JUSTIFICATION FOR ZONING RELIEF

This is an application pursuant to 11 DCMR Section 3107.2 for a use variance under Section 320.3 to allow the renovation and conversion of a vacant building, formerly used as a private school, into a 4-unit condominium apartment building, and area variances from Section 2001.3 and Section 403, to allow an elevator to be installed within an existing non-conforming closed court, and to allow a parking pad to be constructed at the rear of a non-conforming structure in an R-3 district at premises 2129 S Street, N. W. (Square 2532, Lot 13).

The building on Lot 13 was originally designed as a single-family residence by Nathan Wyeth and was constructed by John Nolan in 1910. The first occupant was John Biddle, the Vice Consul to Belize City. The building was converted to private school use pursuant to BZA Appeal No. 1322, dated June 13, 1945. The Holton Arms School was originally located at 2115-2125 S Street, N. W., and BZA Order No. 1322 granted approval to extend the school use west to include the subject property.

The building has been used since 1945 as a private school by a number of different organizations. The most recent Certificate of Occupancy, CO 39567, dated 8/20/02, allows International Internship Programs to use the building as a "Proprietary School (student enrollment 200)". The prior Certificate of Occupancy (No. BQ7047, dated March 2, 1976) was for a language school, with the same student enrollment capacity.

The main building of the former Holton Arms School, at 2125 S Street, N. W. (Lot 49 in Square 2532) was converted to an 8-unit condominium pursuant to BZA Order No. 16497, dated October 27, 1999. The Applicant in the instant case seeks to do essentially the same thing, to allow the subject property to be converted to a 4-unit condominium.

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When the most recent private school vacated the subject property, it was on the market for over 3-1/2 months before a contract was submitted. No interest was expressed for purchase and use of the property for either a school, or a single-family dwelling, or one of the other permitted uses in the R-3 zone. The only expressions of interest were for renovation of the building into multiple dwellings.

The Applicant purchased the property earlier this year and intends to redevelop it into a 4-unit condominium. The largest unit, comprising approximately 5,000 square feet, will be his home, and the other three units, measuring between 900 and 1200 square feet, will be sold.

There is a non-conforming closed court on the west side of the building, measuring approximately 5.5 feet by 8 feet, which will be used as the elevator shaft, as well as accessory storage space on every floor. This closed court is currently included in the definition of "building area", and is therefore currently included in the lot occupancy calculation for the building.

At the rear of the building, a parking pad will be installed between the rear face of the building and the rear lot line. A garage door will also be installed in the masonry wall separating the rear of the property from the adjacent public alley. The parking pad will be at the same grade level as the alley. The property currently slopes from the alley level down approximately 8 feet to the first floor, and is similar in nature to an area way. Accordingly, the inclusion of the parking slab over this area will increase the lot occupancy. The building currently exceeds the permitted lot occupancy limitation. Although originally constructed as a row dwelling, which is permitted 60% lot occupancy in the R-3 zone, the most recent use of the building as a private school, and the proposed multiple dwelling use, would both be considered in the category of "all other structures", thus allowing a

maximum lot occupancy of 40%. The current lot occupancy is 75%, and the addition of the parking pad at the rear of the property will increase the lot occupancy to 95.6%.

A. The Property Is Affected by an Exceptional Situation or Condition.

The building on Lot 13 was designed in 1909 by Nathan L. Wyeth, who was a prolific architect in the District during the early twentieth century. The building was constructed in 1910 as a single-family dwelling of five stories plus cellar, and 55 feet, 6 inches in height, as measured from the grade elevation at the middle of the front of the building, to the ceiling of the top story. Designed in the English Georgian Revival style, the second floor of the building is emphasized by large windows with recessed arches, suggesting a *piano nobile*, that is that the principal floor is located at the second story. Each of the windows also has decorative lintels over them. The decreasing window size as the stories rise is another feature of the building that reflects the Georgian Revival idiom. Finally, the building is finished with a prominent denticulated cornice and a significant balustrade at the roof line. These distinguishing architectural features remain unaltered and continue to convey the residential character of the building despite is prior institutional use.

Although originally constructed as a single-family dwelling, the property was converted 35 years later, and has been used for over sixty years, or almost two-thirds of its life, as an educational institution. Accordingly, there have been extensive interior renovations to the building, so that it is configured more as an office or institutional use than as a dwelling. The building is very large, containing over 9,000 square feet of useable floor area on six levels, with no on-site parking. The building has a unique interior layout, specifically designed for institutional private school use, and is too large for single-family dwelling use in this immediate location. For these reasons, the property is affected by an exceptional situation or condition.

B. The Strict Application of the Use Regulations Would Impose an Undue Hardship.

The property is located in an R-3 zone. Uses permitted as a matter-of-right in the R-3 zone include a single-family detached, semi-detached, or row dwelling, church or other place of worship, parsonage, vicarage, rectory or Sunday school building, embassy, public school, and certain community-based residential facilities. Permitted accessory uses include an office of a physician or dentist residing on the premises, a child development home, a small bed and breakfast, and a home occupation. Uses permitted by special exception include a child development center, a private school, a utility substation, a private stable, a community center, a college or university, a clerical or religious group residence for more than fifteen persons, a church program building, a non-profit organization, and certain larger community-based residential facilities. The previous owner of the property, International Internship Programs, extensively marketed the building throughout the Washington Metropolitan area. Given the interior layout and configuration of the property, there are very few uses to which it is currently suited. The property was on the market for over 3-1/2 months. No individual or organization sought to purchase the property for any permitted use when it was on the market. More than thirty prospective purchasers viewed the property, but only two contracts were presented for purchase of the property, both of which were for multiple dwelling purposes.

The large building is not well suited for conversion to modern single-family dwelling use. Given the lack of interest in the market place for any use of the building other than multiple dwelling use, it would not be reasonable for an owner to redevelop the building for any matter-of-right or special exception purpose on a speculative basis. It is not reasonable to adapt the subject building to any conforming use, because the market has

demonstrated that there is simply no demand for any conforming use of the building. As such, the strict application of the Regulations would impose an undue hardship.

C. The Strict Application of the Area Regulations Would Impose a Practical Difficulty.

The building is a non-conforming structure which exceeds the permitted height, number of stories, percentage of lot occupancy, rear yard and width of open court and closed court. Additions and enlargements may be made to a non-conforming structure as a matter-of-right provided that certain requirements are met. In this case, those requirements are not met.

Area variances are required as follows:

- *Section 2001.3(a)*. The structure now exceeds the percentage of lot occupancy requirements.

- *Section 2001.3(b)(1)*. The addition or enlargement of the structure itself does not conform to use and structure requirements. The elevator to be installed within the existing closed court will be used for the purpose of serving an apartment house, which is not a permitted use in the R-3 zone. The construction of the parking pad at the rear will exceed the permitted lot occupancy requirements.

- *Section 2001.3(b)(2)*. The parking pad will increase and extend the existing non-conforming lot occupancy, but will not create any new non-conformity of structure and addition combined.

- *Section 403*. The permitted lot occupancy for "all other structures" in the R-3 zone is 40%. The current lot occupancy is 75%, and the addition of the parking pad in the rear will increase the lot occupancy by 20.6% to 95.6%.

All of the above area variances are required because of the proposed inclusion of a parking pad at the rear of the building. Variances from Subsections 2001.3(a) and

(b)(1) are also required because the existing closed court will be filled in by an elevator. The building is five stories tall, plus cellar, and the Building Code requires that there be an elevator in the building. The existing closed court is ideal for use as an elevator shaft, whereas drilling through each floor slab to create an elevator shaft would pose a practical difficulty. Parking at the rear of the building will be practically difficult, and technically impossible, without a parking pad built at the grade level of the adjacent alley.

D. The Relief Can Be Granted Without Substantial Detriment to the Public Good, and Without Substantially Impairing the Intent, Purpose or Integrity of the Zone Plan.

The proposed 4-unit condominium apartment use is a residential use in a residential zone in a residential neighborhood. The proposed use will be much less dense than the most recent permitted use of the property as a school for up to 200 students, as well as many of the other uses permitted as a matter-of-right or by special exception.

The R-3 zone in this square is unusual in that the existing residential uses along the north side of S Street, between Florida and Phelps, are primarily multi-family dwelling uses. These uses were all established pursuant to BZA approval.

The proposal will provide a stabilizing effect on the neighborhood, will be consistent with the mix of uses in the area, and will significantly decrease the density of use of the building. The additions to the building are modest, and are intended to enhance building circulation and to provide as much on-site parking as possible, where there is currently none. These building additions will not be readily visible from the public space and will have no impact on light and area of adjacent properties. For the reasons stated herein, relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose or integrity of the zone plan.