

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

**Application of The Roman Catholic Archbishop of Washington  
and his successors in office, a corporation sole  
Lot 23, Square 3894**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF AND  
REQUEST FOR FILING FEE WAIVER**

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This statement is submitted on behalf of the Roman Catholic Archbishop of Washington and his successors in office, a corporation sole (the “**Applicant**”), in support of its application for special exception approval to permit (1) a residential development in the Residential Apartment (RA)-1 Zone; and (2) multiple primary buildings on a single record lot (theoretical subdivision). The subject property is identified as Lot 23 in Square 3894 (the “**Property**”), which is zoned RA-1 and within the boundaries of ANC 5A-03. The theoretical subdivision will consist of a maximum of 80 townhomes organized in 12 clusters—i.e., 12 principal buildings distributed across 12 theoretical lots—as reflected in the application plans.

This application is submitted pursuant to Subtitle U § 421.1, Subtitle C § 305.1, and Subtitle X § 901.2. Attached hereto is a letter from the Applicant authorizing the filing and processing of this application.

In accordance with Subtitle Y §§ 300.15 and 300.16, the Applicant will file its prehearing submission with the Board of Zoning Adjustment (“**BZA**” or “**Board**”) no fewer than 30 days prior to the public hearing for the application. In this statement and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board’s approval of the requested special exception and variance relief. The foregoing statement serves as a preliminary discussion to demonstrate how the Applicant meets the burden of proof for this case.

**I. FILING FEE WAIVER REQUEST**

Pursuant to Subtitle Y § 101.9, the Board may, for good cause shown, waive any provision of Subtitle Y other than §§ 100-105, 604.6, 700.3, and 1602.5, provided that the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. The Applicant respectfully submits that good cause exists to grant such a waiver and asks the Board to apply the filing fee applicable to a time-extension request under Subtitle Y § 1600.1(e), rather than the fees otherwise required under Subtitle Y § 1600.1(19) and (21). If the waiver is granted, the filing fee for this application would be \$13,130.<sup>1</sup>

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<sup>1</sup> See Subtitle Y § 1600.1(e), which provides that the filing fee for a time extension of a BZA approval is 26% of the original filing fee. Here, the original filing fee was \$50,500 (see BZA Case No. 20751, Exs. 1 and 15). Applying the 26% rate results in a filing fee of \$13,130.

There is good cause to grant the requested waiver. Although this is a new application, the relief sought is identical to that previously granted in BZA Order No. 20751, which was made final on January 18, 2024. Absent the fee waiver, the Applicant would be required to pay a filing fee of \$47,780—a difference of \$34,650 from the requested reduced fee. This substantial cost increase would directly and materially impact funding for the new Conway Education Center constructed on the adjacent lot east of the Property (Lot 24 in Square 3894). Specifically, the entitlements for the Property are essential to close on the sale of the Property, and the proceeds from that sale are the sole source of funding to retire the debt incurred for construction of the education campus. Imposing the full filing fee would therefore impose a significant financial burden on an application that presents no novel issues and merely seeks to reinstate relief previously granted by this Board.

The Conway Education Center, which opened in January 2026 and is operated by Catholic Charities, serves a critical need in the community by providing educational and developmental services to children and young adults of varying ages and abilities. The Center is home to two private, nonprofit programs: a Child Development Center (CDC) and a Special Education School. The Special Education School serves students ages six through twenty-two with physical, emotional, and developmental disabilities. Utilizing a highly individualized, team-based approach, classrooms maintain a ratio of no more than seven students supported by a minimum of three staff members. Students receive comprehensive services that extend beyond academics, including behavioral and social-emotional counseling, intensive instruction in core subjects such as mathematics, vocational internships that build essential employment skills, and physical education. This holistic model is designed to help students achieve greater independence and long-term success. The Conway Education Center also houses the Child Development Center, one of only three affordable, fully inclusive childcare programs of its kind in the District. Established in 1988, the CDC serves infants, toddlers, and preschool-aged children, including both children with and without developmental disabilities. Beginning as early as six weeks of age, children participate in programs that foster positive self-esteem, school readiness, social development, and self-care skills within a nurturing and supportive environment.

In addition to its educational mission, the CDC serves as an invaluable neighborhood resource by providing affordable, high-quality childcare to working families living near the Property. Together, these programs deliver essential services that strengthen children, support families, and promote community well-being. Granting this fee waiver will directly support the continued operation and accessibility of these vital community programs.

In this case, the filing fee applicable to a time-extension request more accurately reflects the limited scope and purpose of this application. Moreover, as discussed herein, the Applicant and its development partner have continued to advance the project. Significant site-preparation work has already been completed, including construction of the private road that will serve the townhome development. Progress on the townhome construction drawings depended on the sequencing of the broader redevelopment effort and delivery of the Conway Education Center. In short, the townhome development is one component of a larger and deliberately coordinated project.

The requested waiver will not prejudice the rights of any party. ANC 5A has long been engaged with the project and remains fully informed regarding its status. The ANC recently

finalized an updated community benefits agreement with the Applicant's development partner in connection with the townhome development. As discussed further below, the Applicant will continue to engage with ANC 5A throughout the entitlement process.

Under these circumstances, good cause exists to waive the otherwise applicable filing fee and apply the fee for a time-extension request under Subtitle Y § 1600.1(e).

## **II. BACKGROUND**

### **A. Previous Approval: BZA Order No. 20751**

The purpose of this application is to reinstate the approval for townhouse community approved for the Property pursuant to BZA Order No. 20751 (the “**Order**”), which became final on January 18, 2024.<sup>2</sup> The Applicant’s development partner, 801 Buchanan Investment Partners, LLC (the “**Developer**”), was unable to file for a building permit prior to the expiration of the Order because, until recently, there was no builder for the townhouse community. It is important to note that, in July of 2025, the Developer started working on the redevelopment of the Property. Building Civil (B-CIV) Permit No. 2500189 was issued for site work for the townhome community, which is also the subject of the following agency reviews: DOEE approval tracking number #7980, DC Water approval tracking number 25-730897, and DDOT Permit # 430071. Also, B-CIV Permit No. 2400035 was issued to the Developer for the construction of the north-south road that facilitated the opening of the new school and will also serve the proposed townhouse community.

### **B. Property and Surrounding Area**

The Property consists of 6.7 acres located on the south side of Buchanan Street, and is currently improved with a vacant building that was formerly The Lieutenant Joseph P. Kennedy Institute (the “**Kennedy Institute**”). The Kennedy Institute was originally constructed on the Property in 1958, pursuant to BZA Order No. 5225, but has been rebuilt as the Conway Education Center, located immediately east of the Property. The Conway Education Center, which opened in January, was approved by the Board pursuant to BZA Order No. 20749, as a companion application to the application for the townhouse community.

The Property is surrounded on the west, south and east by land owned and controlled by Providence Hospital. Across Buchanan Street to the north, are single family, semi-detached homes in the R-2 zone.

### **C. Proposed Townhouse Development**

The Developer intends to redevelop the Property with a new residential community consisting of approximately 80 townhomes organized in 12 clusters. The townhomes will contain either 640 square feet of floor area or 840 square feet of floor area. Each townhome unit will have

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<sup>2</sup> The Applicant in the original application was 801 Buchanan Investment Partners, LLC, which is the developer for the townhome community proposed for the Property.

three floors and a maximum height of 40 feet. These homes will provide for either two or three bedrooms and two and a half bathrooms. With respect to design, the exteriors of the townhomes will consist of brick and hardy plank material. In addition, the proposed architecture provides for flat roofs where homeowners can enjoy an outdoor rooftop deck. The townhome units will be a mix of one- and two-car garage homes.

The layout of the townhome community has been coordinated closely with the site plan layout for the Conway Education Center. Also, the layout for the townhome community provides for a north/south pedestrian connection with the expected future redevelopment at the Providence Hospital site to the north.

### **III. OVERVIEW OF ZONING RELIEF FOR BOARD APPROVAL**

#### **A. Requested Special Exceptions**

As stated above, the Applicant seeks special exception approval to permit (1) a residential development in the RA-1 Zone in accordance with Subtitle U § 421.1; and (2) a theoretical subdivision in the RA-1 zone pursuant to Subtitle C § 305.1. The Board can grant this request pursuant to the general special exception standard of review set forth in Subtitle X § 901.2.

#### **B. New Residential Developments in RA-1 Zone**

Pursuant to Subtitle U § 421.1, all new residential developments in the RA-1 Zone, (except for all one-family detached and semi-detached dwellings) shall be reviewed by the BZA as special exceptions under Subtitle X, in accordance with the standards and requirements of Subtitle U § 421.

As set forth in Subtitle U § 421.2, the BZA shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:

- (a) *Existing and planned area schools to accommodate the number of students that can be expected to reside in the project; and*
- (b) *Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the projects.*

The BZA shall also refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects. (11-U DCMR § 421.3.)

**C. Development Standards for Theoretical Lots**

Pursuant to Subtitle C § 305.2, the Applicant must provide a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations. The following development standards shall apply to theoretical lots:

- (a) *Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;*
- (b) *Each means of vehicular ingress and egress to any principal building shall be at least 24 feet in width, exclusive of driveways;*
- (c) *The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and*
- (d) *The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.*

The enclosed plans for the application demonstrate that the proposed townhouse development complies with the foregoing criteria as follows:

- (a) The side and rear yards of each theoretical lot comply with the side and rear yard requirements of the RA-1 zone. The minimum rear yard required in the RA-1 zone is 20 feet, and the minimum side yard required is equal to three inches per foot of building height, but not less than 8 feet. Based on the height of the proposed townhomes, the required side yard is 8 feet. According to the plan, each theoretical lot has a minimum rear yard of 20 feet and a minimum side yard of 8 feet.
- (b) According to the plan, each private roadway providing ingress/egress for the community is 25 feet wide.
- (c) Each townhome has a building height of 40 feet. The building height measuring point shown on the plan is at the finished grade at the middle of each townhouse façade facing the nearest street lot line.
- (d) The rule of height in Subtitle C § 305.3(c) has been applied and does not conflict with the Height Act.

**D. Burden of Proof and Justification**

Pursuant to D.C. Code §6-641.07(g)(2) and Subtitle X § 901.2, the Board is authorized to grant special exceptions where it finds the special exceptions:

(a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map;*

(b) *Will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map; and*

(c) *Will meet such special conditions as may be specified in the Zoning Regulations.*

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

This application meets the general criteria for special exception approval. The Property is zoned RA-1, which is intended for low- to moderate- density development, including detached dwellings, rowhouses and low rise apartments with a maximum building height of 40 feet and three stories. See Subtitle G §§ 300.2 and 303.1. The scale and development of the proposed townhouse community is consistent with the intent of the RA-1 zone and, therefore, will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map.

Additionally, the proposed townhouse community will not tend to adversely affect the use of the neighboring property. It has been thoughtfully designed to fit in seamlessly with the character and scale of development of the residential neighborhood to the north and the Conway Education Center. Nothing about the proposed townhouse community is contrary to the current or future use of the Providence Hospital site that surrounds the Property to the west, south and the east. As requested by DDOT, the plan includes a north-south pedestrian connection on the western portion of the Property in anticipation of the future redevelopment of the Providence Hospital site.

Finally, the application will be reviewed by the Office of Planning, DDOT and other District agencies, as required by Subtitle U § 421.3

#### **IV. COMMUNITY ENGAGEMENT**

The Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 5A. In connection with BZA Case No. 20751, the original approval for the townhouse community, the Developer engaged extensively with community stakeholders, including participation at the following meetings:

- May 19, 2022: ANC 5A-03 SMD Community Meeting
- September 8, 2022: ANC 5A-03 SMD Community Meeting
- September 22, 2022: ANC 5A-03 SMD Community Meeting
- September 28, 2022: ANC 5A Meeting
- October 5, 2022: North Michigan Park Civic Association

- October 11, 2022: Michigan Park Civic Association
- October 12, 2022: ANC 5A Special Meeting

In response to the comments and concerns raised during the meeting, the Developer agreed to the following as conditions to the approval of BZA Case No. 20751:

1. Applicant will include in HOA documents that residents will not be eligible for RPP.
2. Applicant will contribute \$25,000.00 to Housing Counseling Services (“HCS”) to be expended by HCS for the administration of the Tax Relief Fund (“TRF”), which will assist residents on restricted incomes in offsetting possible increase in property taxes. To the extent possible, the Applicant will request that the contribution be earmarked for residents in proximity to the Property.
3. Applicant will install seismic monitoring equipment on site during construction.
4. The townhouse development will include approximately 40,500 square feet of publicly accessible green space as depicted on the plans. At such time as the zoning application for the redevelopment of the Providence Hospital site to the south is processed, the Applicant agrees to collaborate with the developer for that site on the construction of a combined publicly accessible green space for which the Applicant agrees to fund the installation of a tot lot and the construction of a dog walking area.
5. Applicant will contribute \$25,000.00 to the District of Columbia Housing Production Trust Fund. To the extent possible, the Applicant will request that the contribution be used to produce or preserve affordable housing in proximity to the Property.
6. Applicant will donate \$10,000.00 to the North Michigan Park Civic Association Scholarship Fund.

As required under Subtitle Y § 300.8(1), the Applicant’s counsel has informed ANC 5A of the subject request and will present the current application at an upcoming duly scheduled meeting of the ANC. The Applicant’s counsel and the Developer will continue to diligently engage and collaborate with the ANC throughout the processing of this application and the course of the townhome development.

Respectfully submitted,

HOLLAND & KNIGHT LLP



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