

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

**BZA Case No. 21208**

**Application of Beacon Communities, LLC and Christian Tabernacle Church of God, Inc  
2033 11<sup>th</sup> Street, NW (Square 332, Lot 807)**

**Hearing Date: December 18, 2024**

**PREHEARING STATEMENT OF THE APPLICANT**

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**I. OVERVIEW AND NATURE OF RELIEF SOUGHT**

This Prehearing Statement is submitted on behalf of Beacon Communities, LLC, and Christian Tabernacle Church of God (together, the “Applicant”), pursuant to Subtitle X § 901.2 and Subtitle X § 1000.1. **Please note that the previously requested relief from the GAR requirements in Sub. K § 808.1 of the regulations is hereby withdrawn.** With this amendment, the Applicant now seeks the following areas of zoning relief regarding property located in the ARTS-2 zone district at 2033 11<sup>th</sup> Street, NW (Square 332, Lot 807) (the “Property”):

- **Lot Occupancy**: Special exception relief, pursuant to Subtitle K § 813.1, from the requirements of Subtitle K § 804.1, to allow a total lot occupancy of approximately 88% on the record lot where a maximum lot occupancy of 80% is permitted for residential use.
- **Open Court Width**: Special exception relief, pursuant to Subtitle K § 813.1, from the requirements of Subtitle K § 807.1, to allow (i) a court width of 11.67 feet between the proposed building and the existing church, where a minimum width of 13.33 feet is required; and (ii) a court width of 11.67 feet between the proposed building and the west property line, where a minimum width of 25.33 feet is required.
- **Loading**: Special exception relief, pursuant to Subtitle C § 909.1, from the requirements of Subtitle C § 901.1, to provide no on-site loading facilities where one loading berth and one service/delivery space are required.
- **Penthouse Setback**: Special exception relief, pursuant to Subtitle C § 1506.1, from the requirements of Subtitle C § 1504.1(d), for a reduced penthouse setback adjacent to an open court.
- **Parking**: Special exception relief, pursuant to Subtitle C § 703.1, from the requirements of Subtitle C § 701.5, to provide 16 on-site parking spaces, whereas 22 on-site parking spaces are required.

- **Garage Ramp Slope:** An area variance from the requirements of Subtitle C § 711.8 to permit a garage ramp slope of 20% where a maximum slope of 12% is required.

The requested relief will permit the construction of a new mixed-use building on the eastern portion of the Property comprised of approximately 65 affordable residential dwelling units and a ground floor child development center. A copy of the updated architectural plans for the Project are attached as **Exhibit A**.

## **II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “BZA” or “Board”) has jurisdiction to grant the requested relief pursuant to Subtitle X §§ 901.2 and 1000.1.

## **III. BACKGROUND**

### **A. The Property, Surrounding Area, and Zoning**

The Property is an “L” shaped corner lot with approximately 14,382 square feet of land area. The Property is bounded by V Street, NW to the north, 10<sup>th</sup> Street, NW to the east, 11<sup>th</sup> Street, NW to the west, and private property to the south. The western portion of the Property is improved with the Christian Tabernacle Church of God (the “Church”), which has a maximum capacity of 200 seats and which will remain on the Property. The eastern portion of the Property is improved with a 2,500 square foot child development daycare center and ten surface parking spaces that serve the existing Church and child development center. This portion of the Property will be redeveloped.

The Property is located one block north of the U Street Corridor, which is home to a variety of eating and drinking establishments, retail and neighborhood services, and residential buildings, and is approximately 0.2 miles from the U Street / African American Civil War Memorial / Cardozo Metrorail Station. The immediately surrounding neighborhood includes residential buildings, small businesses, and other religious institutions. To the north, across V Street, are row buildings and a multifamily building. To the east, across 10th Street, is the Garnet-Patterson S.T.A.Y. High School. To the west, across 11th Street, is a large multifamily building. Within the same square as the proposed redevelopment are row buildings, eating and drinking establishments, and the historic performance venue known as Bohemian Caverns.

The Property is zoned ARTS-2. The Mixed-Use-Uptown Arts (ARTS) zones are intended to promote arts and related uses, encourage pedestrian-friendly development with a mix of uses, expand housing and business opportunities, strengthen the area's design character, and foster public safety and 18-hour activity through adaptive reuse of older buildings and integration of new ones. *See* Subtitle K § 800.1. The ARTS-2 zone is specifically intended to permit medium-density, compact mixed-use development with an emphasis on residential development. *See* Subtitle K § 800.3.

The Property is also located within the Greater U Street Historic District. The proposed project received concept approval from the Historic Preservation Review Board (“HPRB”) on July 25, 2024. A copy of the HPRB report is attached as **Exhibit B**.

**B. The Project**

The Applicant proposes to demolish the single-story building that currently houses the child development center and construct a new seven-story mixed-use building comprised of approximately 65 affordable residential dwelling units and a new child development center on the ground floor (the “Project”). The child development center will contain approximately 8,200 square feet. The residential units will include studio, one-, two-, and three-bedroom units and would be provided at a mix of income levels including 30% MFI, 50% MFI, 60% MFI, and 80% MFI. The Project will meet or exceed the inclusionary zoning set aside requirements set forth in Subtitle C, Chapter 10 of the Zoning Regulations. Additionally, the Project includes a below-grade parking garage with 16 parking spaces.

**IV. THE APPLICATION MEETS THE BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF**

**A. Burden of Proof**

Pursuant to D.C. Code § 6-641.07(g)(2) and Subtitle X § 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 Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject in each case to the special conditions specified. The stated purposes of the Zoning Regulations are set forth in D.C. Code § 6-641.02:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

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.*

**B. Compliance with Special Exception Relief, Pursuant to Subtitle K § 813.1, from the Lot Occupancy Requirements of Subtitle K § 804.1 and the Open Court Width Requirements of Subtitle K § 807.1.**

1. ***Subtitle K § 813.1(a) - The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS zones and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.***

The Project will substantially advance the purposes of the ARTS zones and will not adversely affect neighboring property or be detrimental to health, safety, convenience, or general welfare. The purposes of the ARTS zones include, but are not limited to, the following:

- Encourage a pedestrian scale of development and a mixture of building uses;
- Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses;
- Expand the area's housing supply in a variety of rent and price ranges;
- Expand business and job opportunities, and encourage development of residential and commercial buildings;
- Strengthen the design character and identity of the area by means of physical design standards;
- Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and
- Foster 18 hour activity and increased public safety.

The ARTS-2 zone specifically is intended to permit medium-density, compact mixed-use development, with an emphasis on residential development. *See* Subtitle K §§ 800.1 and 800.3.

The Project will advance the purposes of the ARTS zones, generally, and the ARTS-2 zone, specifically, through the development of a mixed-use, affordable housing project with a child development center on the ground floor and outdoor play space. These types of uses will encourage pedestrian activity by activating the Property with new housing and a neighborhood-serving amenity and will expand the area's housing supply by delivering approximately 65 new affordable units comprised of studios, one-, two-, and three-bedrooms to support a variety of residents at a mix of income levels.

In addition, HPRB has already reviewed and approved the Project design. *See* HPA No. 24-227. In its report, HPO acknowledged that the proposed building's height and massing “is consistent with the development character of the U Street Historic District, which is characterized by its variety of building types and sizes with rowhouses interspersed with

larger apartment and institutional buildings.” Accordingly, the Project will help to strengthen the design and identity of the surrounding area through the construction of a new building that is fully compatible with the character of the Historic District and the building types and uses in the surrounding area. Moreover, the portion of the Property on which the building will be constructed is presently improved with a one-story concrete block building originally operated as a gas station. By improving this underutilized portion of the Property, the Project will increase public safety by putting additional eyes and ears on the street and fostering 18 hour activity. As it relates to compatibility with the ARTS-2 zone specifically, the Project will be developed as a medium-density, mixed-use building, the primary use of which is residential. The Project’s height, density, and mix of uses are permitted as a matter-of-right in this zone and are, in fact, encouraged.

In addition, relief from the minimum requirements for lot occupancy and open court width will not result in any adverse effects as discussed below.

- Lot Occupancy. The ARTS-2 zone permits a lot occupancy of 100% for uses other than residential and public recreation centers. Pursuant to Subtitle B § 312.7, in the case of a building devoted to both residential and non-residential uses, the percentage of lot occupancy for residential uses may be calculated on a horizontal plane located at the lowest level where residential uses begin. In this case, the Project has one residential unit on the ground floor, which results in lot occupancy at the ground level of approximately 86.5% (calculated based on the floor area of the proposed building and the existing church). On the second floor and above, the lot occupancy is approximately 82.7%. If the one residential unit at the ground floor of the Project were removed, the permitted lot occupancy at the ground floor would be 100%. Hence, the building massing is appropriate for the site.
- Court Width. Relief from the open court width requirements is necessary: (i) between the building and the church; and (ii) between the building and the three abutting properties fronting 11<sup>th</sup> Street. Non-compliance with the open court width requirements in these locations will not result in negative impacts because the courts are internal to the record lot and function as a side yard between the church and row dwellings on the 11<sup>th</sup> Street. The three residences fronting on 11<sup>th</sup> Street have sizable rear yards between their rear building walls and rear lot lines abutting the Property in the location of the non-compliant court. Thus, there is already extensive open space such that non-compliance with the minimum open court width requirement will be imperceptible even to the closest abutting residents.

Based on the foregoing information, special exception relief from the lot occupancy and open court width requirements will advance the purposes of the ARTS zones and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

2. ***Subtitle K § 813.1(b) - The architectural design of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic***

***district or historic landmark is involved, the Board of Zoning Adjustment shall refer the application to the Historic Preservation Office for review and report.***

The architectural design of the Project will enhance the urban design features of the immediate vicinity in which the Property is located. As noted above, the Project has already been reviewed and approved by HPRB. The HPO report recommending approval of the Project found that it enhances compatibility with the Historic District through its use of brick, its vertically-oriented projecting bays, and the variety of windows for the primary corner massing element. HPO also found that the more contemporary expression of the secondary element relates in the use of brick for the base and its white color to the church. The offset of the building from the rear of the church will allow the building to be fenestrated on all but the south side wall, which will be clad in the same brick as the façade and for which a public art mural is being considered.

The Project will also include extensive public space improvements including new trees, landscaping, bicycle racks, and upgraded sidewalks, thus enhancing the public realm features overall. The minimal areas of zoning relief for lot occupancy and court width do not lessen the positive impact that this Project will have on the surrounding neighborhood.

3. ***Subtitle K § 813.1(c) - Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions.***

Subject to review and approval by the Public Space Committee, the entire Property will be served by a single curb cut located on 10<sup>th</sup> Street in the same location of the existing curb cut that serves the existing daycare center. This vehicular entrance is located on the opposite side of the Property from the primary pedestrian entrances to the residential and daycare portions of the building, thus minimizing the number of pedestrians who will need to cross the curb cut to access the building and reducing potential vehicular/pedestrian conflict. Accordingly, vehicular access has been located and designed to minimize potential conflict, function efficiently, and create no dangerous conditions.

4. ***Subtitle K § 813.2 - The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the zone districts.***

The Applicant does not believe that additional requirements pertaining to design, appearance, signs, size, landscaping, or other conditions are necessary to protect neighboring property or to achieve the purposes of the ARTS-2 zone.

**C. Compliance with Special Exception Relief Pursuant to Subtitle C § 909.1, from the Loading Requirements of Subtitle C § 901.1.**

The Project will not provide any loading facilities where Subtitle C § 901.1 requires one loading berth and one service/delivery space for the Project.

1. ***Subtitle C § 909.1 – This section provides flexibility from the loading requirements when providing the required number or dimensions of loading spaces would be (a) impractical due to the shape or configuration of the site constraints; (b) unnecessary due to a lack of demand for loading; or (c) contrary to other District of Columbia regulations.***

In this case, providing on-site loading is impractical because of the site constraints. First, although the Property consists of 14,382 square feet of land area, only 9,700 square feet will be redeveloped with the Project; the existing church will remain on the western portion of the Property. Constructing a loading berth would utilize a significant portion of the remainder of the Property, compromising the design and programming for the daycare, which is a long-standing neighborhood serving use. Also, The Property does not have no alley access. If the Applicant were to provide a curb cut that could accommodate on-site loading facilities, then the curb cut would need to be wider than the currently proposed curb cut on 10<sup>th</sup> Street, which provides access to the below-grade parking garage. Providing an even wider curb cut in this location is contrary to DDOT policy and would conflict with the overarching goals of the ARTS zones to provide pedestrian-oriented development that minimizes vehicular conflict.

2. ***Subtitle C § 909.2(a) – The BZA may grant relief from the number of loading berths or service/delivery spaces required by Subtitle C § 901.1, as a special exception under Subtitle X, Chapter 9, and under the Applicant’s demonstration that the use or structure will generate a lower loading demand than the minimum loading standards of Subtitle C §§ 901 and 905 require, as a result of: (1) the nature of the use or structure; or (2) a loading demand management plan filed in the case record and approved by DDOT, the implementation of which shall be a condition to the BZA approval, the will result in a lower loading demand than the minimum loading standards.***

The Applicant and its representatives met with DDOT on October 28, 2024, to discuss elements of a loading management plan, taking into account the Property constraints, its street frontage on 10<sup>th</sup>, 11<sup>th</sup>, and V Streets, and the proposed uses – 65 affordable dwelling units and a child development center. Of note, for the child development center use, approximately 85% of the families walk or use public transportation for drop off and pick up. The loading management plan will be filed into the case record separately.

3. ***Subtitle C § 909.5 - When granting a special exception under this section, the Board of Zoning Adjustment may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting alleys, loading management or transportation demand management practices, or any other requirement it deems necessary to protect adjacent or nearby property and promote the public health, safety, and welfare.***

No additional requirements are necessary to protect adjacent or nearby property and promote public health, safety, and welfare.

**D. Compliance with Special Exception Relief Pursuant to Subtitle C § 1506.1, from the Penthouse Setback Requirements of Subtitle C § 1504.1.**

Pursuant to Subtitle C § 1504.1(d), a penthouse is required to be setback a distance equal to its height from building walls that border all sides of an open court. In this case, the penthouse is not setback from the building wall that borders the open court facing west. However, relief from the penthouse setback requirements may be granted as a special exception subject to the following criteria:

**1. Subtitle C § 1506.1(a) - *The special exception requirements of Sub. X, Ch. 9;***

Compliance with the general special exception requirements of Subtitle X, Chapter 9 is set forth in Section IV. below.

**2. Subtitle C § 1506.1(b) - *The applicant's demonstration that reasonable effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and***

The Applicant has made all reasonable efforts to house mechanical equipment, stairways, and elevator penthouses in compliance with the required setbacks. The setback relief is a result of the Property's, narrow width, irregular shape, and the presence of the existing Church, which limits the Property's development potential. The only location where the penthouse setback requirement is not met is at the rear of the Property facing the court in the center of the square, such that there is virtually no negative impact on any surrounding properties and will not be visible from surrounding public streets. The penthouse meets the setback requirements along all street frontages.

**3. Subtitle C § 1506.1(c) - *The applicant's demonstration of at least one (1) of the following ... (1) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes.***

Strict application of the penthouse setback requirements along the interior court would result in construction that is unduly restrictive and unreasonable. The Project will be an affordable development that will provide housing at a range of income levels. On an irregularly-shaped, narrow site with no alley access and an existing historic structure, there are a variety of limitations that make meeting all of the development standards particularly cumbersome. In order to overcome those constraints, the Applicant proposes to locate residential units within the habitable penthouse, two of which (both of which are two-bedroom units) result in non-compliance with the setback requirements. If the Applicant removed these units to meet the setback requirement, then the result would be the elimination of new affordable housing units designed to accommodate families, which is unduly restrictive and contrary to the Mayor's priority of increasing housing and affordable housing throughout the District.



**E. Compliance with Special Exception Relief Pursuant to Subtitle C § 703, from the Minimum Parking Requirements of Subtitle C § 701.5.**

As noted above, the Application proposes the following three uses for the Property: (i) the Church, which has a maximum capacity of 200 seats; (ii) an 8,200 square foot child development center; and (iii) 65 affordable dwelling units. The requirement for each use under Subtitle C § 701.5 is as follows:

- Church: 1 space for each 10 seats of occupancy capacity in the main sanctuary. Results in 20 spaces required.
- Child Development Center: 0.5 spaces per 1,000 square feet, with a minimum of 1 space required. Results in 4 spaces required.
- Residential: 1 per 3 units in excess of 4 units. Results in 20 spaces required.

In addition, development of the Property is eligible for a 50% parking reduction under Subtitle C § 702.1(a) and (b) because the Property is located a quarter mile from the U Street – African American Civil War Memorial / Cardozo Metrorail station and within a quarter mile of the U Street-Garfield Priority Bus Network. As such, the required parking for each use is reduced to the following:

- Church: 10 spaces required.
- Child Development Center: 2 spaces required.
- Residential: 10 spaces required.

The parking spaces for the Church and the child development center will be shared in accordance with Subtitle C § 701.9(a) because these uses have different days and hours of operation. Therefore, the total required parking for the Church and child development center is 10 parking spaces, resulting in a total parking requirement of 22 spaces.

1. ***Subtitle C § 703.1 - This section provides flexibility from the minimum required number of parking spaces when providing the required number of spaces would be (a) impractical due to the shape or configuration of the site; (b) unnecessary due to a lack of demand for parking, or the site's proximity to transit options; or (c) contrary to other District of Columbia regulations.***

In this case, meeting the minimum parking requirements is impractical due to the site configuration of the Property. Although the Property consists of 14,382 square feet of land area, the Church will remain on the Property, which reduces the developable area for the Project to 9,700 square feet. In addition, flexibility from the parking requirements is appropriate because of the public transit options in proximity to the Property. As noted above, the Property is a quarter mile from the U Street – African

American Civil War Memorial / Cardozo Metrorail Station and within a quarter mile of the U Street-Garfield Priority Bus Network.

2. **Subtitle C § 703.2 – The BZA may grant a full or partial reduction in the number of required parking spaces, as a special exception pursuant to Subtitle X, Chapter 9, and subject to the applicant’s demonstration to the Board’s satisfaction of at least one (1) of the following criteria listed.**

In this case, the Application meets several of the criteria listed as follows:

- a. **Subtitle C § 703.2(b): The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities.**

The Property is a quarter mile from the U Street – African American Civil War Memorial / Cardozo Metrorail Station and within a quarter mile of the U Street-Garfield Priority Bus Network.

- b. **Subtitle C § 703.2(c): Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces.**

In addition to being a quarter mile from the U Street – African American Civil War Memorial / Cardozo Metrorail Station and within a quarter mile of the U Street-Garfield Priority Bus Network, approximately 85% of the families that use the child development center walk or take public transportation to the Property.

- c. **Subtitle C § 703.2(f): All or a significant proportion of dwelling units are dedicated as affordable housing units.**

All of the 65 dwelling units proposed for the Project will be affordable, with a range of income levels.

#### **F. Compliance with the General Special Exception Standards of Subtitle X § 901.2.**

Pursuant to D.C. Code § 6-641.07(g)(2) and Subtitle X § 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 Zoning Regulations and Zoning Maps and will not tend to affect adversely 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 Subtitle X § 901.2, the Board is authorized to grant special exceptions where, in the judgment of the Board, the special exceptions (a) will be in harmony with the general purpose and intent of the Zoning Regulations and the Zoning Maps; (b) will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and (c) will meet such special conditions as may be specified.

The Property is in the ARTS-2 zone, and the Board's approval of the requested relief will facilitate the development of the Property in a manner that advances several of the listed purposes of the ARTS zones in Subtitle K § 800.1 as set forth below:

1. ***Subtitle K § 800.1(b) - Encourage a pedestrian scale of development, a mixture of building uses, adaptive reuse of older buildings, strengthened design character, public safety, and eighteen (18) hour activity.***

The Applicant proposes a mixed-use building on the eastern portion of the Property, which will include a child development center and 65 dwelling units; additionally, the Church will remain on the Property. The Project will be constructed on a portion of the Property that is currently underutilized and will generate additional pedestrian activity and contribute to the vibrancy of the neighborhood, which enhances public safety.

2. ***Subtitle K § 800.1(c) - Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses.***

The Project includes 65 dwelling units.

3. ***Subtitle K § 800.1(e) – Expand the area's housing supply in a variety of rent and price ranges.***

The Project will expand the area's housing supply by 65 dwelling units, all of which will be affordable, with a range of income levels.

4. ***Subtitle K § 800.1(h) – Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings.***

The development of the Property includes the Project and the preservation of the Church on the western portion of the Property. The construction of the Project will substantially improve the aesthetics of the Property and this immediate area. The design of the Project, as it relates to the Church and the surrounding historic district, have been reviewed and approved by HPRB.

Additionally, granting the requested relief will not adversely affect the neighboring properties. The building's massing and orientation have been designed to minimize any potential visual intrusion on neighboring properties, as confirmed by HPRB's concept approval. The requested areas of relief for lot occupancy and court width result from the design of the Project and do not impact neighboring properties. In addition, given the scale of the proposed development, there is sufficient frontage on 10<sup>th</sup>, V and 11<sup>th</sup> Streets to serve the loading demand for the Project, and loading will be managed in accordance with a loading management plan

furnished by the Applicant and reviewed and approved by DDOT. The requested relief for four parking spaces will not adversely affect neighboring properties because of the Property's access to the Metrorail station and several bus lines. Thus, future residents of the Project and their visitors, families using the child development center, and persons attending the Church, will all have several public transportation options. The Project also includes 24 long-term bicycle parking spaces and four short-term bicycle parking spaces for the residential building, further increasing transportation options. Finally, the scale and nature of the development proposed for the Property are consistent with the intent of the ARTS-2 zone, which is to permit medium-density, compact mixed-use development, with an emphasis on residential development, which is the type of development the Applicant proposes for the Property.

**V. THE APPLICATION MEETS THE BURDEN OF PROOF FOR AN AREA VARIANCE FROM THE GARAGE SLOPE REQUIREMENTS**

The Applicant seeks an area variance from the requirements of Subtitle § 711.8 to permit a garage ramp slope of 20% where a maximum slope of 12% is required.

**A. Burden of Proof**

Under D.C. Code § 6-641.07(g)(3) and Subtitle X § 1000.1, the Board is authorized to grant an area variance where it finds that three conditions exist:

1. The property is affected by exceptional size, shape, or topography or other extraordinary or exceptional condition or situation;
2. The owner would encounter practical difficulties if the zoning regulations were strictly applied; and
3. The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

*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 discussed below, and as will be further explained at the public hearing, the subject application meets the three-prong variance test.

**B. The Application Meets the Variance Test Pursuant to Subtitle X § 1000.1**

**1. Exceptional Condition or Situation**

The phrase “exceptional situation or condition” in the first prong of the variance test 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). There is no requirement that the uniqueness “inheres in the land at issue.” *Id.* at 1168. Indeed, the exceptional situation or condition standard goes to the property, not just the land, as the “...property generally includes the permanent

structures existing on the land.” *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 293-94 (D.C. 1974). Thus, the exceptional situation standard of the variance test may be met where the required hardship is inherent in the improvements on the land (e.g., an existing building or structure) and not just the land itself.

In the present case, the exceptional situation results from a variety of factors, including the Property’s narrow width and irregular shape, the lack of alley access, and the existence of the historic Church on the west side of the Property, which precludes vertical development on approximately half of the Property’s land area.

2. Resulting Practical Difficulty

The exceptional situations and conditions described above make it practically difficult to provide a garage ramp with a maximum slope of 12%. Meeting this requirement would require utilizing much of the land area for the daycare at the cellar and ground floor levels of the Project, making it practically difficult to meet the childcare programmatic requirements, such as classroom sizes, safety standards, and operational needs, and the required outdoor play area.

3. No Substantial Detriment to the Public Good or Substantial Impairment to the Intent, Purpose, or Integrity of the Zone Plan

The requested relief can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose, or integrity of the zone plan. The 20% grade is an industry standard, although at the maximum end. The Applicant proposes to provide transition zones at both ends of the ramp, including an elongated 5% transition zone at street level, which will allow for ample space to transition safely to the public right of way. The garage will have 16 spaces, which means the ramp will be used by a relatively small number of people on a regular basis, minimizing safety hazards related to the use and operation of the ramp.

For the foregoing reasons, the Applicant submits that the application meets the applicable standards of review for area variance relief.

**VI. COMMUNITY OUTREACH AND SUPPORT**

The Property is within the boundaries of ANC 1B-02. The ANC 1B Zoning Preservation and Development Committee reviewed the application at its meeting on October 21, 2024, and recommended support of the application to the full ANC. ANC 1B considered the Committee’s recommendation at its meeting on November 7, 2024 and voted to recommend approval of the application to the BZA.

## **VII. WITNESSES**

Outlines of testimony on behalf of the Applicant are attached as **Exhibit C**. Resumes for the witnesses whom the Applicant will proffer as experts are attached hereto as **Exhibit D**. The proffered witnesses are as follows:

- Joseph L. Iwaskiw, LEED BD+C  
Soto Architecture & Urban Design, PLLC  
1407 T Street, NW, Suite 200  
Washington, DC 20009
- Daniel Solomon, AICP  
Principal  
Gorove Slade Associates, Inc.  
1140 Connecticut Avenue, NW  
Washington, DC 20036

## **VIII. CONCLUSION**

For the reasons stated above and described elsewhere in the case record, the Applicant has demonstrated that the Project meets the standards of review for the requested special exception and variance relief to permit the construction of a new mixed-use building in the ARTS-2 zone at the Property. Accordingly, the Applicant respectfully requests the Board's approval of the application.