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BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Ellis Denning Properties
On behalf of Ernest L. Murphy
1425 11th Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The Subject Property consists of Lots 37, 38, 39, 40, 800, 801, 802 and 803 in Square 338 and is located along 11th Street, N.W. between O and P Streets. Square 338 is bounded on the north by P Street, on the south by O Street, on the west by 11th Street, and on the east by 10th Street. The Subject Property is bounded by public alleys to its south and east. The Subject Property consists of approximately 11,156 square feet in area and is located within a C-2-A Zone District. Lots 37, 38, 39 and 40 are currently each occupied by a three-story flat. Each flat includes two residential units.

The Applicant proposes to subdivide the property into a single lot, connect the four existing flats to form a single building, and construct a new four-story residential addition with a basement to the north of the existing flats that will include twenty residential units. Fourteen surface parking spaces will be provided along the alleys to the rear of the development.

In order to accomplish the proposed development, the Applicant requests variance relief from Section 773 of the Zoning Regulations to permit approximately ten percent of the residential area to be provided as recreation space instead of twenty percent.

BZA
Case No. 17393
Exhibit No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 17393
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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 includes four existing flats that will be maintained with the proposed development. The existing flats, which count toward the residential recreation space requirement but cannot actually provide any inside residential recreation space, consist of approximately 7,068 square feet of building area. The residential recreation space requirement for the four existing flats alone would be almost 1,414 square feet, the majority of which would have to be provided in the new building area. Furthermore, the existing flats occupy 2,356 square feet of the Subject Property, leaving a limited area for new construction that would comply with lot occupancy and floor area ratio regulations and an even more limited area that could be utilized for residential recreation space.

Given the limited size of the Subject Property, parking must be located at-grade instead of underground. The location of the required parking spaces, in addition to the existing flats, further limits building area that could be devoted to residential recreation space.

Furthermore, the roof of the proposed addition cannot feasibly be used for residential recreation space as roof decks are required to have two means of egress, one of which must be a separate stairway that is not part of the main roof structure. Adding a separate stairway would create multiple issues with regard to the number and setbacks of roof structures, as well as the height of the proposed addition in a historic district.

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. The existence of four flats on the Subject Property that count toward the residential recreation space requirement but cannot themselves provide any inside residential recreation space creates an unintended and unnecessary burden on the new construction. Although the proposed new addition includes only twenty residential units, a strict application of the Zoning Regulations would require 5,493 square feet of residential recreation space for the entire project – or approximately 275 square feet per new residential unit.

The allotment 4,743 square feet (750 square feet is provided on the rooftops of the existing flats) of residential recreation space within a building that is only 20,400 square feet and includes only twenty units is both impractical and unnecessary. It is not feasible to establish this space in any kind of meaningful way while maintaining the required building core elements and reasonably configured living spaces. Furthermore, the existence of that large of a space within a multi-

family residential building of the proposed size would ultimately be burdensome on the future residents in terms of maintenance.

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 proposed development will refurbish the facades of the existing rowhouses and establish an additional vibrant residential use on 11th Street. The proposed development includes a total of 2,803 square feet of residential recreation space, or approximately ten percent of the total residential building area. This amount represents approximately 100 square feet per residential unit, or 140 feet per new residential unit. Additionally, there are numerous recreational opportunities in the vicinity of the Subject Property, including Logan Circle two blocks to the west.

For these reasons, variance relief from the residential recreation space requirements of Section 773 is appropriate.