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June 25, 2026

D.C. Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, D.C. 20001

Re: **BZA Case No. 21453 – 2222 Q Street NW (Square 2510, Lot 38) (the "Property") – Supplemental Submission**

Dear Members of the Board:

The Applicant hereby submits this supplemental submission and requests a waiver to permit late filing in response to the Office of Planning's ("**OP**") request for additional information in support of the Application and, in particular, the undue hardship the Applicant faces under the use variance test.

As discussed in detail in the initial submission and further discussed below, the Applicant proposes a comprehensive renovation and rehabilitation of the existing legally nonconforming century-old apartment building in the R-3 zone to bring the structure up to modern living standards and life/safety requirements and address existing environmental/hazardous materials conditions in the building (collectively, the "**Project**"), and the Applicant proposes to add four new units in the building's existing cellar to provide the necessary financial support to facilitate the extensive scope of work needed to fully restore the building. As discussed in the Applicant's prior submission, the Application meets all of the standards for the requested use variance, including the "exceptional condition" and "public good" prongs of the variance test. Based on the Applicant's discussions with OP, this submission focuses specifically on the "undue hardship" prong of the test and additional information requested by OP.

I. Undue Hardship

As discussed in the Applicant's initial statement, to satisfy the second element of the use variance, the Applicant must demonstrate "undue hardship", which requires a showing that "the property cannot be put to any conforming use with a fair and reasonable return . . ." *Downtown Cluster of Congregations v. District of Columbia Bd. of Zoning Adjustment,* 675 A.2d 484, 492 (D.C. 1996) (quoting *Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. 1972)). Consistent with D.C. Court of Appeals decisions, it is appropriate for the Board to focus its analysis of the undue hardship on a portion of a property, not necessarily the entire property. *See Oakland Condominium v. District of Columbia Bd. of Zoning Adjustment,* 22 A.3d 748, 756 (D.C. 2011). In addition — and importantly — it is also proper for the Board to consider economic impacts to an applicant in assessing whether the undue hardship prong has been met. *See id.* (quoting *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990).

Here, the Applicant faces an undue hardship if the requested variance is not granted to permit the proposed four new units in the existing cellar due to the extensive repairs and renovation work that is required to restore the existing building, which is in a significant state of disrepair including environmental/hazardous materials conditions that must be remediated, and the direct adverse economic impact to the Applicant and the scope of the building's restoration if the variance is denied.

A. Existing Building Conditions and Proposed Rehabilitation.

As discussed in detail in the initial submission, the existing building, originally constructed in 1922, is in a severe date of disrepair as a result of decades of deferred maintenance and includes existing environmental/hazardous materials conditions that must be ameliorated. The Applicant acquired the Property in February 2026 with the objective of fully restoring the building, remedying the existing environmental conditions, and bringing the historic structure up to modern building and living standards and current life/safety requirements.

Attached as Exhibit A are additional photos illustrating the existing dilapidated state of the building and required work to rehabilitate the building. These photos supplement the photos included in Pages 4-5 of the architectural plans included in the Applicant's initial submission at Case Record Exhibit 4. As summarized in the initial statement and shown in the attached and previously submitted photos, the work the Applicant must implement to bring the building up to modern standards includes the following:

- Comprehensive upgrades to the building's electrical and plumbing systems and light fixtures throughout the building with current, more environmentally sustainable systems;
- Removal of an existing, outdated gas burning furnace and hazardous diesel storage tank located in the basement, both which were recommended for removal by the Phase I Environmental Site Assessment Report issued for the Property, which is attached as Exhibit B;
- Removal of lead-based paint and asbestos throughout the building, as also referenced in the Phase I Environmental Site Assessment Report and further addressed, respectively, in the Limited Lead Based Paint Inspection Report attached as Exhibit C and the Limited Pre-Renovation Asbestos Survey Report attached as Exhibit D;
- Full replacement of the existing roof and implementation of waterproofing measures to address existing water intrusion into the building's 5th floor;
- Demolition and removal of interior partition walls that suffer from existing water damage and mold, as shown in the photos on Page 1 of Exhibit A;
- Updates to the building's existing, extremely dated, century-old elevator system;
- Installation of a modern, energy-efficient HVAC system throughout the building, which currently relies on window units and an outdated gas burning furnace system;

- Full replacement of existing dated and deteriorated windows throughout the building with new, energy-efficient windows, which must also meet historic preservation design and material specifications due to the building's status as a contributing structure in the Sheridan-Kalorama Historic District and location within the Shipstead-Luce Act area subject to review by the U.S. Commission of Fine Arts;
- Implementation of an all-new trash and recycling chute system throughout the building, which the building currently lacks, that will help address ongoing rodent issues in the public alley to the rear of the Property;
- Repair, restoration, and updates to existing deteriorated, damaged, and dated finishes throughout the building;
- Restoration, repair, and cleaning of the building's historic limestone façade;
- Repairs to the building's existing ventilation shaft, which currently has significant water damage, as shown in the photo on Page 4 of Record Exhibit 4;
- Installation of a new building sprinkler system;
- Installation of new security features throughout the building, including access controls, smart unit locks, and security cameras;
- Updates to the current dated building entrance, including installation of an awning; and
- Installation of a new roof observation deck to serve as an amenity and outdoor access for building residents.

As discussed in the Applicant's initial statement, and as illustrated by the above summary, the scope of work proposed for the Project, which is necessary to fully restore and rehabilitate the building, is an enormous undertaking that well exceeds the scope of a typical building renovation and requires a significant financial investment to be realized.

B. Economic Impact to the Applicant and Project Scope if the Variance Is Denied.

The serious state of disrepair, deficiencies of the existing dated critical building systems, and environmental conditions of the century-old building, as discussed in detail above, necessitate wide-ranging improvements and restoration throughout the interior and exterior of the structure. While other existing multifamily buildings in this area of the District, with which this building must compete, have remained in RA and MU zone designations that permit multifamily residential use, the R-3 zoning applied to the Property since the building's construction restricts the owner's ability to create a "value-add" in the form of a new revenue source (i.e., more units and/or larger units) to support the renovations, repairs and system upgrades that are needed to maintain a historic building and command market rents comparable to nearby buildings.

In addition to the economic impact that the Applicant faces in this case as a result of the building's heavily restricted status as a nonconforming use, the Applicant also faces a direct economic impact because the Project's financing structure significantly limits the scope of the improvements the Applicant will ultimately be able to implement to rehabilitate the building if the additional four cellar units are not permitted. It is important to note that the Applicant is pursuing this Project within the context of an extremely challenging financing environment for commercial real estate, particularly in the District and especially for multifamily developments such as the

Project that would support and grow the District's undersupplied housing market. Simply put, it is extremely challenging to secure construction financing for multifamily projects in the current environment, and many long-planned developments currently face years-long delays — as evidenced by the numerous time extensions that have been processed by the Board and the Zoning Commission, which indeed only represent the projects of which we are directly aware — or in many cases have, unfortunately, been altogether canceled.

In this case, the Applicant has been able to overcome the current extremely constrained financing market and has secured a loan to move the Project forward immediately. The Project's financing was obtained despite local and regional lenders, which are the typical lenders for developments of this type and size, pausing lending activity across the board in DC since 2025. After casting a wide net through its broker for financing through the debt fund market, as an alternative to the traditional local and regional lending market, the Applicant received only **one** loan term sheet from an interested lender for the Project. While the Applicant was fortunate to secure this financing, the Applicant had very limited control over its terms, so the financing is structured such that the financing is reduced by **over 27%** — from approximately $6.6 million to approximately $4.8 million — if the Project is not able to achieve the value-add in the form of the additional four cellar units.

The economic impact to the Applicant represented by the above financing reduction that would result if the variance is denied is direct and unequivocal, and the impacts to the scope of work the Applicant would be able to ultimately realize to fully rehabilitate the building are equally direct and clear. If the variance were not granted and the loan were reduced, Project elements that would have to be eliminated altogether or significantly scaled back include the following:

- Major reduction in the scope of electrical updates, with no increase to building power capacity, updated metering, or wiring;
- No replacement of existing windows; work limited to essential repairs only;
- Gas storage tanks left in place;
- Historic façade repairs not implemented; work limited to cleaning;
- No full roof replacement; work limited to essential repairs only;
- No full upgrade to extremely dated elevator system; work limited to essential repairs only;
- No new trash/recycling chute system; building would remain without any full building system to manage trash/recycling;
- No new building sprinkler system;
- No new roof deck amenity for residents;
- No new building entrance awning.

As evidenced by the work scope reductions outlined above, the impact to the Project would be significant if the variance to allow the four new cellar units is denied. This reduction in the Project's scope would undercut the building's full rehabilitation, which would in turn result in a lower quality building condition after the Project is complete that, moreover, would directly impact the Applicant's ability to compete with other nearby multifamily buildings and command a full and reasonable economic return on its investment in the Property, as well as directly impacting the quality of life of the residents who will live in the building after the Project is complete. Specifically, the anticipated internal rate of return, which underlies investor and lender assumptions of reasonable returns, would be reduced by an estimated approximately **37%** as a result of the loss of the four cellar units. This represents a profound negative impact on the Applicant's ability to earn a reasonable and fair return on its considerable investment to revitalize and restore this historic building.

C. No Alternative Uses for the Cellar Provide a Reasonable, Comparable Return.

As discussed in the Applicant's initial submission, there is no other use besides additional residential units to which the existing, unfinished cellar space in the building could be devoted that would create a comparable reasonable return to support the proposed comprehensive rehabilitation and modernization of the building, as contemplated by the Court of Appeals in the *Downtown Cluster of Congregations* case, 675 A.2d at 492. The Applicant studied converting the cellar space to building amenity space, as an alternative to additional residential units, but the clear ceiling height of the space, at 7.5 feet, is insufficient for building amenity space when factoring in the existing beam location and mechanical/plumbing duct work, as well as the larger plenum space for additional mechanical, electrical, and lighting facilities that would be needed for a workable larger amenity space. In addition, while the Project includes new trash and recycling facilities and new bicycle parking in the cellar level, there is still significant underutilized space remaining after accounting for these new features that can and should be put to more productive use. Further, other potential functions for the space, such as maintaining it as storage, would not provide a meaningful return on investment as does creating new units since those uses cannot generate additional revenue. This is further underscored by the Project financing structure discussed above, which recognizes the critical return value the additional cellar units represent for the Project's financial underpinnings and long-term viability.

For all the reasons stated above and in the initial submission, the Applicant faces an undue hardship under the use variance test, justifying the requested relief to permit the proposed four new units in the building's existing cellar.

II. Existing Residents and Tenant Opportunity to Purchase Act ("TOPA")

In addition to the supplemental information regarding the undue hardship element of the variance test, OP also requested information regarding the status of the existing residents in the building under TOPA. The Applicant has worked closely with the building's residents through the acquisition of the Property, and all of the current tenants have executed TOPA agreements and will be vacating the building prior to construction being initiated, with move-out payments which are currently being held in escrow by the tenants' legal counsel.

III. Waiver to Permit Late Filing

Subtitle Y § 101.9 authorizes the Board to, upon a showing of good cause, waive the 30-day filing deadline for supplemental materials under Subtitle Y § 300.15, if, in the judgment of the

Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. Here, there is good cause to permit this submission past the 30-day deadline to allow the Applicant to provide supplemental information specifically requested by OP in order to complete their review of the Application and requested variance. Further, allowing this submission into the record will not prejudice the rights of any party. In this case, the only other party to the Application is Advisory Neighborhood Commission ("**ANC**") 2D, which reviewed the Application and Project at its monthly public meetings on March 23, 2026, and April 13, 2026, and voted unanimously to support the Application. The ANC's report in support of the Application is filed at Case Record Exhibit 19. Moreover, the requested waiver to permit late-filing of this supplemental submission is not prohibited by law. Therefore, for all of the above reasons, the Applicant meets the standards for the requested waiver from the Board's rules to accept this late filing into the Record.

IV. Exhibits

- Exhibit A – Supplemental Photos
- Exhibit B – Phase I Environmental Site Assessment Report
- Exhibit C – Limited Lead Based Paint Inspection Report
- Exhibit D – Limited Pre-Renovation Asbestos Survey Report

V. Conclusion

As discussed in detail in the Applicant's initial submission, further outlined above, and evidenced in the materials submitted in the Case Record and supplemental materials attached, the Applicant fully meets the standards for a use variance in this case to permit the conversion of the existing cellar space to provide four new residential units that will enable the full rehabilitation and restoration of the existing historic building and will, furthermore, add to the District's housing stock in an area of the city where the need for new housing is especially high. For all of these reasons, the Applicant meets the standards for the requested relief and respectfully requests that the Board approve the Application.

The Applicant looks forward to presenting the Application at the public hearing on July 1, 2026. Please feel free to contact Lawrence at (202) 721-1135 or Cary at (202) 721-1113 if you have any questions regarding the Application.

Sincerely,

/s/ Cary R. Kadlecek

/s/ Lawrence Ferris

Enclosures

Certificate of Service

The undersigned hereby certifies that copies of the foregoing document were delivered by email to the following addresses on June 25, 2026.

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