

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

Application of  
Mamatoto Village, Inc.

BZA Application  
ANC 7C

**STATEMENT OF THE APPLICANT**

This statement and the attached documents support the application of Mamatoto Village, Inc. (herein referred to as “**Mamatoto**” or the “**Applicant**”) for variance relief from the floor area ratio (“**FAR**”) requirements and special exception relief from the long-term bicycle parking requirements to permit construction of a two-story plus penthouse addition to Mamatoto’s existing building at 4315 Sheriff Road NE (Square 5096, Lot 45) (the “**Property**”). The requested variance and special exception relief will permit Mamatoto to expand its educational and job-training offerings in maternal health as well as add birthing suites and clinical services, all of which will enhance and support the health of Black women and their families in the District. The Property is in the MU-3A Zone District.

**I. NATURE OF RELIEF SOUGHT**

The Applicant requests that the Board of Zoning Adjustment (the “**Board**”) approve various relief from the following sections of the 2016 Zoning Regulations of the District of Columbia, Title 11 of the District of Columbia Municipal Regulations (the “**Zoning Regulations**”): variance relief pursuant to Subtitle X § 1000.1 from the FAR requirements of Subtitle G § 201.1, special exception relief from the long-term bicycle parking requirement pursuant to Subtitle C § 807.2 and Subtitle X § 900.1, and special exception relief from the penthouse setback requirement pursuant to Subtitle C § 1506.1 and Subtitle X § 900.1.

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

The Board has the authority to grant the variance and special exception requested in this application pursuant to the Zoning Act of 1938, D.C. Code § 6-641.07 et seq., and Subtitle X §§ 900.1 and 1000.1 of the Zoning Regulations.

## **III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA**

The Property is located in the 4300 block of Sheriff Road NE, approximately two blocks east of Minnesota Avenue NE, and consists of approximately 9,000 square feet of land area. The Property is improved with a one-story building (“**Building**”) that occupies approximately 5,416 square feet of area. The Building is set back from the north, west, and south property lines. The rear of the Property contains surface parking for approximately nine vehicles.

The Property is located at the western end of the Sheriff Road corridor and fronts onto Sheriff Road to the north. To the immediate west of the Property is a recently constructed three-story residential building, and further to the west is a wine wholesaler that is located in the PDR-1 Zone District. To the east of the Property is a two-story building with commercial use on the ground floor. To the rear of the Property is a 15-foot-wide public alley, and across the alley to the south are two-story residential buildings in the R-2 Zone District.

With respect to accessibility, the Property is well served by multiple modes of public transportation. The Property is located approximately 0.5 miles from the Deanwood and Minnesota Avenue Metrorail stations, 0.4 miles of the C31 and C35 Metrobus routes, and 150 feet from a Metrobus stop on Route C33. There is also a Capital Bikeshare station within 0.25 miles of the Property.

#### IV. **BACKGROUND AND PROJECT DESCRIPTION**

##### The Applicant

Dr. Aza Nedhari and Cassietta Pringle founded Mamatoto in 2012 with the mission of offering safe, compassionate, and inclusive care for Black women and their families residing in District's Wards 7 and 8 and neighboring Prince George's County.<sup>1</sup> Mamatoto identified these communities as areas of particular need because from 2019 to 2023, 90% of maternal deaths in the District were of Black women, of which 70% were women from Wards 7 and 8.<sup>2</sup> To address these disparate maternal outcomes, Mamatoto provides its clients, during their pregnancies and through three months postpartum, services such as health education, social support, resource navigation, home visiting, food and nutrition services (including grocery deliveries), mental health counseling, lactation guidance and consultations, and postpartum support. To date, Mamatoto has served over 2,400 women with an average of 300 per year. Additionally, Mamatoto strengthens and diversifies the local perinatal health workforce by training women and birthing people to become community-based health and human service providers. Since the training program's launch, over 200 women have become physicians, midwives, doulas, licensed social workers, and board-certified lactation consultants.

In 2020, Mamatoto acquired the Property where it hosts its counseling, educational, and job-training activities. Mamatoto seeks to expand its presence east of the Anacostia River by scaling up its workforce, services, and programming and engaging deeper into community-driven perinatal solutions, and to do so, Mamatoto needs to grow the space from which it

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<sup>1</sup> Black women experience disproportionately negative maternal health outcomes. In the United States in 2020, 34% of the women who died during or after pregnancy were Black despite Black persons representing just 12.1% percent of the population. See Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2020*, National Center for Health Statistics, <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2020/maternal-mortality-rates-2020.htm#Table> (February 23, 2022); Kenneth Johnson, *New Census Reflects Growing U.S. Population Diversity, with Children in the Forefront*, Carsey School of Public Policy, <https://carsey.unh.edu/publication/new-census-reflects-growing-us-population-diversity-children-forefront> (October 6, 2021).

<sup>2</sup> District of Columbia Perinatal Quality Collective, <https://dcpqc.org/> (last visited Oct. 10, 2025).

operates. Although it has been at the Property for only five years, Mamatoto has become an anchor in Ward 7, and permanence in the neighborhood will allow clients and trainees to receive services and training in a familiar and stable location.

### The Proposed Project

Mamatoto proposes to fully renovate the Building and add two stories and a penthouse to the existing one-story structure (the “**Project**”). The purpose of the Project is to modernize the Building and create educational, programmatic, office, and medical spaces to accommodate Mamatoto’s current and future needs. The primary goal of the Project is to build a single facility from which Mamatoto can deliver all its services and programming, which will enhance staff cohesion, organizational efficiency, and client and trainee convenience.

As shown on the schematic plans for the Project attached as **Exhibit E** (the “**Plans**”), the first floor of the Project includes a reception area and storage space as well as classrooms, simulation labs, and a small kitchen to support Mamatoto’s health workforce training program. The second floor provides private office spaces and conference rooms for the organization’s staff; there are also open workstations that can be used by staff, trainees, or clients. On the third floor are birthing suites, examination rooms, and other uses necessary for Mamatoto to provide pregnancy and childbirth medical care and services. A small outdoor terrace, located adjacent to the birthing suites, will further support these spaces. The penthouse level includes additional offices, a conference room, and an employee lounge.

The proposed mix of office and medical care uses are permitted as a matter of right in the MU-3A Zone, and the Project generally complies with the MU-3A area requirements as well. At 36 feet and three stories tall, the Project falls within the 40-foot, three-story height limit for the MU-3 Zone. The Project also maintains a compliant 20-foot rear yard and compliant 6.85-foot side yard, and the overall lot occupancy of approximately 65% is within the 100% lot occupancy

permitted for nonresidential uses. Relief from the FAR requirements, however, is required to accommodate the Project. The Project FAR is approximately 1.97, which exceeds the 1.0 FAR limit for a nonresidential use in the MU-3A Zone.

The Project includes a habitable penthouse to accommodate some of the Project's program needs. The penthouse is set back from the north, west, and south façades, and it is set back from the east façade except along the third-story terrace, necessitating special exception relief from the setback requirements. The Project also complies with the Zoning Regulations' parking and loading requirements, though special exception relief is requested from the long-term bicycle parking requirements.

**V. THE APPLICATION MEETS THE REQUIREMENTS FOR AREA VARIANCE APPROVAL UNDER SUBTITLE X § 1000.1 OF THE ZONING REGULATIONS**

The burden of proof for an area variance is well established. The applicant must demonstrate that: (i) the property is affected by an exceptional or extraordinary situation or condition; (ii) that the strict application of the Zoning Regulations will result in “peculiar and exceptional practical difficulties” for the property owner; and (iii) that the granting of the variance will not cause substantial detriment to the public good or substantially impair the intent, purpose or integrity of the zone plan. See, e.g., D.C. Code § 6-641.07(g)(3); Gilmartin v. D.C. Bd. of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990). As set forth below, the Applicant meets the three-part test for the requested variance from the MU-3A Zone District FAR requirements of Subtitle G § 201.1.

Additionally, when the property owner seeking a variance is a public service or non-profit entity, the Board may be more flexible in deciding whether to grant the request, “especially where the organization is seeking the zoning relief in order to meet a public need or serve the public interest.” Neighbors for Responsive Gov't, LLC v. D.C. Bd. of Zoning

Adjustment, 195 A.3d 35, 56 (D.C. 2018). Referred to as “public good flexibility,” this doctrine recognizes that “the public need for the use is an important factor in granting or denying a variance.” Monaco v. D.C. Bd. of Zoning Adjustment, 409 A.2d 1067, 1098 (D.C. 1979) (citation omitted). Consideration of the public need is strong enough that public good flexibility may be applied in a joint application for a variance by a not-for-profit entity and a for-profit organization. See McDonald v. D.C. Bd. of Zoning Adjustment, 291 A.3d 1109, 1126 (D.C. 2023) (affirming Board’s application of public good flexibility to joint application for church and assisted living facility by non-profit in partnership with for-profit organization).

***A. The Property is Affected by an Exceptional Situation or Condition***

The first prong of the variance test requires a property owner to show that extraordinary or exceptional conditions affect the subject property. These conditions do not need to inhere in the land itself and may arise from a confluence of factors. See Clerics of St. Viator v. D.C. Bd. of Zoning Adjustment, 320 A. 2d. 291 (D.C. 1974) (holding that the exceptional situation or condition standard goes to the property, not just the land); Gilmartin, 579 A.2d at 1167 (concluding it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property). It is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood. See Gilmartin, 579 A.2d at 1167.

In Monaco, the Board extended the exceptional condition beyond the land or improvements to also include the needs of an organization devoted to public service which seeks to upgrade and expand its existing inadequate facilities. See Monaco, 407 A.2d at 1099; Neighbors, 195 A.3d at 55. Nonprofit organizations that are eligible for public good flexibility may demonstrate that its needs are an “exceptional condition” by showing: “(1) that the specific

design it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (2) precisely how the needed design features require the specific variance sought.” McDonald, 291 A.3d at 1124 (citing Draude v. D.C. Bd. of Zoning Adjustment, 527 A.2d 1242, 1256 (D.C. 1987)). Since Monaco, application of the Court’s doctrine of “public good flexibility” has been extended beyond government-adjacent entities to a social service center, university hospital, houses of worship, a continuing care retirement facility, and other organizations serving a public need. See id., at 1124.

Here, the size of the existing lot, configuration of the existing building on the lot, and Mamatoto’s need to upgrade and expand its facilities to serve a public need, all combine to create a unique condition. Mamatoto owns the Property in question, which it purchased specifically because it is located within and proximate to the communities it serves. Factors such as residential segregation, suitable transportation, and “[q]uality access to health care, especially in terms of physical proximity,” contribute to racial disparities in maternal health,<sup>3</sup> and by locating itself within the Deanwood neighborhood, Mamatoto increases visibility and awareness of and direct access to perinatal and maternal health resources for those in need. Mamatoto providing maternity centers and clinical support within the Ward 7 and Ward 8 overcomes structural barriers to equitable health care, which is considered to be an “effective

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<sup>3</sup> “Listen to the Whispers before They Become Screams: Addressing Black Maternal Morbidity and Mortality in the United States,” National Institutes of Health, February 3, 2023, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC9914526/>; see also “Working Together to Reduce Black Maternal Mortality,” Centers for Disease Control, April 8, 2024, <https://www.cdc.gov/womens-health/features/maternal-mortality.html>; “How Can We Solve the Black Maternal Health Crisis?” Johns Hopkins Bloomberg School of Public Health, May 12, 2023, available at <https://publichealth.jhu.edu/2023/solving-the-black-maternal-health-crisis>

method of providing more access to care and resources to mitigate maternal mortality” and “greatly impact maternal health in Black communities.”<sup>4</sup>

Mamatoto acquired the Property because it was approved for the use and met the needs of the organization at that time—perinatal counseling, educational, and job training activity with back-of-house office space to support those uses. At 9,000 square feet, however, the lot is relatively small for medical care use, which triggers additional life safety and means of egress<sup>5</sup> as well as operational requirements that require both horizontal area and, in the case of a multistory building, vertical circulation requirements. The Property is already improved with an existing building that Mamatoto will maintain and extend vertically; in doing so, however, Mamatoto must work with the small footprint of the existing building, which creates inefficiencies related to medical care requirements that will be discussed in greater detail below and give rise to the need for relief.

***B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty***

To satisfy the second element for an area variance, the appropriate test is whether the strict application of the zoning regulations results in a “practical difficulty.” In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in Palmer v. D.C. Bd. of Zoning Adjustment, 287 A.2d 535, 542 (D.C. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of

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<sup>4</sup> “Listen to the Whispers before They Become Screams: Addressing Black Maternal Morbidity and Mortality in the United States,” National Institutes of Health, February 3, 2023, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC9914526/>.

<sup>5</sup> See, e.g., “Health Care Occupancies and NFPA 241, National Fire Protection Association (“NFPA”) February 22, 2024, available at <https://www.nfpa.org/news-blogs-and-articles/blogs/2024/02/22/health-care-occupancies-and-nfpa-241>; “Basics of Suites in Health Care Occupancies,” NFPA, June 11, 2021, available at <https://www.nfpa.org/news-blogs-and-articles/blogs/2021/06/11/basics-of-suites-in-health-care-occupancies>; “Means of Egress in Health Care Suites,” NFPA, December 11, 2019, available at <https://www.nfpa.org/news-blogs-and-articles/blogs/2019/12/11/means-of-egress-in-health-care-suites>.



each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” Tyler v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1365 (D.C. 1992) (citing Gilmartin, 579 A.2d at 1167). To demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

It is well settled that the Board may consider “a wide range of factors in determining whether there is an “unnecessary burden” or “practical difficulty.” “Increased expense and inconvenience to applicant for a variance are among the factors for Board’s consideration.” Gilmartin, 579 A.2d at 1171 (citing Barbour v. D.C. Bd. of Zoning Adjustment, 358 A.2d 326, 327 (D.C. 1976)); see also Tyler, 606 A.2d at 1367. Other factors to be considered by the Board include: “the severity of the variance(s) requested;” “the weight of the burden of strict compliance;” and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171.

As with the first prong of the variance test, the Board may also apply the Court’s public good flexibility doctrine to the second prong of variance test. See e.g., St. Mary’s Episcopal Church v. D.C. Zoning Comm’n, 174 A.3d 260, 271 (D.C. 2017) (applying doctrine to second “practical difficulties” prong”), McDonald, 291 A.3d at 1125 (“By statute and case law, the first and second prongs of the general test for a variance are clearly connected; the identified exceptional conditions are relevant because they create ‘practical difficulties’ for the applicant that the requested variances would alleviate.”). In Monaco, the Court articulated the following standard for public institutions seeking variance relief based on institutional necessity:

- The organization must show that “the specific design it wants to build constitutes an institutional necessity, not merely the most desired of various options;” and

- The organization must show “precisely how the needed design features require the specific variance sought.”

Draude, 527 A.2d at 1256 (summarizing the Monaco test). Notably, the Draude court concluded that evidence that conformance with the Zoning Regulations would require significant reductions in floor area would support variance relief.

Here, the strict application of the FAR limit to the Project creates a practical difficulty for Mamatoto to accommodate its needs on the Property. The size and design of the Project is driven by Mamatoto’s need to expand its existing perinatal counseling, educational, and job training programming and extend into clinical services within the communities it serves. Strict compliance with the FAR significantly limits and negatively impacts Mamatoto’s ability to address these programmatic needs. Accordingly, variance relief is justified under the Monaco test.

i. Mamatoto’s Institutional Needs

As discussed above, Mamatoto’s operations focus on providing its perinatal health services within the neighborhoods it seeks to serve, which is necessary to overcome both structural challenges impacting maternal health within communities of color as well as functional needs that require such services to be in close proximity to those communities. Mamatoto has identified that in order to meet current and anticipated future demand, it must expand both its existing educational offerings and extend its operations to include clinical services. This, in turn, requires additional building area for classroom and other program space, new building area for clinical space, and expanded area for office operations to support both its existing activities and future medical functions.

Without the requested relief, Mamatoto would be forced to try to find new space elsewhere. Mamatoto’s mix of institutional and clinical uses require nonresidential zoning and

while Wards 7 and 8 feature a number of corridors and nodes with such zone, many are higher-density mixed-use or PDR zoning that are not as centrally located within and adjacent to a neighborhood as its current location, and they are often separated from residential neighborhoods by highways, rail corridors, and other physical obstacles. Other lower-density mixed-use zones might be more proximate to residential neighborhoods but most of the lots are smaller lots that would require an assemblage to achieve the size and scale required to accommodate Mamatoto's programmatic needs and clinical operations. Even on larger lots, the multi-story development and associated code requirements would still face the same challenges as the current site.

ii. Building Layout-Driven Practical Difficulty

The floor area challenges for the Project arise from the confluence of Mamatoto's program needs with the size of the Property, the footprint of the existing building and the code requirements for Mamatoto's uses, all of which combine to create a practical difficulty in complying with the FAR limit in the Zoning Regulations.

**Footprint of the Existing Building:** The Property is currently improved with a one-story building that has a footprint of approximately 5,400 square feet, or about 60% of the 9,000 square-foot lot. The Building is set back approximately three feet from the front lot line, approximately seven feet from the side lot line, and approximately 24 to 32 feet from the rear lot line.

A horizontal additional is impractical for the following reasons.

- For one, while the MU-3A Zone theoretically allows a nonresidential building to occupy 100% of the underlying lot, this would require locating parking underground. Underground parking would require an incredibly expensive and challenging excavation under the Building, only to create an incredibly inefficient parking garage due to the ramping and circulation requirements that would eat up much of the floorplate.

- For another, this would require extending the building outward into its existing yards and setbacks. While this is possible from a zoning perspective,<sup>6</sup> it is practically infeasible, because the existing structural support associated with the existing exterior walls and foundation must be maintained, resulting in such expansion space being narrow and largely unusable.
- Finally, even if underground parking and horizontal expansion were feasible, the MU-3A Zone requires a 20-foot rear yard. Even after taking advantage of the provision that allows for the rear yard to be measured from the center line of the alley for the first 20 feet of building height, this still results in a 13.5-foot rear yard—too shallow for surface parking, yet still leaving 15% (1,350 square feet) of the lot as undevelopable because it must remain unoccupied.

Put another way, notwithstanding the theoretical 9,000 square feet of gross floor area (“GFA”) to which the Property is entitled, technical zoning constraints limit the footprint to no more than 7,650 square feet of GFA and practical considerations limit the Property to the 6,100 square-foot footprint corresponding to the existing Building.<sup>7</sup>

Therefore, expanding the structure to accommodate Mamatoto’s program can only be accomplished by expanding the building vertically. With a vertical addition, however, comes code requirements for vertical circulation such as elevators and stairways as well as other core functions. Because these core elements, when combined with corridors and other horizontal circulation elements within each floor (e.g., access to the stairs and elevator), require a substantial amount of the Building floor area, the “core” takes away valuable space that can be devoted to programming and medical and office use.

The Project’s Building core occupies, on average, approximately 29% of the Building footprint. This is significantly larger than the core factor in a typical small commercial office or

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<sup>6</sup> The MU-3A Zone does not have a front setback or side yard requirement, and the rear yard requirement is 20 feet, as measured from the center line of the alley, which amounts to 13.5 feet from the rear property line.

<sup>7</sup> This represents a slight increase in footprint from the existing building, but it is solely attributable to the second stairway required to accommodate egress from the upper floors.

residential building, which is usually around 20%. As a result, the Applicant is left with an average useable floor area of approximately 4,300 square feet on the two office floors and approximately 3,750 square feet on the medical care floor, which totals to approximately 12,395 square feet (or 1.37 FAR). Put another way, the core requirements combine with the Building footprint to create the practical difficulty that requires variance relief from the FAR requirements. (Also note that while the inclusion of a penthouse level allows for some additional program area, the penthouse level, with a core factor of 47%, is extremely inefficient both because of the even smaller footprint and the need to incorporate mechanical space, and thus cannot make up for the inefficiency of the lower levels.)

For all the reasons set forth above, the requested variance from the FAR requirements is entirely driven by Mamatoto's institutional needs for program area located within the communities it serves, the size of the Property (which drives the need to maintain existing surface parking), the existing building location (which leaves yards around the Building that cannot be easily recaptured) and the small building footprint (which creates an unusually inefficient building with proportionally large core areas).

***C. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose, and Integrity of the Zone Plan***

The requested variances can be granted without causing substantial detriment to the public good and without substantial impairment to the intent, purpose, and integrity of the Zone Plan. See Gilmartin, 579 A.2d at 1167. The requested variance relief will also not impair the intent, purpose, and integrity of the Zone Plan. Pursuant to Subtitle A § 101.1, the Zoning Regulations establish the minimum requirements for the promotion of the public health, safety, morals, convenience, order, and general welfare to: (i) provide adequate light and air, (ii) prevent undue concentration of population and overcrowding of land, and (iii) provide distribution of

population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.

The FAR variance will not cause substantial detriment to the public good or compromise the Zoning Regulation's ability to achieve the purposes stated above. First, the Project otherwise complies with lot occupancy, yard, height, and other bulk restrictions, so the Project will not unduly affect light and air around the Property. Second, as discussed above, the FAR relief is primarily to accommodate the inefficiencies associated with the size of the existing lot, the footprint of the existing Building, and the code requirements for the anticipated uses. Third, as an institutional use, Mamatoto fits into the category of uses that are equally appropriate within residential and commercial areas, particularly given that its focus is providing health care and health care-related education and job training activities. Locating the use within and adjacent to the neighborhoods it serves expands access to these vital services and thus would serve the public good.

**VI. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL  
EXCEPTION RELIEF UNDER SUBTITLE C § 807.2 AND SUBTITLE X  
§ 900.1 FROM THE LONG-TERM BICYCLE PARKING  
REQUIREMENTS**

Pursuant to Subtitle C § 802.1, the minimum required number of long-term bicycle spaces adjacent to the Project is eight spaces. The Applicant requests special exception from this requirement pursuant to Subtitle C § 807 to provide no long-term bicycle spaces, as such spaces would eat up important program area within an already-constrained site. For the reasons set forth below, the Project satisfies the special exception standards for relief from the long-term bicycle parking requirements.

**A. *Provision of the required number of long-term bicycle spaces would be impractical due to the shape or configuration of the site. (Subtitle C § 807.1)***

The Project does not have an underground garage, which is where long-term bicycle parking rooms are typically located. This means that any long-term bicycle parking would need to be located within the Project. Providing a long-term bicycle parking room within the Building is impractical and inefficient given the already-constrained footprint and need for mission-critical program space, as is discussed in detail above.

**B. *The use or structure will generate demand for less bicycle parking than the minimum bicycle parking standards require, as a result of: (i) the nature of the use or structure; (ii) land use or topographical characteristics of the neighborhood that minimize the need for required bicycle parking spaces; and (iii) a transportation demand management plan approved by District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval, that will result in demand for less long-term bicycle parking than the minimum bicycle parking standards require. (Subtitle C § 807.2(b))***

The Applicant will identify locations for short-term bicycle parking to meet the bicycle parking needs for employees who choose to cycle to the Project.

**C. *The relief requested is proportionate to the reduction in bicycle parking demand demonstrated and limited to the amount of relief is necessary and cannot reasonably be provided on the site. (Subtitle C § 807.3)***

While the request is to provide no long-term bicycle parking, this is because there is no reasonable way to provide a long-term bicycle parking room at the Property.

**D. *The relief requested is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. (Subtitle X § 901.2(a))***

The relief from the minimum required long-term bicycle spaces is in harmony with the general purpose and intent of the Zoning Regulations. While the Project is not required to provide any short-term bicycle parking spaces, the Applicant will identify locations for bicycle racks outside of the Project to accommodate bicycle parking demand.

- E. The relief requested will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. (Subtitle C § 901.2(b))*

As previously explained, the relief requested will not tend to adversely affect neighboring property because the short-term bicycle parking will accommodate demand.

**VII. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF FROM THE PENTHOUSE SETBACK REQUIREMENTS**

The Applicant requests special exception relief from the requirements of Subtitle C § 1504.1(d) to allow for the construction of a roof structure that is not set back from building walls that border an open court. To obtain the requested relief under Subtitle C § 1506.1:

- (a) The special exception must be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and must not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;
- (b) The Applicant must demonstrate that reasonable efforts were made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setback; and
- (c) The Applicant must demonstrate at least one 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;
  - (2) the relief requested would result in a better design of the penthouse or rooftop structure without appearing to be an extension of the building wall;
  - (3) the relief requested would result in a penthouse or rooftop structure that is visually less intrusive; or
  - (4) operating difficulties such as meeting D.C. Construction Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly, or unreasonable.



Here, the Applicant meets the burden of proof because the strict application of the setback requirement creates an unreasonable burden on the Applicant's efforts to construct a habitable penthouse yet also provide an important outdoor terrace for its birthing suites.

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

The general purpose and intent of the Zoning Regulations and Zoning Maps is to promote the public health, safety, morals, convenience, order, prosperity, and general welfare. Subtitle A § 101.1. The relevant sections of the Zoning Regulations provide guidelines by which the Board may evaluate whether a special exception should be granted.

By and large, the penthouse meets the setback requirements from all primary exterior walls. The creation of a third-floor terrace adjacent to the birthing suites along the Project's east wall, however, creates an open court from which a penthouse is ordinarily required to be set back. This area of relief is minor and is located at the rear of the Property where it is least visible. The nature of the court, while nominally an open court because it opens onto a rear yard that then opens onto the alley, is more closely aligned with a closed court, from which setback relief is not required. Further, but for the open court, the penthouse could actually be constructed all the way to the side lot line because a setback is not required adjacent to a side building wall that abuts property with the same matter-of-right building height. Therefore, allowing relief from the setback requirements for the limited portion of the penthouse adjacent to the third-floor terrace is consistent with the intent of the Regulations.

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

The relief is minor and will not adversely affect the use of neighboring properties. The penthouse is set back from the property line. Put another way, the relief does not result in a

penthouse that is any closer to the neighboring property than what could be constructed without the third-floor terrace.

***C. The Applicant Made Reasonable Efforts for Mechanical Equipment, Stairway, and Elevator Penthouses to be in Compliance with Setback Requirements.***

The mechanical equipment and stairway and elevator penthouses are all located on the western side of the penthouse and fully comply with the setback requirements.

***D. Strict Application of the Setback Requirements of Subtitle C, Chapter 15 is Unreasonable.***

The Applicant requests special exception relief from Subtitle C § 1504.1(d) because strict compliance is unreasonably restrictive. As discussed above, the relief is solely a function of the creation of the third-floor terrace; but for that, the penthouse could be constructed all the way to the eastern side building wall. Therefore, it is unreasonable to mandate a setback because of the Applicant's need to incorporate outdoor space to support its programming.

Strict application of the setback requirements would require the Applicant to either further set back the penthouse or forego the third-floor terrace. The penthouse is already incredibly inefficient with only 53% of the footprint being devoted to program area. A further setback would result in a very inefficient penthouse and limited amount of habitable space. The small footprint of the Building means that there is no place to relocate the outdoor terrace and still maintain a compliant setback, and so, strict compliance would mean that the Applicant eliminate the terrace altogether.

## **VIII. COMMUNITY OUTREACH**

The Applicant has reached out to representatives of ANC 7C through a number of approaches regarding the proposed Project but has not been able to connect to date. The Applicant will reach out to its immediate neighbors, and again to ANC 7C, concurrently with the filing of this application. Prior to the public hearing, the Applicant will seek formal support from

ANC 7C on the variance relief being requested in this application and update the Board on such efforts.

## **IX. WITNESSES AND TESTIMONY OUTLINES**

At the public hearing, the Applicant will present testimony from the following witnesses:

### **1. Dr. Aza Nedhari**

- History of Mamatoto Village
- Summary of operations and programs
- Project requirements / goals

### **2. Duncan Lyons, Architect, Gensler**

- Overview of the Property
- Summary of primary design influences / constraints
- Summary of building program, circulation, and architectural design

## **X. APPLICANT'S PRESENTATION**

The Applicant requests 45 minutes to present the Project and address the relevant standards of review for the requested variance and special exception relief.

## **XI. EXPERT WITNESSES**

The Applicant proffers Duncan Lyons as an expert in architecture. A copy of Mr. Lyons' resume is included as **Exhibit G.**

## **XII. CONCLUSION**

For all the above reasons, the Applicant respectfully requests the Board approve the requested variance and special exception relief in this case. We look forward to presenting the application to the Board at an upcoming public hearing.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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David Avitabile

Cindy Vong\*

*\*Admitted in Massachusetts only. Application  
submitted for admission to the D.C. Bar. Supervised  
by members of the D.C. Bar.*

Date: November 17, 2025