

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

Application of Cosmos Club

ANC 2B02

STATEMENT OF THE APPLICANT

This statement supports the application of International Arts & Artists (“**IA&A**”) and the Cosmos Club (“**Club**”) (together, the “**Applicant**”) for variance relief to permit private club use of the building located on an alley lot at 9 Hillyer Court, NW (Square 66, Lot 807) (the “**Property**”). The requested use variance will facilitate the sale of the Property by IA&A to the Club, so that the Club may adaptively reuse the alley building as a part of its private club operations (the “**Project**”), and the proposed use is compatible with the surrounding mix of institutional and residential uses in the immediate neighborhood. The Property is located in the RA-2/DC Zone District.

I. NATURE OF THE RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (the “**BZA**” or “**Board**”) approve a use variance from the alley lot use regulations of Subtitle U § 600.1 of the 2016 Zoning Regulations of the District of Columbia, Title 11 of the District of Columbia Municipal Regulations (the “**Zoning Regulations**”).

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 1000.1 and Subtitle Y § 100.3 of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located in the Dupont Circle neighborhood and consists of approximately 3,066 square feet of land area, according to District tax records. The Property is a trapezoidal lot located in the center of Square 66 that fronts on a 20-foot public alley to the south and a 15-foot

public alley to the east that narrows to 5 feet. Square 66 is a triangular block that is bounded by R Street NW to the north, Florida Avenue NW to the northwest, Massachusetts Avenue NW to the southwest, Q Street NW to the south, and 21st Street NW to the east. The Property is located in the RA-2/DC Zone. The northern two-thirds of Square 66 are located in the RA-2/DC Zone, but the southern third of the square is located in the MU-1/DC Zone, further south along Massachusetts Avenue and Q Streets.

The Property is surrounded by a mix of institutional, multifamily, and rowhouse residential uses. A collection of buildings and land operated by the Club as a private club occupy approximately 46% of the square and located directly to the south of the Property. Other institutional uses include the Phillips Collection and the Society of African Missionaries to the east along 21st Street and the Embassy of the India to the southeast along Q Street. Together with the Club, these other institutional uses comprise approximately 83% of the block. Of the remaining properties, most of the buildings to the north of the Property are occupied by art galleries and multifamily residential uses. Within the square is a network of public and private alleys as well as surface parking operated by the Club. The Property is the only alley building on an alley lot; other carriage houses are located on lots that front on 21st Street and thus are not “alley lots.”

The Property is improved with a two-story brick building constructed in 1892 (the “**Building**”) and contains approximately 5,600 square feet of gross floor area. The structure was initially designed as a large private stable. It is a contributing building in the Dupont Circle Historic District. Over the past 130 years, the Building has been used for primarily nonresidential uses, including storage, parking, art gallery, and other cultural uses.¹ A survey of ownership and prior uses based on available information follows below:

¹ BZA Application No. 12814 (1979), Finding of Fact no. 8.

- 1958-1976: owned by Officers Service Club, which also owned property to the north along Q Street and operated it as a club and residences for military service members. The Building was used as storage and support for the Club use.
- 1976-1979: owned by Anthony Stout, who sought BZA variance relief to allow residential use (at the time, residential use was not allowed on alleys less than 30 feet in width). The BZA denied the relief based on the fact that a variety of nonresidential uses, including art galleries, museums, and storage were all permitted by right.
- 1979-1983: owned by William Chewning, who adapts the building for use as an art museum gallery.
- 1983-2014: owned by members of the Ripley and Addison families, who use the building as an art gallery and later leased the building to IA&A for arts-related use.
- 2014-present: owned by IA&A.

Since 2004, the Building has been occupied and used by IA&A, a non-profit arts service organization that supports international traveling arts exhibitions in the United States and cultural exchange programs for American artists abroad. IA&A operates a non-commercial art museum gallery, showcasing both local and international contemporary artists on the ground floor of the Building and uses the balance of the building as office and program space to further its mission. The ground-floor space is regularly used for events, including art exhibitions, talks, performances, workshops, and classes, as well as private events.² The Building has a certificate of occupancy that allows these uses as a museum and related ancillary office uses.

² <https://athillyer.org/hillyer-events/>

IV. DESCRIPTION OF THE PROJECT

The Club is under contract to acquire the building from IA&A and intends to use the Building for expanded operations of their private club. Founded in 1878 by John Wesley Powell, the Cosmos Club is a 501(c)(7) non-profit corporation that offers gathering space and programming for intellectual fellowship between distinguished individuals in science, literature, the arts, learned professions, or public service. Members of the Club have included three Presidents, two Vice Presidents, 14 Supreme Court justices, 36 Nobel Prize winners, 61 Pulitzer Prize winners, and 55 recipients of the Presidential Medal of Freedom. A number of important institutions were founded at the Club, including the National Geographic Society, the Wilderness Society, and the Washington Academy of the Sciences. The Townsend House, located at 2121 Massachusetts Avenue, NW, directly south of the Property, includes an extensive library (once frequented by Rudyard Kipling and Theodore Roosevelt), dining rooms, parlors, and a ballroom that hosts concerts, receptions, and other events. In 1997, the adjacent historic former French Military Mission was renovated to become the Hillyer House with overnight rooms and offices.

The Club desires to use the Property for additional space; while the uses may evolve over time, initial plans anticipate a mixed-use arts space café and meeting space as well as ancillary office use, all in support of the club's activities and mission. This mirrors the current use by IA&A, which features ground floor art display and event space and office use supporting IA&A's arts exchange mission above.

The proposed private club use of the Property would otherwise be permitted as a matter-of-right in the RA-2/DC Zone if the Property were not an alley lot. *See* 11-U DCMR § 401.1(b). However, as an alley lot, the matter-of-right uses for the Building are severely restricted. Under the current 2016 Zoning Regulations, the only permitted principal matter-of-right uses for the

Property are as an artist studio and a single-family residential dwelling,³ 11-U DCMR § 600.1, and a pending text amendment in Z.C. Case No. 25-06 modestly expands the potential use to two principal dwelling units.

V. THE APPLICATION SATISFIES THE CRITERIA FOR A USE VARIANCE

The Applicant requests a variance to use an alley lot in the RA-2/DC Zone for private club use. To meet the burden of proof for a use variance, an 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 an undue hardship to the Applicant; 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. Monaco v. District of Columbia Bd. of Zoning Adjustment*, 407 A.2d 1091, 1096 (D.C. 1979). In the case of a nonprofit organization, the Court of Appeals first held in the *Monaco* case (a use variance case) and has repeatedly held since then that the Board may be “more flexible” in applying the variance test. *Neighbors for Responsive Gov’t, LLC v. D.C. Bd. of Zoning Adjustment*, 195 A.3d 35, 56 (D.C. 2018). As set forth below, the Applicant meets the burden of proof for the requested use variance.

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

The first prong of the variance test requires demonstration that extraordinary or exceptional conditions affect the subject property. The D.C. Court of Appeals has held that the exceptional situation or condition standard goes to the “property,” not just the “land;” and that the “property generally includes the permanent structures existing on the land.” *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 293-94 (D.C. 1974). The Court has further

³ Parking within a building is only permitted if the building contains no other use and does not exceed 450 square feet. The remaining permitted uses for alley lots—agricultural, camping, community solar facility, and surface parking—do not apply to the Property because it is improved with a building that historic and cannot be demolished.

held that it is not necessary that the uniqueness arise from a single situation or condition; rather, it may arise from a “confluence of factors.” *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). The unique circumstances must be “peculiar to the applicant’s property and not to the general conditions in the neighborhood.” *Id.*

The Property is affected by a number of unusual conditions. The Property is the only alley lot in the square, and its trapezoidal shape, which is as wide as it is deep, its relatively large size, and its location fronting on not just one but two alleys all create a unique condition. The Building contributes to the Property’s uniqueness as well. The Building’s mass and shape mirror the Property, resulting in wide and deep floorplates that limit natural light within the center of the building and complicate the interior space. Moreover, three sides of the Building are built to the property line, resulting in a lot occupancy of 88% and little open space on the lot—just a five foot-wide strip along the northern lot line. The Building abuts the public alley to both the south and east. The Building also abuts the western lot line. As a result, there are no windows on the western façade, further restricting natural light and air into the Building.

The Building’s historic character also contributes to the Property’s uniqueness, because it requires retention and preservation of the Building. The Building is over a century old, built in 1892, and initially used as a private stable, according to historic records. The Building was designed by Albert Burnley Bibb, a prominent local architect who rose to prominence as a designer of “Life-Saving Service” stations for the Treasury Department. Those Life-Saving Service stations were located along stretches of the coastline and on the Great Lakes and used to rescue crews of shipwrecked vessels. Several of these Life-Saving Stations are listed in the National Register of Historic Places. In his later years, Bibb was a professor and taught architecture at George Washington University and Catholic University (and was a member of the Cosmos Club). The

Property is one of the last surviving buildings designed by Bibb and is expressly identified as a representative example of his work in D.C. Preservation League’s DC Architects Directory.⁴

In addition, the Building’s location at the center of an active network of alleys complicates use of the Building for residential use. The Building directly abuts a 20-foot wide public alley to the south and 15-foot alley to the east—widths that would not ordinarily support the creation of a new alley record lot under Subtitle C § 306.1.⁵ Further, without any setback, the entrance of the Building opens directly onto an active alleyway system that provides service and delivery access to the uses in the square, including the Cosmos Club and Phillips Collection as well as embassy and nonprofit office uses. The alley system is also used for access to surface parking that is operated by the Cosmos Club. Therefore, on any given day, there is significant motor vehicle activity in the alley across the Building’s front door. Nonresidential use of the Building is far more compatible with the activities in the center of the block along the alley system, which are predominantly nonresidential as well.

The Property’s long history of nonresidential use in a block that features predominantly institutional use is another unique condition. The Property has long been used as a museum / gallery by IA&A and its predecessors, and the Club desires to use it as a private club, a similar institutional use. Both uses are permitted in and are deemed compatible with the RA-2/DC Zone. Further, 83% of the land area within the square is devoted to museum, private club, and other similar institutional uses, yet none of those uses are permitted for the Property merely because it is an alley lot. In other words, although the general character of the block is museum, private club, and other institutional use, the position of the Property as an alley lot uniquely affects its ability to

⁴ DC Architects Directory, <https://dcpreservation.org/wp-content/uploads/2021/11/Architect-Bios-A-Z.pdf>

⁵ The existing tax lot, which was created sometime in the early part of the 20th century based on records of the Surveyor, can be converted to a record lot under Subtitle C § 306.3(a) because it was created prior to 1958 and exceeds 450 square feet in area.

accommodate such use. Therefore, the exceptional circumstances in this instance affects the peculiar property rather than the general conditions of the neighborhood. *Gilmartin*, 579 A.2d at 1168.

An exceptional condition may also reach beyond the land or improvements to include the needs of a non-profit organization engaged in public service seeking to upgrade and expand its existing inadequate facilities. *Monaco*, 407 A.2d at 1099. As an intellectual institution, the Club has a long history of supporting scholarship in the District. The Cosmos Club Foundation, an 501(c)3 non-profit affiliate of the Club, offers grants to students enrolled at universities in the Washington, D.C. area. The Foundation also offers the Cosmos Scholars Prize to support exceptional recent graduates and their research. The Club provides an important public service in fostering the next generation of scholars in the District. The Cosmos Club Historic Preservation Foundation, another nonprofit affiliate of the Club, supports the stewardship of not only the Townsend House, the Club's historic building, but also historic preservation in the surrounding Dupont Circle and Massachusetts Avenue neighborhoods. Furthering this commitment to historic preservation, the Club also offers docent-led tours of its historic properties to the public. Therefore, the application of *Monaco* public good flexibility is warranted here.

Here, the Property's location proximate to the existing Cosmos Club is an exceptional condition under *Monaco*. The Property is located across the alley from the Club's existing facilities, which occupy approximately 46% of the square and form a small campus. As an organization devoted to social gathering and intellectual discourse, the Club regularly hosts events, including book discussions, readings, and concerts, and provides an environment for intellectual fellowship. This requires in-person engagement, which means that its facilities must be as close together as possible. The co-location also avoids the need to duplicate services and staff, which

might otherwise be located for a separate facility that is located two miles—or even two blocks—away. Thus, the ability of the Building to meet the Club’s needs is also a relevant factor contributing to the Property’s exceptional condition.

In sum, the Property is affected by a number of unique circumstances, from its unusually broad floorplate designed for nonresidential use to its position within an active alley network, directly abutting active alleyways and surface parking. The Property is also unique from all of the adjacent lots in that the proposed private club use, although already existing within the same Square and permitted as a matter-of-right in the zone, is not permitted due to the Property’s position as an alley lot. As described further below, the matter-of-right uses for this alley lot would not be feasible and, therefore, without relief, the Property could not be put to productive use. Finally, the Property is exceptional because it is located adjacent to the Club’s existing facilities and thus allows for a co-location of activities and resources not available for other potential properties.

B. Strict Application of the Zoning Regulations Would Result in Undue Hardship to the Applicant.

The second prong of the use variance test is demonstration that strict application of the Zoning Regulations would result in an undue hardship to the applicant. An applicant “must prove that ‘the property cannot be put to any conforming use with a fair and reasonable return arising out of the ownership thereof.’” *Downtown Cluster of Congregations v. District of Columbia Bd. of Zoning Adjustment*, 675 A.2d 484, 492 (D.C. 1996) (quoting *Palmer*, 287 A.2d at 542). The Court has further held that the Board may consider economic use of a property in its evaluation of whether the undue hardship prong has been met. *Gilmartin*, 579 A.2d at 1170.

Here, the Property cannot reasonably be used for any of the matter-of-right uses permitted for alley lots. Because the existing building is historic, it cannot be razed and so the Property cannot be used for agricultural, camping, community solar facility, or surface parking uses.

Further, the Building cannot be used as a parking garage or storage because it exceeds the maximum size for such uses.⁶ This leaves either an artist studio or residential use, with the latter limited to one dwelling unit under the current Zoning Regulations.

Requiring residential use of the Building creates an undue hardship for the Applicant for many reasons. First, converting the Building to residential use is incredibly challenging given the Building's unique constraints. To start, with over 5,400 square feet across two floors, the Building is unusually large for a single-family residential use. Moreover, with deep floorplates and no windows on the western façade, configuring such a large floorplate to residential use is burdensome due to the limited natural light and surplus of "dead space" within the Building.⁷ Even if the interior could be configured to accommodate residential use, it would require significant infrastructure and alterations to incorporate the spaces required for residential use, including facilities for cooking and bathing. Further, the Property lacks open space for recreation or parking, both of which would be required to attract the type of buyer seeking an ultra-large residential home.

Adding a second unit, as would be permitted under the pending change in Z.C. Case No. 25-06, would not alleviate these challenges. Each unit would be approximately 2,200 square feet which is unusually large for a flat. Further, a two-unit residential building would also carry forward the challenges detailed above—lack of windows on the west wall and deep floorplates limiting natural light, retrofitting with significant infrastructure for kitchens and bathrooms, and lack of expected amenities such as open space and parking—and add potential new challenges, such as modifications to create compliant, marketable ingress and egress to the second unit.

⁶ Parking is limited to buildings with up to 450 square feet of GFA. Storage use is limited to buildings up to 2,500 square feet of GFA (and would require special exception approval).

⁷ Even if historic preservation officials were to allow windows to be added to the western wall, the windows would be "at-risk" windows because they are located on the property line and could not serve as the windows for any bedrooms.

The Property's repositioning for residential use would also pose meaningful operational and safety concerns. The Building is located directly on a network of alleys that serve the surrounding streets and surface parking, making the alleys highly active. The alleyway network is not like a normal public right-of-way with pedestrian crosswalks or any pedestrian safety measures, for that matter. Without any setback from the immediately abutting alley, the entryway of the Building opens directly onto a regularly-used vehicular pathway, which adds to the undesirability for residential use, particularly for the type of family that would be seeking such a large residential space. Some of the above concerns could be addressed by demolishing the existing Building and constructing new residentially-scaled buildings that integrate setbacks to allow for improved natural light and incorporate not only essential features like kitchens and bathrooms but also features such as open space and parking. The historic nature of the Building, however, precludes its demolition. Further, such a subdivision would itself require BZA approval.⁸

Thus, it would be unduly burdensome to convert the Property to a permitted use—or sold to a potential purchaser that would establish such use. Due to the physical constraints of the Property, the extensive renovations that would be needed, and the active alleys directly abutting the Building, conversion to a one- or two-family dwelling use is impracticable. The other alternative potential use—artist studios—is a niche use that the market has already demonstrated is not desired in this location based on the lack of interest during the building's marketing. Nearly two years ago, IA&A engaged experienced representatives and brokers who specialize in nonprofit organizations to assist in the sale of the Property, and the Property was marketed for approximately 12 months prior to the Club putting it under contract. During this time, it was marketed for artist

⁸ Under the current Regulations, it would require a variance. Under the proposed new regulations in Z.C. Case No. 25-06, it would require special exception approval.

studio and residential use (i.e. the two by-right uses) as well as for museum/gallery (i.e. the existing nonconforming use), but no credible interest or offer for these uses was received.

Finally, the strict application of the Zoning Regulations creates an undue burden arising from the unique relationship of the Property to the public alley system. Other alley buildings in the square are permitted to be used for the full range of uses permitted in the RA-2/DC Zone, and are actually used for those purposes, solely because those buildings happen to sit on the street-facing record lot rather than on a standalone alley lot. Many of these buildings were constructed as carriage houses supporting the principal building that fronts on 21st Street, and so the alley building sits on the “street” side of the alley. In at least one case, however—an alley building behind the Phillips Collection that abuts the Cosmos Club’s parking lot—the building sits on the interior side of the alley. To work around the restriction on alley lots in that case, Phillips closed a portion of the public alley and then combined the alley lot with their street-facing lot to create a new street-facing record lot that eliminated the restrictions applicable to alley lots. The Applicant cannot pursue a similar path here. For one, DDOT strongly disfavors the closure of existing public alleys especially when, as here, the alleys are functional and serve multiple properties. For another, even if DDOT were supportive, the Applicant would need to not only undertake the lengthy and cumbersome alley closing process but also secure consent from all abutting owners to effectively recreate the alley system through private easement. Variance relief mitigates the need for Cosmos Club to pursue the alley closing path and also keeps the remainder of the public alley system in Square 66 intact.

Therefore, strict application of the Zoning Regulations thus results in undue hardship that limits the Property to a limited pool of uses for which there is no market demand. Rather than leave the Building vacant, the Applicant proposes an adaptive reuse of the Building with a private club

use that is already established in the square, is compatible with the existing alley network, and will work well within the retained historic structure.

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, a variance 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. 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.

Here, the variance requested may be granted without substantial detriment to the public good and while furthering the intent, purpose, and integrity of the Zone Plan. First, private club use is otherwise permitted as a matter-of-right on non-alley lots in the RA-2/DC Zone. The Zone Plan, accordingly, contemplates and explicitly supports the use within this area. Furthermore, the private club use would be consistent with the surrounding institutional uses of the block. A portion of the existing Club is likewise located in the RA-2/DC Zone and this use would be a mere extension of the existing club operations providing modest additional space for existing members to congregate. The remainder of the block includes similar institutional uses like The Phillips Collection and various art galleries. The surrounding blocks include a number of embassies and compatible institutional uses as well. This neighborhood is characterized by its private institutional nature, of which the proposed use is consistent. The requested variance would enable private club

use that is consistent not only with the surrounding area but also with the uses envisioned by the Zone Plan for the RA-2/DC Zone.

The proposed private club use will adaptively reuse the historic alley structure and contribute to a vibrant alley network, complementing the surrounding club, gallery, and museum uses. The proposed use is also consistent with District policy. The Historic Preservation Office (“HPO”) recently prepared a set of design guidelines for alley buildings, which the Historic Preservation Review Board (“HPRB”) will review in June 2026. The Alley Buildings and Garage Design Guidelines encourage the reuse of alley structures to create “distinctive urban spaces.”⁹ Reuse of alley buildings will also enhance public safety with additional “eyes on the street.” The guidelines discuss the importance of careful adaptation of these old buildings, noting that alterations of alley structures that are “temporary or easily reversible have less of a lasting impact” on alley buildings than more permanent changes that might damage or remove important features. As discussed above, adapting the building for residential use would require extensive alterations, including the addition of plumbing and, potentially, carving out new windows to allow sufficient light and air to reach the interior. Such major alterations would significantly and permanently alter this historic building. By contrast, the Club, as an established steward of historic resources, will maintain the Building well and further historic preservation goals.

In sum, the permissible alley lot uses would be impracticable for the Property. Any such uses would not be economically viable and could pose serious safety hazards given the auto-centric nature of the surrounding alley. The proposed private club use will result in a more gentle adaptation of the structure while furthering District goals to activate alley networks. The resulting

⁹ Preservation and Design Guidelines – Alley Buildings and Garages, D.C. Historic Preservation Review Board, available at: <https://app.box.com/s/a5ix8tkjq7pvmklh4i7tykhl4c3n5a/file/2238849299340>. Page 1 of the proposed guidelines features a photograph of the Building with the caption: “*Vibrant, activated alleys with new and reused alley structures can result in distinctive urban spaces and improved public safety.*”

impact would enhance the public good while maintaining the intent of the RA-2/DC Zone by allowing an otherwise permissible use that is consistent with the surrounding neighborhood.

VI. CONCLUSION

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

/s/ David Avitabile
David Avitabile

/s/ Lee S. Templin
Lee S. Templin

Date: July 14, 2026