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April 12, 2016

Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 19250 – 920-922 H Street NE (Square 0933, Lots 57 and 803)
Prehearing Statement of the Applicant

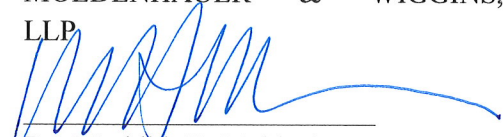
Chairperson Heath and Honorable Members of the Board:

On behalf of 920 H, LLC, please find enclosed the Prehearing Statement for the above referenced application. The application is scheduled to be heard before the Board of Zoning Adjustment on April 26, 2016.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP


By: Meridith H. Moldenhauer

Cc: Advisory Neighborhood Commission 6A
c/o Phil Toomajian, Chair (via email)
Single Member District 6A01 Commissioner Omar Mahmud (via email)
Office of Planning (via email)

Board of Zoning Adjustment
District of Columbia
CASE NO. 19250
EXHIBIT NO. 23

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPLICATION OF
920 H LLC**

**BZA APPLICATION NO. 19250
HEARING DATE: APRIL 26, 2016**

PREHEARING STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 920 H, LLC (the “Applicant”), the owner of property located at 920-922 H Street NE, Lots 57 and 803, in Square 0933 (the “Property”), in support of its application for an area variance from the requirements regarding lot occupancy (§1324.4), off-street parking (§2101.1), and parking space size (§2115.1) to allow the Applicant to construct a mixed-use building with a restaurant/public hall, nine residential units, and two compact parking spaces in the C-2-A/HS-R District.

II. EXHIBITS IN SUPPORT OF THE APPLICATION

Exhibit A:	Alley Photograph
Exhibit B:	Letter of Support
Exhibit C:	Elevation Renderings
Exhibit D:	Shadow Study

III. DESCRIPTION OF PROPERTY AND THE PROJECT

The Property, also known as Lots 57 and 803 in Square 0933, is comprised of two narrow contiguous lots that are improved with an one-story commercial building. Lot 57 is only 17.50 feet wide while lot 803 is narrower, at only 14.50 feet wide. In total, the Property is only 32 feet wide and 83.6 feet deep. The Property fronts on H Street NE and is located in the C-2-A/ H Street Retail District. *See* Zoning Map at BZA Exhibit 8B. The Property, located in the midst of the urban revitalization that is

occurring on H Street NE, is caddy-corner to the renovated Ben's Chili Bowl, four blocks from the Atlas Theater, and one block from a stop for the recently operational DC Streetcar.

The Applicant proposes to 1) maintain the existing façade and convert the existing commercial space into a restaurant/public hall on the first floor and cellar, 2) provide nine residential units above the commercial space, and 3) provide two compact off-street parking spaces.

IV. APPLICANT MEETS BURDEN OF PROOF FOR AREA VARIANCE

The Board is authorized to grant an area variance where it finds exceptional condition of the Property, practical difficulties to the applicant and no substantial detriment to the public good or substantial impairment to the Zone Plan. *See French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

As described in the Statement of the Applicant, this Prehearing Statement, and as will be further explained at the public hearing, all three prongs of the area variance test are satisfied.

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition

The phrase "exceptional situation or condition" in the variance test applies not only to the land, but also to the property's history. *See, Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). As described in the initial submission, the Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) narrow and shallow lots (2) narrow alley; (3) requirements of the H Street Overlay; and (4) existing structural conditions.

1. Narrow and Shallow Lots

The Property, only 32 feet wide and 83.6 feet deep, is comprised of two narrow and shallow lots.

2. Narrow Alley

The Property abuts a 10-foot alley. Additionally, as the pictures at **Exhibit A** show, the buildings along the alley abut the alley property line, limiting the traversable space of the alley to exactly 10 feet.

3. Requirements of the H Street Overlay

The H Street Overlay contains guidelines that encourage property owners to have certain uses and to maintain the existing façade of buildings.

4. Existing Structural Conditions

The Property is improved with an existing commercial structure that covers approximately 100% of the lot and is bound to the north and south by existing commercial buildings.

B. Strict Application of the Zoning Regulations would Result in Practical Difficulty

Due to the Property's exceptional conditions, strict application of the lot occupancy, off-street parking, and parking space size requirements would result in practical difficulties for the Applicant.

1. Lot Occupancy

Pursuant to §1324.4, the maximum permitted residential lot occupancy for the Property is 70%, and the maximum nonresidential lot occupancy is 100%. The proposed mixed-use building has a lot occupancy of 78% on the commercial ground floor, and a lot occupancy of 79% on floors 2-4, the residential portion of the building. In response to the confluence of factors affecting the Property, the

proposed building has the same floor plate¹ on floors 1-4. Consequently, the residential floors of the Property exceed the maximum permitted residential lot occupancy by 9%.

Due to the exceptional circumstances at the Property, strict application of the residential lot occupancy requirement results in a practical difficulty to the Applicant. As discussed above, the Property is exceptionally narrow and improved with an existing one-story commercial structure. Given the narrowness of the Property and the location of the core in the existing structure, the proposed structure did not have many options for locating the elevator and stairwells. Thus, the location of the existing core was incorporated into the proposed design in order to maximize efficiencies in construction and to maintain a reasonable core factor. More importantly, to maximize design and structural efficiencies as the building transitions from a commercial use to residences, the residential floor plate needed to match the commercial floor plate.

Reducing the residential lot occupancy to 70% would create a practical difficulty for the Applicant. The Property is only 32 feet wide and 83.6 feet deep; providing two forms of egress/ingress on such a narrow and shallow site would be very challenging without a meticulously designed structure that contained a consistent floor plate. Additionally, reducing the residential lot occupancy would negatively affect the viability of the commercial ground floor. As designed, the weight of the residential floors are evenly distributed, balanced, and supported by the four walls of the ground floor. Reducing the residential lot occupancy would necessitate the addition of a beam and column system on the ground floor in order to bear the load. The addition of a beam and column system would reduce the already limited ground floor retail space, thereby creating a practical difficulty for the Applicant in creating a viable retail space. The ground floor contains only 1,280 square feet of commercial space. As noted in 11 DCMR § 1322.1, the H Street Retail Overlay is intended to encourage retail uses on the ground floor of structures. Retail uses, in

¹ As shown on page A-12 of the Architectural Plans, to provide the two compact parking spaces without affecting the location of the stairwell, the ground floor has a “L” shaped indentation. This “L” shaped indentation is provided solely to allow two compact cars to park, at an angle, on-site. That inefficient design feature is not continued on the residential floors above, and results in a 1% delta in lot occupancy from the ground floor to floors 2-4.

order to achieve the overlay goals of activating and enlivening the streetscape, must have a certain amount of space to be viable. The addition of structural support to the ground floor would necessarily reduce the number of people the retail space could accommodate and would negatively affect the flow and layout of the commercial space.

Ultimately, a reduction of the residential lot occupancy to 70% would restrict the Applicant's ability to create an efficient mixed-use structure that transitioned seamlessly from a viable commercial use on the ground floor with sufficient space and flow, unimpeded by additional structural elements, to residential uses above.

2. Off-Street Parking

Strict application of the zoning code for off-street parking would result in a practical difficulty for the Applicant. Pursuant to §2101.1, retail or service establishments are required to provide one parking space for each additional 300 square feet of gross floor and cellar floor area over 3,000 square feet; public halls² are required to provide one space for every ten seats for the first 10,000 seats; and residential units in the C-2-A require one parking space for every two dwelling units. In total, the proposed project is required to provide 10 off-street parking spaces³; the project proposes to provide two off-street parking spaces.

The narrowness and shallowness of the Property make it extremely difficult, if not impossible, for the Applicant to provide 10 off-street parking spaces at the Property. The Property is only 32 feet wide and cannot accommodate 10 off-street parking spaces at ground level. The provision of an underground parking system is also infeasible. The narrowness of the alley prohibitively limits the turning radius needed to access a ramp, and the provision of a straight ramp that has no more than a 12% incline is not

² The Applicant is applying the "public hall" parking requirement to the commercial space in the cellar because it includes a stage and the Applicant seeks the flexibility of being able to have live performances at the Property- a feature not commonly associated with restaurant uses. If the Applicant had applied the restaurant off-street parking requirement to the first floor and cellar, the off-street parking requirement for the entire Project would be six; one for the restaurant and five for the residences.

³ Pursuant to the 2016 Zoning Regulations, the off-street parking requirement for the Property is only three spaces.

feasible as it would require at least 100 linear feet for the ramp and the Property has a depth of only 83.625 feet. For those reasons, strict application of the zoning requirements with respect to the off-street parking requirement would result in a practical difficulty to the Applicant.

It is important to note that the Property is located *one* block away from a DC Streetcar stop and is not eligible for residential parking permits as H Street is a commercial street. Furthermore, pursuant to ANC 6A's request, as detailed below, the Applicant has agreed to provide a one-year membership to Capital Bikeshare or a car-sharing program to residents, and will have a transit screen in the lobby.

3. Parking Space Size

The Applicant proposed to provide two angled compact parking spaces that are 8 feet wide and 16 feet in length. Pursuant to §2115.1, parking spaces are to be a minimum of 9 feet in width and 19 feet in length. The narrowness of the Property and the narrowness of the alley severely limit the turning radius and maneuverability of vehicles in the alley. The maneuverability of vehicles in the alley is further restricted by the property directly behind the Property since it directly abuts the alley property line, *see* Alley Photograph at **Exhibit A**. The provision of two compact spaces at an angle is the most efficient parking design in consideration of those limitations.

C. No Substantial Detriment to Public Good or Inconsistency with Zone Plan

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The proposed project creates a project that conforms with the goals of the H-Street Overlay by providing a neighborhood servicing establishment on the ground floor and cellar, and residential units above. In addition, the proposed project adequately balances the zoning regulations' goals for providing a diverse and adequate housing stock, while revitalizing storefront properties along major thoroughfares. Furthermore, the Property is very accessible by public transportation thus granting the requested variances will not have a

negative impact on the community. For these reasons, approval of the zoning relief requested will not cause a detriment to the public good or Zone Plan.

V. COMMUNITY OUTREACH

The Applicant has reached out to the neighbors located behind the Property and to the adjacent property owners. Of note, the Applicant obtained the support of the residential property that will be most directly affected by the proposed development, the owner of 800 10th Street NE. *See*, Letter of Support from Neighbor at **Exhibit B**. The Applicant has also obtained the support of ANC 6A's Economic Development and Zoning (EDZ) Committee. The Applicant presented to the EDZ Committee on March 16, 2016. The EDZ Committee voted to support the project and the relief requested subject to the following conditions:

- 1) Continuation of exterior façade materials along the side of the building;
- 2) Residential Parking Restriction;
- 3) Completion of a Shadow Study prior to April ANC meeting;
- 4) Provision of transit subsidy;
- 5) Seek alternative parking options for residents; and
- 6) Reach out to neighbors

The Applicant has complied with all the conditions listed above. The Applicant agreed to continue the exterior façade materials along the side of the building as shown in **Exhibit C**. As stated above, the Property is not eligible for RPP. The shadow study is complete and was shared with the Chair of the EDZ Committee and the Single Member Commissioner for the Property, Mr. Omar Mahmud. As evidenced by the shadow study at **Exhibit D**, there is a negligible difference between the proposed project's projected shadow and the shadow that would be projected pursuant to a matter of right project. The Applicant, pursuant to the ANC's request has agreed to provide a one-year membership to Capital Bikeshare or a car-sharing program to the residents, and will be installing a transit screen in the lobby. As to the alternative parking options, the Applicant has hired a traffic consultant, Gorove Slade, to perform a parking utilization study and will be reviewing potential alternative parking options as a part of that study.

Lastly, as evidenced by the letter of support from the owner of 800 10th Street NE, *see* **Exhibit B**, the Applicant has made a concerted effort to reach out to neighbors.

VI. REQUEST TO SUPPLEMENT THE BOARD

The Applicant will present to ANC 6A on April 14, 2016, and respectfully request to inform the Board of the outcome of that meeting before the hearing for this Application.

VII. WITNESSES

The following witnesses will appear on behalf of the Applicant:

1. Michael Stoops, on behalf of the Applicant
2. Matt Stevison, Architect
3. Any other witnesses as deemed necessary

VIII. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings in this case, we hereby submit that the application meets the requirements for area variance relief.

We look forward to presenting our case to the Board on April 26, 2015.

Respectfully submitted,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP



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