

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

Application of  
IDI Water Street, L.C.

BZA Application No:  
ANC: 2E

**STATEMENT OF THE APPLICANT**

This is an application by IDI Water Street, L.C. (the “**Applicant**”) for special exception relief from the required setback for parking spaces within a structure and variance relief from the required driveway width and the required drive aisle width in connection with the redevelopment of the building located at Square 1183, Lot 813 (the “**Property**”), also known as 3401 Water Street NW. The Property is bounded by Water Street/K Street NW to the south, 34<sup>th</sup> Street NW to the east, the Key Bridge the west, and the tow path and C&O Canal to the north. The Property is located in the MU-13 Zone District and in the Georgetown Historic District, which, in addition to being a locally designated historic district, is also a National Historic Landmark. A portion of the District of Columbia Zoning Map depicting the Property is attached as Exhibit C, and a Surveyor’s plat is attached as Exhibit D.

**I.**

**Nature of Relief Sought**

The Applicant requests that the Board of Zoning Adjustment (“**BZA**” or “**Board**”) approve the following relief:

1. A special exception from the 20’ setback requirement for vehicle parking spaces within a structure set forth in Subtitle C §710.2, pursuant to Subtitle C §710.3;
2. An area variance from Subtitle C, § 711.6(a) from the minimum driveway width; and
3. An area variance from Subtitle C, §§ 712.5 and 712.6 from the minimum two-way drive aisle width.

The Project will conform to the Zoning Regulations in all other ways.

**II.**  
**Jurisdiction of the Board**

The Board has jurisdiction to grant the relief requested pursuant to Sections 900.2 and 1000.1 of Subtitle X of the Zoning Regulations (11 DCMR Subtitle X, §§ 900.2, 1000.1).

**III.**  
**Information Regarding the Property and Project**

A. Description of the Property and Surrounding Area

The Property is located in Georgetown in Ward 2 and fronts on K Street/Water Street NW. The Property measures approximately 20,320 square feet of land area according to the District of Columbia Office of Tax and Revenue and is currently improved with a two-story commercial retail building (the “**Existing Building**”). Office and residential buildings are located immediately to the east of the Property, across 34<sup>th</sup> Street. The Georgetown Waterfront is located immediately to the south of the Property, across K Street/Water Street, an overpass of the Key Bridge is located immediately to the west of the Property. The C & O Canal is located immediately to the north of the Property. The elevated Whitehurst Freeway runs along the south of the Property, with the base of the elevated roadway located at an approximately even height with the roof of the Existing Building. The Property has a significant grade change between Water Street and the rear of the Property abutting the canal. As the Property is located in the Georgetown Historic District, it is subject to the review of the Commission of Fine Arts and the Old Georgetown Board (“**OGB**”). The Project is currently undergoing concept review by the OGB.

B. Description of the Project

The Applicant proposes to construct a 7-story residential building containing approximately 54 units and incorporating the two-stories of the Existing Building, which will be

used as above-grade parking, and will contain lobby space, rental space, and residential use (the “**Project**”). The Project will reach a maximum height of 60 feet, and will have an overall FAR of 4.0. As shown on the plans enclosed herewith as Exhibit K (the “**Plans**”), the first story will contain approximately 13 vehicle parking spaces, bicycle and resident storage areas, loading facilities, and a ground floor lobby and leasable space. The first story will have a vehicular ingress and egress through a driveway opening onto Water Street. The second story will contain approximately 29 vehicular parking spaces, as well as lobby space and 3 residential units. The vehicular ingress and egress to the second story will be from a driveway on 34<sup>th</sup> Street. Due to the narrowness of the Property and to minimize additional demolition of the existing historic fabric between the first and second floors, per OGB requirements, the parking facilities on the first floor and the second floor will not be connected by an internal ramp. The 3<sup>rd</sup> through 7<sup>th</sup> stories will contain 50 residential units in total. The penthouse level will include habitable space for one residential unit as well as a pool and green roof. As shown on the Plans, the Project will retain significant portions of the Existing Building on the first and second floor and the footprint of the 3<sup>rd</sup> floor through the penthouse will be shifted slightly northward. This northward shift of the upper floors of the building will minimize the Project’s mass at the intersection of Water Street and 34<sup>th</sup> Street, which is the main location where pedestrians will experience the upper portion of the building.

#### **IV.** **Description of Relief Requested**

Subtitle C §710.2 requires that parking spaces provided within a structure must be located at least 20’ from all lot lines that abut public streets or a waterfront setback, unless the surface of the parking spaces is at least 10’ below grade at all points along the building frontage. In this case, the parking spaces in the proposed above-grade parking levels will be located within the

Existing Building's footprint, which is less than 20' from the lot lines. Therefore, the Applicant requests special exception relief from the strict application of Subtitle C §710.2 to allow vehicle parking spaces within a building to be located less than 20' from all lot lines. In addition to this special exception relief, the Applicant is also seeking variance relief related to the width of two-way driveways and the width of two-way drive aisles. As shown on sheets 10-11 of the Plans, the Project will include a 19' two-way driveway opening onto Water Street and an approximately 14' two-way driveway opening onto 34<sup>th</sup> Street. Pursuant to Subtitle C §711.6(a), a two-way driveway must be at least 20' wide, therefore, the Applicant is seeking variance relief to allow the minimal 1' width reduction in the Water Street driveway and the approximately 6' width reduction in the 34<sup>th</sup> Street driveway. Additionally, the interior drive aisle widths of the parking level will be between 16' and 16'2", which is approximately 4' narrower than the required width of two-way drive aisles set forth in Subtitle C §§712.5 and 712.6. The Applicant is requesting variance relief to allow this reduced width in the two-way drive aisles.

## V.

### **The Application Meets the Requirements for a Special Exception from the Required Vehicle Parking Setback**

Under Subtitle X, Section 901.2, in order to obtain special exception relief, the applicant must show that the requested relief will be in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps and will not adversely affect neighboring properties. Additionally, for special exception relief from the parking location restrictions set forth in Subtitle C §710.2, the applicant must demonstrate compliance with certain conditions for relief, pursuant to Subtitle C §710.3. As discussed below, the Project meets the specific conditions of Subtitle C §710.3 and the relief requested is in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps and will not adversely affect neighboring properties.

A. The Board of Zoning Adjustment shall determine that it is not practical to locate the spaces in accordance with Subtitle C § 710.2 for the following reasons:

- (1) Unusual topography, grades, shape, size, or dimensions of the lot;

As shown on the site plan included with the Plans, the Property is unusually narrow, within a minimum width of approximately 40'2" at its narrowest point. Given this unusual lot dimension, it is not practical or feasible to provide a 20' setback from lot lines for the parking spaces located within the already existing building footprint above ground. Additionally, given the Property's very narrow lot configuration (as narrow as 40'2"), there is limited area available to accommodate parking ramps connecting two levels of parking, which would be necessary for below-grade parking. Compounding the narrowness of the Property, the site cannot be reasonably excavated, due to the bedrock below grade and the necessity of maintaining support of the historic structure in the event of excavation. Furthermore, the Property is located in an area that is subject to flooding, which limits the ability to locate parking or other elements of the Project below grade. The combination of the narrowness of the site, the proximity to flood-prone areas, the footprint of the historic structure located on the site, and the bedrock below grade makes it impractical to locate the parking spaces 20' from the lot lines.

- (2) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets;

Not applicable.

- (3) Traffic hazards caused by unusual street grades; or

Not applicable.

- (4) The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better design or

landscaping, safer ingress or egress, and less adverse impact on neighboring properties.

Not applicable.

- B. The accessory parking spaces shall be located so as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve;

The requested relief results in a better design of the Project, creating two parking levels within the footprint of the existing historic building, making efficient use of the narrow lot configuration while ensuring preservation of the existing historic fabric and minimizing demolition, and providing conveniently located parking facilities for the building residents. Due to the existing site conditions, it is not feasible to set back the vehicle parking spaces 20' from the street and it is also not feasible to excavate and construct below grade parking. Without the requested parking setback relief, the area available for vehicle parking spaces would be drastically reduced. The Applicant would therefore likely require alternative special exception relief to provide necessary vehicular parking spaces, all while leaving available building space underutilized for parking facilities, simply due to the Existing Building's proximity to the lot lines. Allowing the parking spaces to be located within the Existing Building's footprint less than 20' from the lot lines will provide convenient parking facilities for the building occupants and make reasonable use of the existing historic structure.

- C. The Board of Zoning Adjustment may impose conditions as to screening, coping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property. It may also impose other conditions it deems necessary to assure the continued provision and maintenance of the spaces.

The Applicant is amenable to the Board proposing appropriate conditions beyond those described within this statement; however, the Applicant is proposing to preserve a greater portion

of the original historic façade of the Existing Building, at OGB request, and therefore any additional screening or related requirements must take these historic preservation considerations into account. Furthermore, the Applicant believes due to the preservation of the historic façade, which will significantly screen the parking, such conditions are unnecessary in this case.

D. The relief requested is in harmony with the Zoning Regulations and Maps and will not adversely affect or impact the surrounding area.

The requested relief is in harmony with the Zoning Regulations and Maps. By making use of the existing building footprint, the proposed Project will efficiently utilize and preserve the historic structure to provide required parking and loading. Additionally, utilizing the existing building footprint will enable the Applicant to retain significant elements of the historic façade, which will minimize the visibility of the parking levels and reduce the visual impact on the surrounding area. Therefore, the proposed Project does not adversely affect the surrounding area and is in harmony with the Zoning Regulations and Maps.

VI.

**The Application Meets the Requirements for Variance Relief from II) the Minimum Driveway Width, and II) the Minimum Required Drive Aisle Width**

As referenced above, the width of the Project's drive aisles and the width of the Project's driveway are narrower than the required two-way drive aisle and driveway width. The Applicant is therefore seeking an area variance from the 20' minimum driveway width set forth in Subtitle C, § 711.6(a) for and an area variance from the 20' minimum two-way drive aisle width set forth in Subtitle C, §§712.5 and 712.6. In order to obtain area variance relief, an applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition, (ii) the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and (iii) the granting of the variance will not cause substantial detriment to the

public good nor substantially impair the intent, purpose, or integrity of the Zone Plan. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972).

*A. The Property is affected by an exceptional situation or condition.*

The Court of Appeals held in *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors”. *Id.* In this case, the Property is affected by exceptional conditions based on a “confluence of factors.” First, the Project is subject to development constraints due to the historic structure on the site. In particular, maintaining the existing historic structure necessitates a reduction in the width of drive aisles and driveways since OGB has required the retention of the façade of the historic structure, which precludes enlarging exterior openings, such as driveways. Furthermore, OGB requires preserving as much of the original historic structure as possible, which includes existing columns. Retaining these existing columns in compliance with OGB requirements constrains the available space for drive aisles within the parking levels, necessitating a reduction in drive aisle width. In addition to the constraints of preserving the historic structure, the Existing Building is also impacted by the support columns for the elevated Whitehurst Freeway. As shown on the Plans, structural support columns for the freeway are located within the lot lines of the Property along Water Street, including along the proposed driveway area on Water Street, where a portion of the building has been carved out to accommodate the support column. The Property’s proximity to the Whitehurst Freeway therefore also creates an exceptional condition at the Property.

*B. Strict Application of the Zoning Regulations would result in a practical difficulty.*



To satisfy the second element for an area variance standard, the Applicant must demonstrate "practical difficulty." The D.C. Court of Appeals has established that the applicant must demonstrate that "compliance with the area restriction would be unnecessarily burdensome" and that the practical difficulty is "unique to the particular property." *Gilmartin*, 579 A.2d at 1170. The Court of Appeals has held that the "nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case." *Id.* at 1171. "Increased expense and inconvenience to applicants for a variance are among the proper factors for [the] BZA's consideration." *Id.* Some other factors that the BZA may consider are "the weight of the burden of strict compliance" and "the severity of the variance(s) requested." *Id.*

As discussed above, the Property is subject to exceptional conditions, due to the narrowness of the property, the historic Existing Building and the need to preserve the historic columns and driveway openings, as well as the connection with the Whitehurst Freeway. Widening the drive aisles and driveways would impact the existing historic façade as well as the existing historic columns in the building, in violation of OGB directives. Additionally, the location of support columns for the Whitehurst Freeway along the Water Street lot lines precludes widening the Water Street driveway to comply with the required 20' width. In addition to the significant historic preservation concerns, requiring compliant drive aisles and driveways would reduce the amount of space available for parking. As shown on sheets 10-11 of the Plans, the requested reduction in the drive aisle width will still allow the Project to provide vehicle parking spaces that are compliant with the space size and layout requirements. Requiring strict compliance with the required driveway and drive aisle width would reduce the amount of vehicular parking available for residents of the Project and make maneuvering in and out of

parking spaces in the already narrow site more difficult. Therefore, strict application of the driveway and drive aisle width requirements would result in a practical difficulty.

*C. Relief can be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the Zone Plan.*

Finally, the Applicant must demonstrate that "granting the variance will do no harm to the public good or to the zone plan." *Gilmartin*, 579 A.2d at 1167. Here, the requested variance can be granted without causing any adverse impact on the neighboring properties or to the Zone Plan. The vehicle parking levels will be only for the use of residents of the Project, and the narrower drive aisle width will therefore not impact neighboring residents or other motorists outside of the Project. The reduced width of the driveways along 34<sup>th</sup> Street and Water Street will also not cause a substantial detriment to the public good. The Applicant also notes that under Section 2117.8(c) of the 1958 Zoning Regulations, the required driveway width for two-way circulation was 14'. The Project's proposed driveway widths would therefore comply with the prior Zoning Regulations.

Due to the narrow configuration of the Property, the two parking levels are not connected by an internal ramp. Therefore, the traffic entering and exiting each parking level will be limited to the number of vehicle parking spaces on each of the two parking levels. Additionally, the Applicant is working with the District Department of Transportation on the proposed driveway curb cuts and will develop transportation policies that will mitigate any transportation impacts that may result from the proposed driveways, including designating an on-site Transportation Coordinator to monitor the transportation conditions at the site and to offer transportation-related resources to residents.

Additionally, the Project helps achieve the District goals related to housing. The Project will benefit the public by efficiently developing an underutilized parcel to provide additional

housing in accordance with the Mayor's goals to increase both the number of residents and the degree of homeownership by families in the District. Additionally, the Project furthers the goals and policies of the Zoning Regulations related to the increase of housing, especially multiple bedroom units suitable for families.

**VII.**  
**Conclusion**

For all of the above reasons, the Applicant is entitled to the special exception and variance relief requested in this case.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
John T. Epting

\_\_\_\_\_/s/\_\_\_\_\_  
Jennifer Logan