Washington, DC 20005-5161
0281	2202	1220 N St NW Unit: 4A	Andreas Kotzur 1220 N St NW Apt 4A Washington, DC 20005-5161
0281	2203	1220 N St NW Unit: 4B	Robert S Jewell Jr 1220 N St NW Apt 4B Washington, DC 20005-5161
0281	2204	1220 N St NW Unit: PH1	David R Zoellner 1220 N St NW Apt 1 Washington, DC 20005-5162
0281	2205	1220 N St NW Unit: PH2	Daniel Wolf 1220 N St NW Apt 2 Washington, DC 20005-5162
		1225 13th Street Condominium	Victor Marina, President 1225 13th Street Condominium Association 1225 13th Street, NW -- Apt 706 Washington, DC 20005-5174
		1225 13th Street Condominium	Joe Ament Building Manager 1225 13th Street Condominium 1225 13th Street, NW Washington, DC 20005
		The Park Princess Condominium	Mark Kimble, President The Park Princess Condominium Association 1245 13th Street, NW, Apt. 414 Washington, DC 20005-5180
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