

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

**Application for Square 221, Lots 29, 810, and a portion of a public alley to be closed  
pursuant to S.O. # 17-26363**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

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This statement is submitted by Granite, LLC, (the “Applicant”) the owner of the property located at 1501-1505 Pennsylvania Avenue, NW (Square 221, Lots 29, 810 and a portion of a public alley to be closed pursuant to S.O. # 17-26363)(the “Site”) in support of its application pursuant to 11-X DCMR § 901.2 for special exception relief from the minimum rear yard requirements of 11-I DCMR § 205.1. The Applicant proposes an addition to the existing buildings on the Site in order to establish the Milken Museum and Conference Center, which will also include museum support space and offices. The Site is located in the D-6 Zone District.

Pursuant to 11-Y DCMR § 300.15 of the Zoning Regulations, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or the “Board”) no fewer than twenty one days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested special exception. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

**I. Background**

A. Description of Site and Surrounding Area

The Site consists of Lots 29 and 810 in Square 221. Square 221 is bounded by H Street to the north, 15th Street to the east, Pennsylvania Avenue to the south, and Madison Place to the west, all located in the northwest quadrant of the District of Columbia. The Site is located at the corner of Pennsylvania Avenue and 15<sup>th</sup> Street. A public alley approximately 24-feet wide and 730 15<sup>th</sup> Street, NW are located to the north, the US Treasury Annex is located to the west. The Site contains approximately 18,040 square feet of land area pending a partial alley closing and subdivision, as discussed below.

The Site is presently improved with a building known as the Riggs National Bank (the “Riggs Building”) and a building known as the American Security and Trust Company Building (the “AS&TC Building”). Both of the existing buildings on the Site currently contain no rear yard. Moreover, the Riggs Building currently contains substantial rooftop mechanical equipment that is exposed to view from Pennsylvania Avenue. The proposed modifications to the buildings submitted with this application have received concept approval from the Historic Preservation Review Board (“HPRB”) and US Commission of Fine Arts.

B. Existing Zoning

The Site is zoned D-6. The Site is improved with two buildings that are listed as Historic Landmarks in the DC Inventory of Historic Sites, and are contributing structures in the Financial Historic District and Lafayette Square Historic District. The maximum permitted height for development on the Site is 80 feet, based on Appendix G of the Zoning Regulations and the 1910 Height Act.

C. Previous and Pending Approvals

In 2016 the Board granted special exception relief under the 1958 Zoning Regulations (“ZR58”) for a previous iteration of the project, which included relief from: (i) the penthouse setback requirements of 11 DCMR §§ 777.1 and 411.18 of ZR58; and (ii) the minimum rear yard requirements of 11 DCMR § 774.1 of ZR58. See, BZA Order No. 19229, attached as Exhibit A. In BZA Order No. 19229, the Applicant was granted relief to provide no rear yard similar to the requested relief in this application. However, the current proposal for development of the Site no longer requires relief from the penthouse setback requirements of the Zoning Regulations even though the existing mechanical equipment on the roof of the Riggs Building will be enclosed. Moreover, the previous approval did not contain approval for development of the AS&TC Building.

The Applicant is also pursuing an alley closing application to close a portion of the public alley at the rear of the Site in order to expand the footprint of the building on the Site. The alley closing application number is SO # 17-26363. The Applicant also filed a subdivision application to consolidate the Site into a single record lot, as shown on the subdivision plat included in the architectural drawings (the “Plans”).

D. Project Description

The Applicant proposes an expansion to the buildings to establish the Milken Museum and Conference Center, which will also include museum support space and offices. Similar to the proposal approved in BZA Case No. 19229, the museum exhibits and support space will occupy the Riggs Building. However, the mechanical penthouse previously proposed for the rooftop of the Riggs Building has been eliminated. The main bank hall of the AS&TC Building will house museum operations and will contain a temporary exhibit area. In addition, the AS&TC Building will include convening space. The top floor of the building will contain office space for individuals associated with the museum, as well as the Milken Institute, which is an independent economic think tank whose mission is to improve the lives and economic conditions for people in the US and around the world. New internal connections will connect the structures, and a new atrium at the rear will enhance and facilitate connectivity. The proposed building contains approximately 50,550 square feet of gross floor area (2.82 FAR), whereas the FAR limitation for the Site is 6.0 pursuant to 11-I DCMR § 200.2. In addition, the building has a maximum building height of 79 feet and contains no rear yard.

**II. Special Exception Relief – Rear Yard**

The Applicant seeks special exception relief pursuant to 11-X DCMR § 901.2 from the minimum rear yard requirements of 11-I DCMR § 205.1. That provision of the Zoning Regulations

states that in the D-6 Zone District “a minimum rear yard depth must be provided of 2.5 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point on the main roof or parapet, but not less than 12 feet.” 11-I DCMR § 205.1. The Applicant proposes to continue the existing condition of a nonconforming rear yard being provided. In this instance, due to the height of the proposed building a rear yard of 15 feet, 10 inches is required, thus necessitating special exception relief.

Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

Pursuant to 11-I DCMR § 205.5 of the Zoning Regulations, the Board may waive the rear yard requirements pertaining to the D-6 Zone District provided that the standards of 11-I DCMR § 205.5 *et. seq.* are met.

*(a) Subsection 205.5(a)-No window to a residence use shall be located within forty feet (40 ft.) of another facing building;*

The buildings on the Site were constructed prior to May 12, 1958 and do not currently have a rear yards that comply with the Zoning Regulations. The property to the north is occupied by an office building, to the south of the Site is Pennsylvania Avenue, to the east is 15<sup>th</sup> Street, and to the west is the US Treasury Annex. As a result, no apartment windows are affected by this application and no window to a residence use is located within 40 feet of another facing building.

*(b) Subsection 205.5(b)-No window to an office use shall be located within thirty feet (30 ft.) of another facing office window, nor eighteen feet (18 ft.) in front of a facing blank wall;*

Although the building to the north of the Site is an office building, the proposed atrium at the rear of the Site will directly abut the building. The windows located on the office building to the north are currently at-risk and subject to closure since they are constructed on the property line. However, after the proposed expansion they will not be closed, but instead they will be located inside the proposed atrium and approximately 26 feet, 4 inches feet from windows that contain museum uses. The owner of the building to the north has no objection to and supports this application.

Moreover, while the US Treasury Annex is located to the west of the Site, the proposed addition at the 5<sup>th</sup> and 6<sup>th</sup> floors will contain windows to an office use that are located 23 feet, 4 inches from the penthouse of the Treasury Annex. Thus, there are no office windows located within 30 feet of another facing office window, nor are there any office windows located within 18 feet of a facing blank wall.

*(c) Subsection 205.5(c)-A greater distance may be required between windows in a facing building than the minimum prescribed in (a) or (b) if necessary to provide adequate light and privacy to habitable rooms as determined by the angle of sight lines and the distance of penetration of sight lines into such habitable rooms;*

As stated above, the existing office windows on the building to the north will be located within the proposed atrium that will be open to the sky. Moreover, these windows will be located approximately 26 feet, 4 inches from facing windows that will contain museum uses which is the same distance these windows would be located from facing windows if the Site was developed with the required rear yard. As a result, the expansion will not affect the privacy of building occupants or the amount of light and air provided. The expansion will also increase the amount of light and air provided to the building as a whole, since it will be open to the floors below and includes the creation of an expansive atrium.

*(d) Subsection 205.5(d) - The building shall provide for adequate off-street service functions, including parking and loading areas and access points.*

Since the proposed addition increases the gross floor area by less than 50%, no additional parking, bicycle parking, and loading are required. See, 11-C DCMR §§ 704.2, 802.6, 901.7. Since the building expansion is exempt from additional off-street requirements, the proposal complies with the above requirement.

Accordingly, the proposed addition is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under 11-I DCMR § 205.5 *et. seq.*

### **III. Affected Advisory Neighborhood Commission**

As required under Subtitle Y § 300.8(1), the Applicant has apprised Advisory Neighborhood Commission (“ANC”) 2B of the BZA application. The Applicant will continue to coordinate with ANC 2B, the Office of Planning, and other interested stakeholders between the time of filing the subject application and the public hearing. As part of its prehearing statement that will be filed no less than 21 days prior to the public hearing, the Applicant will include a statement describing the efforts made to discuss the application and receive comments from these entities.