

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

Statement of Bristlecone LLC
ANC5D

BZA Application No.: xxx
Hearing Date: xxx

STATEMENT OF THE APPLICANT

This is the statement of Bristlecone LLC (the **“Applicant”**) for the special exceptions relief to construct a warehouse building along with secondary uses at 1220-1222 Mount Olivet Road NE (currently two parcels that will be combined: Square 0141, Lot 0063 and Square 0141, Lot 0074) (the **“Property”**). The Property is located within the PDR-1 Zoning District in the Trinidad neighborhood of Ward 5.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (the **“BZA”** or the **“Board”**) approves special exception relief pursuant to Subtitle J, Section 5200.1 of Title 11 of The District of Columbia Zoning Regulations to allow for the elimination of the minimum rear yard requirement yard setback above the 20-foot elevation plane, and special exception relief pursuant to Subtitle U, Section 802.1(c) and Subtitle C, Section 1501.1(d) to allow an eating or drinking establishment with live performances, a night club or a dance venue in the building’s habitable penthouse space.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested for special exceptions pursuant to Subtitle X, Section 900.2 of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY AND THE SURROUNDING AREA

The Property is located at the intersection of multiple neighborhoods: Trinidad, Ivy City, Arboretum, Gallaudet University, and Union Market. As shown in the attached Exhibit A, the Property is occupied by a one-story masonry structure and a parking lot. The site is tenanted by a tree-maintenance company that will be retained in the proposed new building program. The site is relatively flat, sloping slightly to the south, and it is immediately bordered on the north side of Mount Olivet Road NE by other one-story PDR-1 uses. Immediately to the west of the site is a boxing gym operated for the benefit of the community. To the east is another one-story brick structure that houses a commissary for two local businesses: RavenHook Bakery and Qualia Coffee. Other parcels on the block are occupied by auto repair

premises, a self-storage building, and a gas station with small in-line tenants. The block is large and extends north to encompass the DC Department of Public Works Service Yard, which is accessed from Mount Olivet Road and nearby West Virginia Avenue. Beyond these uses is the Mount Olivet Cemetery, which is bounded by Montana Avenue and Bladensburg Road to the north and east, respectively. Across West Virginia Avenue is the Ivy City neighborhood with its mix of industrial, residential, and commercial uses.

To the south of Mount Olivet Road are small commercial buildings that include a supermarket, a convenience store, a liquor store, as well as associated parking for these users. Further to the south of these buildings are small multifamily buildings and the densely patterned single-family row homes of the Trinidad neighborhood. Previously a four-lane roadway with two eastbound and two westbound lanes, Mount Olivet Road was recently redesigned with a road diet that carved out a new protected bike lane and added pedestrian islands and additional crosswalks. As part of this effort, traffic has been reduced to one lane in each direction along with a center turn lane. A vicinity map depicting the Property in relation to its surroundings and photographs of the Property and its neighboring properties is included in Exhibit A and interior photographs of the Property are included in Exhibit B.

IV. STATEMENT OF EXISTING AND PROPOSED USES

The Property is currently occupied by a small building and a parking lot and consists of two lots that are pending consolidation into one lot. The site subdivision plan of the proposed assembly is included as Exhibit C. The Applicant proposes to redevelop the Property with a new multi-level warehouse building serving as the home for the Applicant's affiliated solar installation business, as well as additional space serving as a hub for other "green" construction businesses and trades. Use of this warehouse will be complemented by secondary uses selected to add economic dynamism to the neighborhood while not undermining the building's core warehouse functionality. The building's warehouse area has a ground floor loading zone that includes parking, loading, mezzanine storage, and a freight elevator with access to warehouse storage on floors 2 and 3. The double-height loading zone will also include internal trash and recycling areas, 14 parking spaces, and designated parking for material handling equipment.

A freight elevator located near the northwest corner of the floor will permit palletized construction materials, especially palletized solar panels, to be unloaded directly from trucks onto the freight elevator or to the eastern mezzanine storage area. This freight elevator will provide material transportation to warehouse storage on floors 2 and 3, which make up the majority of each floor plate on those levels. A perspective rendering and primary street elevation are included in Exhibit D and full elevations and floor plans are included in Exhibit E.

Viewed from Mount Olivet Road NE, the loading zone has a large, aluminum-and-glass roll-up door at the center of the ground floor to facilitate deliveries by large trucks. The central bay is flanked by

masonry volumes. To the east, the brick façade and building volume behind will be constituted of the existing masonry building located on the site. This 1940s-era auto service building will be preserved and fully integrated into the new building, will serve as the new building's lobby, and will house a to-be-determined community-serving retail user. The activation of this historic building with retail responds to community feedback, specifically a desire to activate the block with uses that complement the industrial fabric. Above the historic building's footprint on the mezzanine level is a secondary retail/office space that will either serve one of the building's tenants or be directed to another community-facing use.

The primary façade material is the "Sunstyle" brand of solar shingle, which is installed in a diamond-shaped pattern. The façade will generate electricity that will contribute to the Applicant's net zero energy goal for the building. The pattern of the shingles transitions into transparent glass units on the mezzanine floor. Above, at the parapet level, the central bay's projection is likewise made of transparent glass shingles opening from behind to the green roof. This area is intended to display a company name and logo in the tradition of advertising on historic metal cornices. The proposed building's east, west, and north façades are a zero-lot line condition and thus lack windows. The east and west façades continue the materials of the south façade, but the north (rear) façade replaces the diamond-shaped shingles with conventional metal siding.

On floors 2 and 3, the project includes a "wrapper" use to activate the façade on Mount Olivet Road NE in front of the warehouse, which will consist of a total of two residential units. Organized as one unit per floor, these two units are designated as a building caretaker unit (floor 2) and an artist studio/apartment unit (floor 3). On the penthouse level, the building program includes a proposed community-serving event venue, which will be connected to a patio and green roof area in the habitable penthouse setback areas. This rooftop venue and multi-purpose space, along with the community-facing retail space on the ground level, will offer gathering space for the larger community. These features are in keeping with the feedback provided to the Applicant by community groups, and they align with the priorities identified in community and small area planning efforts undertaken by the District of Columbia's Office of Planning.

The project's design and proposed mix of uses provides business continuity for the existing tenant and is compatible with District's planning and business development efforts for the area, as outlined in the Office of Planning's *Ward 5 Industrial Land Transformation Study*, as well as the Department of Public Works' (DPW) *West Virginia Avenue Public Works Campus Master Plan*. In particular, the mix of uses and tenants aligns well with the Ward 5 Industrial Study and its principal recommendations for diversifying the economy, bolstering businesses, growing new and emerging businesses, promoting inclusive job growth, addressing nuisance issues, improving environmental stewardship and performance, providing community amenities, and creating great places and connectivity.

The project is unique in that it will achieve Net Zero (or Net-Positive) Energy performance and Passive House certification. The Passive House standard is a proven method for the design and construction of quiet, comfortable, healthy, and durable buildings. It is the only internationally recognized performance-based energy standard in construction, and it is often considered the most rigorous voluntary standard in the industry today as it can reduce energy bills by 80% compared to conventional new buildings. This project furthers the District Department of Energy and Environment's efforts to transform the District into a more sustainable city, as well as DC Green Bank's mandate to invest in inclusive prosperity for District residents, business formation, green job growth, and advanced construction approaches that promote greenhouse gas reductions and sustainability.

**V. SATISFACTION OF REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF
UNDER SUBTITLE X, SECTION 901.2 OF THE ZONING REGULATIONS**

The Applicant is seeking special exception relief pursuant to Subtitle J, Section 5200.1 to eliminate the rear-yard setback requirement above the 20-foot elevation plane. Additionally, the Applicant is seeking special exception relief pursuant to Subtitle U, 802.1c for the special exception use of an eating or drinking establishment with live performances, a night club, or a dance venue, and special exception relief pursuant to Subtitle C, Section 1501.1(d) to allow an eating or drinking establishment with live performances, a night club, or a dance venue in the building's habitable penthouse.

In order to obtain the requested relief, these special exceptions must be in harmony with the general purpose and intent of the Zoning Regulations and Maps, must not tend to affect adversely the use of neighboring properties in accordance with the Zoning Regulations and Maps, and must meet any special conditions as may be specified in the Zoning Regulations.

**A. The Requested Relief is in Harmony with the General Purpose and Intent
of the Zoning Regulations and Maps**

The general purpose and intent of the Zoning Regulations and Maps is to promote public health, safety, morals, convenience, order, prosperity, and general welfare. More specifically, the requested relief must take into consideration the character of the respective districts as well as the suitability of each district for the uses permitted, and it must be designed to encourage the stability of districts and land values (Subtitle A, Sections 101.1 & 101.2).

The project has been designed to address the underlying needs of the zone as previously discussed and thoughtfully adheres to the characteristics of the surrounding neighborhood. While the proposed elimination of the rear-yard setback above the 20-foot elevation plane would exceed the required setback

set forth in Subtitle J, Section 207.2, when applied in accordance with Subtitle J, Section 207.3), the proposed rear-yard design will have the effect of improving the character of the immediate area. Specifically, the proposed relief is consistent with the underlying purpose and intent of the PDR-1 zone in that it would optimize loading and unloading operations (Subtitle J, Section 101.2a) while minimizing the impacts of heavy trucks on the surrounding streetscape that has been redesigned by the DDOT to facilitate safer bicycle and pedestrian infrastructure while maintaining functionality for PDR-1 users.

Specifically, special exception relief related to the rear-yard setback above 20 feet would allow tractor-trailer trucks to fully unload within the building footprint and will simultaneously allow users to convey palletized materials seamlessly to warehouse floors above. Rear-yard setback relief above 20 feet will allow conveying equipment such as forklifts to load and enter the building's freight elevator on the ground floor from the elevator's north-side opening and subsequently exit from the same north-side freight elevator exit on the warehouse floors above. Preserving egress from the elevator cab on warehouse floors 2 and 3 is optimal to facilitate the unloading of large tractor trailers, as the operable east side of the freight elevator will be blocked by the parked tractor trailer during unloading.

By granting special exception relief in this case, there will be adequate space in the building volume on floors 2 and 3 in the rear of the building for a forklift to "reverse" and exit the elevator on the upper warehouse floors in the same orientation as it entered on the floor above. Without the proposed relief, there would not be adequate space north of the freight elevator on the warehouse floors to unload material from the north side of the elevator. Absent relief, the unloading of oversized solar panel pallets, with a footprint of 4 feet by 8 feet, would be bottlenecked on the ground floor. The desired unloading condition facilitated by the proposed relief, illustrating the forklift maneuver permitted by the proposed relief, is depicted in Exhibit F.

Without the proposed relief, the tractor trailer would need to be fully emptied before material could be moved to floors above, creating a material bottleneck, or the cab of the tractor trailer would need to pull forward and would protrude into the sidewalk in front of the building, which would be inconsistent with the intent of the underlying zone to facilitate unloading operations in a manner that is as seamless, safe, and efficient as possible. The most common alternative to unloading inside the building would involve street-side loading, but this is not possible due to the previously described road diet, which has reduced the number of travel lanes to one in each direction.

With respect to the Applicant's request for special exception relief pursuant to Subtitle U 802.1(c) for the use of an eating or drinking establishment with live performances, a night club, or a dance venue and related special exception relief related to this use's location in the building's habitable penthouse and (Subtitle C, Section 1501.1(d)), the proposed use and location within the building also does not conflict with the general purpose and intent of the zoning.

Pursuant to Subtitle J, Section 101.2, the provisions of the zone are intended to allow compatible retail uses and development and to manage transitions between PDR-zone areas and surrounding neighborhoods. The intent of this section is well-served through the provision of this use in a zone that does not include many community-serving retail or other public-facing amenities or gathering spaces, particularly when considering the minimization of impacts related to the physical separation between the project site and residential uses.

The harmoniousness of the proposed penthouse's use is further supported by planning documents including the Office of Planning's Ward 5 Works: *Ward 5 Industrial Land Transformation Study*, which as previously described calls for appropriate community-serving uses and businesses within the zone. The distance between the proposed penthouse uses and the surrounding uses is presented in Exhibit G wherein photos depict the views of the surrounding neighborhood as photographed from the elevation of the proposed Property's 50-foot roof elevation.

B. The Requested Relief Will Not Tend to Adversely Affect the Use of Neighboring Property

With the exception of the proposed relief for the rear-yard setback, the overall layout and building form of the proposed design maintains all required setbacks from neighboring properties and rights-of-way and was carefully designed to minimize potential adverse impacts on neighboring properties such as blocking of sunlight. In keeping with the established characteristics of the surrounding area, the subject will not create adverse impacts on neighboring properties. By facilitating loading and unloading entirely within the building's ground floor volume, the proposed relief will reduce congestion in the public right-of-way, reducing impacts of loading activities on neighbors as compared to a scenario when no special exception is granted.

With respect to the proposed relief related to the use of an eating or drinking establishment with live performances, a night club, or a dance venue and special exception relief related to proposed location within the building's habitable penthouse, the proposed use and location do not conflict with the general purpose and intent of the zoning regulations. In addition to the thoughtful minimization of loading impacts previously described, the neighboring properties, which include convenience stores and light production, distribution, and repair users, are unlikely to suffer adverse impacts from the proposed eating or drinking establishment as these businesses have ample off-street parking. The provision of community-serving retail opportunities that co-exist with industrial uses is also consistent with the *District Public Works Department Campus Master Plan* for the large neighboring property that calls for ground-floor-level spaces that "feature dynamic and transparent indoor spaces" that mirror the project's large, transparent ground-floor garage bay

and historic building lobby. The Master Plan further calls for integration of retail and other spaces into the core industrial uses, calling for “a limited amount of community-serving retail opportunities” in what is identified as “an under-served part of the District.” Care has been taken in the proposed building program to exceed the required vehicle parking, bike parking, and loading berths provided in such a manner as to ensure that any impacts from their uses will be reduced. It is noteworthy that while the project has provided required parking for all uses without utilization the provision for shared parking between uses, as described in Subtitle C, Section 701.9, the building will execute parking sharing in practice, thus enabling further reductions in vehicle impacts beyond meeting minimum requirements.

C. Requested Relief Will Meet Special Conditions as May Be Specified in This Title

With respect to special exception relief for the rear-yard setback, Subtitle J provides for no additional special conditions that must be satisfied. With respect to the proposed special exception relief pursuant to Subtitle U, 802.1c relating to the special exception use of an eating or drinking establishment with live performances, a night club, or a dance venue in the PDR-1 zone, the proposed development was designed to comply with the special conditions outlined in Subtitle U, Section 802.1c parts 1-4, which outline four limitations on this use in the RDR-1 zone.

The first of these limitations relates to ensuring that the use is located and designed such that it is not likely to become objectionable to neighboring property owners because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions. The project has been thoughtfully designed using best design practices to limit or eliminate these impacts. With respect to noise, the proposed use is located on the penthouse level, which is designed with Passive House wall and ceiling assemblies, which by virtue of their airtightness also reduce sound transmissance to levels significantly lower than standard new construction assemblies. Recent first-person reporting on the inherent sound-proofing benefits of Passive House construction in urban conditions is included in Exhibit H as a reference. In an effort to further minimize the impacts, the proposed development has more vehicle parking, bicycle parking, and loading berths than are required by the statute for the specified areas and uses, Subtitles C, Sections 701.5, C 802.1, and 901.1, respectively, as depicted in Exhibit I.

In an effort to further minimize the impacts, as previously described, while the provision of parking space sharing between uses is not required for compliance with minimum parking requirements, however in operation the available parking and loading available for the penthouse use will be higher given that the spaces that are designated for warehouse use will be unoccupied in the evening hours when demand for parking by the penthouse use is projected to be at its highest.

In alignment with design best practices, waste collection and disposal are provided by an enclosed trash and recycling room that is internal to the first-floor building volume and that is not visible from the street. In addition to the interior location that reduces the nuisance of pests, the trash and recycling space includes functionality and equipment intended to minimize the frequency and volume of waste collection, including a cardboard bailer and the recycling stream waste diversion of copper, aluminum, and steel via designated bins. Disaggregation of the commercially recyclable metals allows more compact storage of these materials and lower frequency for trash collection.

With respect to noise on the rooftop and the rooftop patio formed by the setbacks surrounding the penthouse, which will be accessible for users of the penthouse space, the roof area will be separated from the interior by an insulated Passive House-rated door, and the roof will be substantially occupied by a green roof that also acts to attenuate sound emanating from space users and will restrict the capacity of the roof. In an effort to lessen the impacts of rooftop users, the rooftop landscape plan is designed as a series of smaller gathering spaces connected by paths rather than a large open area, as depicted in Exhibit J.

Under the building code, the occupancy limits of these spaces for an assembly use are limited to 204 persons between the interior and exterior roof spaces, which is the occupant loads supportable with the two provided egress stairs. Briefed on the proposed building program and all uses, the adjacent commercial users have raised no objections to date in discussions related to the penthouse or other uses.

The second limitation of this use is that the Property will not abut a residential use or a residential zone, which it does not.

The third limitation is that no property can contain a similar use in the same square or within a radius of 1,000 feet. There is no such use within this area as demonstrated in Exhibit K.

The fourth limitation is that no external performances or external amplification are permitted, and none are included in the proposed design.

The fifth limitation relates to additional requirements that may be imposed by the Board at its discretion to protect adjacent or nearby residential properties, including soundproofing, limitations on hours of operations, and expiration of the duration of the special exception approval.

With respect to special exception relief pursuant to Subtitle C, Section 1501.1(d) relief to allow an eating or drinking establishment with live performances, a night club or a dance venue in the building's habitable penthouse, no additional special conditions are specifically identified in the section.

VI. CONCLUSION

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

Respectfully submitted,

John Miller