

STATEMENT OF BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF

BB&H Joint Venture, on behalf of Potomac Foods Company – II, Inc. (together, the “Applicant”) requests a special exception to continue the parking lot use of the property located at the rear of 4422 Connecticut Avenue, N.W. (Square 1971, Lot 822) (the “Property”). The use originally was approved in 1994 by Order No. 16000 for a period of five years and was renewed in 2000 for four years by Order No. 16541, in 2004 for four years by Order No. 17200, in 2009 for three years by Order No. 17875, and in 2014 for three years by Order No. 18741. The Property has been in continuous operation as a surface parking lot with minimal impact on the neighborhood since 1982.

In order to meet the burden of proof for a special exception under 11-X DCMR § 901, an applicant must demonstrate that the proposed use will be in harmony with the general purpose of the Zoning Regulations and will not tend to affect adversely the neighboring property. The special exception, if granted, will not detrimentally affect the public good or substantially impair the intent, purpose, and integrity of the zone plan because it meets the criteria of 11-U DCMR § 203(j) set forth below.

The Applicant is entitled to a special exception pursuant to 11-U DCMR § 203(j) because it can demonstrate: 1) the parking lot is in an open area, no portion of which extends above the level of the adjacent finished grade; 2) the parking lot satisfies the conditions of Subtitle C, Chapter 7; 3) the parking spaces are located across an alley from the Burger King building at 4422 Connecticut Avenue, N.W., to which the parking spaces are accessory; 4) there will be no adverse traffic, noise, or other objectionable impacts resulting from the location of accessory parking spaces on the subject site; 5) the present character and future development of the neighborhood will not be adversely affected; 6) the parking spaces are reasonably necessary and convenient to other uses in the vicinity; 7) the parking spaces are located in their entirety within 200 feet of the area to which they are accessory; and 8) all parking spaces are separated only by an alley from the use to which they are accessory.