DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Applicant's Statement of David Orange
1920 11th Street, NW (Square 305, Lot 49)

I. INTRODUCTION.

This Statement is submitted on behalf of David Orange (the **"Applicant"**), owner of the property located at 1920 11th Street, NW (Square 305, Lot 49) (the **"Property"**). The Property is located in the Greater U Street Historic District and is improved with a two-story (plus basement), four-unit apartment building (the **"Building"**), converted to apartment use in the 1950s pursuant to the Property's Certificate of Occupancy. The Applicant proposes to renovate the Building and construct a rear addition (the **"Addition"**), together with a penthouse. The project reduces the unit count from four (4) units to three (3) units, and the proposed lot occupancy of 1,250 sq. ft. (60%) remains within the by-right maximum for the RF-1 zone.

The rear Addition extends beyond the by-right limit of Subtitle E § 205.4, triggering the ten-foot rear addition rule discussed below. The proposed penthouse consists of a stairway to the roof with ancillary space, and its use is permitted as a matter of right under Subtitle C § 1501.1(a). The penthouse also complies with all of the setback requirements of Subtitle C § 1504.1 other than the open court setback of § 1504.1(d), from which relief is requested pursuant to Subtitle C § 1506.

The Applicant is requesting the following areas of relief:

1. Special Exception Relief From U § 301.4, Pursuant to U § 320.2 (Renovation and Expansion of an Existing, Converted Apartment House). An apartment house in the RF-1 zone that was converted from a residential building prior to June 26, 2015 is a conforming use and structure, but "shall not be permitted to expand either structurally or through increasing the number of units, except as provided by Subtitle U § 320.2." The Building was legally converted to an apartment house in the 1950s, as reflected in the Certificate of Occupancy for the Property. The project includes a structural addition to the Building. U § 301.4 therefore directs the Applicant to U § 320.2 for the relief necessary to undertake the proposed structural expansion, regardless of the fact that the Project decreases, rather than increases, the number of units. The Applicant accordingly requests special exception relief pursuant to U § 320.2.

2. Special Exception Relief From E § 205.4, Pursuant to E § 205.5 (Rear Addition Extending More Than Ten Feet Beyond Adjoining Rear Walls). Subtitle E § 205.4 provides that a rear wall of an attached or semi-detached building "shall not be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any principal residential building on any adjoining property." The proposed Addition extends 12'-3" beyond the rear wall of the adjoining building to the north (1922 11th Street, NW), and 11'-2" beyond the rear wall of the adjoining building to the south (1918 11th Street, NW), exceeding the ten-foot by-right limit by 2'-3" and 1'-2", respectively. The Applicant accordingly requests special exception relief pursuant to E § 205.5.

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3. Special Exception Relief From C § 1504.1(d), Pursuant to C § 1506 (Penthouse Setback From Open Court). Subtitle C § 1504.1(d) requires a penthouse or rooftop structure to be set back "[a] distance equal to its height from building walls that border all sides of an open court on the property." The proposed penthouse is nine feet (9 ft.) in height, and the existing open court on the Property is being maintained. Due to the physical location of the court, the penthouse cannot be set back nine feet (9 ft.) from the open court without creating other insurmountable issues as discussed below. The Applicant accordingly requests special exception relief pursuant to C § 1506.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle X § 901.2, C § 1506, E § 5201, and U § 320.2.

III. BACKGROUND.

A. Description of the Property and Surrounding Area.

The Property is located in the Greater U Street Historic District and is an interior lot with 2,083 square feet of land area, one block from the U Street/African-American Civil War Memorial Metro station. Abutting the Property to the north is 1922 11th Street, NW, which is improved with a two-story (plus basement) row building used as a single-family dwelling and has a rooftop solar energy system, discussed below. Abutting the Property to the south is 1918 11th Street, NW, which is improved with a three-story (plus cellar) row building containing two condominium units, with a third floor addition and a rear addition. A public alley abuts the Property to the rear (west), and 11th Street, NW abuts the Property to the front (east).

B. Proposed Project.

The Property is currently improved with a two-story plus basement, four-unit apartment building, with an existing lot occupancy of 54.7% (1,140 sq. ft.). The Applicant proposes to renovate the Building and construct the rear Addition and penthouse described above, reconfiguring the units from four (4) to three (3), and bringing lot occupancy to 60% (1,250 sq. ft.), the maximum permitted as of right. The Addition conforms to all applicable development standards other than the ten-foot rear addition limit discussed above, including height (unchanged from the existing 34'-6" building height), rear yard (26'-7", exceeding the 20 ft. minimum), and open court width (7'-2 3/8", meeting the required minimum).

The Building was converted to apartment use in the 1950s. The Certificates of Occupancy for the Property, issued in 1950 and 2015, reflect four (4) dwelling units and are included with this submission.

The Project maintains the existing open court on the Property and leaves the existing front façade of the Building unchanged, as the Building is a contributing structure in the Greater U Street Historic District. The Project also provides two (2) parking spaces at the rear of the Property,

accessed from the 14.17 ft. wide public alley, in place of the one (1) space that exists today. The Project removes the existing rear wall and the side wall in the area of the new Addition and extends the building footprint (the dashed red line on Sheet A-1.05 indicates the location of the existing house). The remainder of the wall facing the open court remains, with modified window openings and a new stucco finish so that the wall appears continuous.

IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.

A. Overview.

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under C § 1506, E § 5201 and U § 320.2.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. *See, e.g., Nat'l Cathedral Neighborhood Ass'n v. D.C. Bd. of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

B. General Special Exception Requirements of Subtitle X § 901.2.

The granting of special exception relief for the structural expansion of the existing apartment house, for the rear addition beyond ten feet, and for the penthouse setback "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps" and "will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps…" (11 DCMR Subtitle X § 901.2).

1. Project Will Be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.

The Property is located in the RF-1 Zone and is improved with an existing, conforming apartment house. The Project does not increase the number of dwelling units on the Property, it decreases the unit count from four (4) to three (3), and all requested areas of relief are available by special exception. Apart from the requested relief, the Building and Addition comply with the development standards of the RF-1 zone, including lot occupancy (60%, at the by-right maximum), height (unchanged from the existing building), rear yard, and open court width. Accordingly, the proposed Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Project Will Not Tend to Affect Adversely the Use of Neighboring Property in Accordance with the Zoning Regulations and Zoning Maps.

As described more fully below, the Addition will not unduly affect the light and air or privacy of the neighboring properties and will not adversely affect the use of neighboring properties.

The owners of Unit A of the abutting property to the south, 1918 11th Street, NW, have reviewed the Project and submitted a letter of support that is included with this submission.

The Project will also not significantly interfere with the operation of the existing rooftop solar energy system at 1922 11th Street, NW, the abutting property to the north. Subtitle E § 204.3 provides that a new building, alteration, or addition to an existing building, including a penthouse or rooftop structure, shall not significantly interfere with the operation of a solar energy system of at least 2 kW on an abutting property, meaning that the proposed construction may not increase the shading incident on the system by more than five percent (5%), as determined by a comparative solar shading study. The system at 1922 11th Street, NW is 4.42 kW-DC (13 modules). The comparative solar shade analysis prepared by Solar Solution DC LLC and dated October 6, 2026, found that annual solar access at the system is 98.2% under existing conditions and 97% with the proposed construction, an increase in annual shading of 1.2%, well below the five percent (5%) threshold. The Applicant has thus satisfied the threshold and the analysis has been included with this submission.

C. <u>The Application Meets the Specific Requirements of Subtitle E § 5201 (Ten-Foot Rear Addition Rule).</u>

The proposal will extend 12'-3" beyond the rear wall of the adjoining building to the north (1922 11th Street, NW), and 11'-2" beyond the rear wall of the adjoining building to the south (1918 11th Street, NW). The relief is minimal, only 2 ft. 3 in. and 1 ft. 2 in. beyond the by-right limit for the respective rear walls to the north and south. The Applicant is requesting special exception relief from the ten-foot rear addition limit of E § 205.4, pursuant to E § 205.5, evaluated against the criteria of E § 5201.3. The Application meets the criteria for special exception relief as follows:

Section 5201.3(a) "The light and air available to neighboring properties shall not be unduly affected"

The Addition is built to the shared property lines to the north and south, as are the abutting row buildings, and the height of the Addition's rear wall generally aligns with the rear wall of 1918 11th Street, NW. The abutting building to the north, 1922 11th Street, NW, has a rooftop solar energy system, and, as described in Section IV.B above, the comparative solar shade analysis shows that the proposed construction increases shading of that system by only 1.2% annually. The panels will not be impacted by the additional 2 feet and 3 inches at the rear, as the panels are towards the front of the property. Similarly, 1 ft. 2 in. of building length beyond what is permitted by right will not unduly impact the light and air available to the building to the south. The light and air available to neighboring properties will therefore not be unduly affected.

Section 5201.3(b) "The privacy of use and enjoyment of neighboring properties shall not be unduly compromised"

The Addition has no windows facing 1922 11th Street, NW, because its north wall is built to the shared property line. Windows on the south side of the Addition open onto the Property's own open court and face the side wall of 1918 11th Street, NW, which has no windows facing the Property (see the plans and photographs) across a court seven feet, two and three-eighths inches (7'-2 3/8") wide. The remainder of the existing wall facing the court is retained, with modified window openings and a new stucco finish; there are fewer windows in the court area than exist today, and the separation distance is unchanged. The privacy of use and enjoyment of neighboring properties will therefore not be unduly compromised.

Section 5201.3(c) "The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage;"

The Addition is located at the rear of the Building and will not be visible from 11th Street, NW. The existing front façade of the Building, a contributing structure in the Greater U Street Historic District, will not be altered. As viewed from the public alley to the rear, the Addition is consistent with the character, scale, and pattern of the surrounding buildings, including the similar rear addition at the abutting property, 1918 11th Street, NW, and the Project maintains a large rear yard in a dense neighborhood. The Project was reviewed by the Historic Preservation Office and the Historic Preservation Review Board, which found the Project compatible with the Greater U Street Historic District.

D. <u>Specific Requirements of U § 320.2.</u>

Subtitle U § 301.4 provides that a previously-converted apartment house deemed a conforming use "shall not be permitted to expand either structurally or through increasing the number of units, except as provided by Subtitle U § 320.2." This provision identifies two independent triggers for relief, structural expansion or an increase in units, and directs both to U § 320.2. The Building is a conforming apartment house under U § 301.4, and the Project includes a structural addition to the Building. Special exception relief is therefore properly sought under U § 320.2 for the structural expansion of the Building.

The Applicant notes that U § 320.2 separately describes “the renovation or expansion of an existing apartment house deemed a conforming use pursuant to Subtitle U § 301.4 that increases the number of units” as permissible by special exception, subject to certain conditions. The Project decreases, rather than increases, the number of units, from four (4) to three (3). Because U § 301.4 expressly directs *structural* expansion of a converted apartment house to U § 320.2 as a distinct and independent basis for relief, separate from an increase in unit count, the Project's structural expansion is properly evaluated under U § 320.2 on that basis. The Project's reduction in unit count furthers, rather than undermines, the purpose of these provisions: it reduces density on the Property

and, because no new units are created, does not implicate the Inclusionary Zoning set-aside condition of Section 320.2(b).

The proposal satisfies the requirements of 11 DCMR Subtitle U § 320.2(a) through (c) as follows:

Section 320.2(a) "The building to be converted or expanded is in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion;"

The Building is in existence on the Property and will be in existence on the Property at the time the Department of Buildings accepts as complete the building permit application.

Section 320.2(b) "The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.10;"

The Applicant is not proposing to increase the number of dwelling units. The project decreases the unit count from four (4) to three (3). Therefore, Inclusionary Zoning and the set-aside requirements of Subtitle C § 1003.10 do not apply.

Section 320.2(c) "There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit."

The Applicant is not proposing to increase the existing number of dwelling units. The existing structure is considered conforming with respect to use pursuant to U § 301.4.[1]

E. <u>The Application Meets the Specific Requirements of Subtitle C § 1506 (Penthouse Setback From Open Court).</u>

Subtitle C § 1504.1(d) provides that a penthouse or rooftop structure shall be set back "[a] distance equal to its height from building walls that border all sides of an open court on the property." The proposed penthouse is nine feet (9 ft.) in height and consists of a stairway providing access to the roof, together with ancillary space associated with the rooftop deck. The penthouse use is permitted by Subtitle C § 1501.1(a), and the penthouse complies with every setback requirement of Subtitle C § 1504.1 other than § 1504.1(d).[2] The Property's existing open court is being maintained. Were there no open court, no setback would be required; and due to the physical

[1] See BZA Order No. 20388, 2615 13th Street, NW (special exception granted pursuant to Subtitle U § 320.2 for the physical expansion of a four-unit apartment building converted prior to June 26, 2015, notwithstanding that the building provided only 596.25 sq. ft. of land area per unit, well below the 900 sq. ft. standard, where no additional units were proposed).

[2] Note that 1504.4 exempts stairwell penthouses from the open court setback requirements, but DOB has recently determined that the exemption is not available if it contains any ancillary space.

location of the court, it is physically impossible to set the penthouse back nine feet (9 ft.) from the court walls without creating other insurmountable issues as discussed more fully below.

Subtitle C § 1506.1 permits the Board to grant relief from the requirements of Subtitle C §§ 1503 and 1504 as a special exception. The proposal satisfies the requirements of Subtitle C § 1506.1(a) through (c) as follows:

Section 1506.1(a) "The special exception requirements of Subtitle X, Chapter 9;"

As set forth in Section IV.B above, the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property. The penthouse complies with all other setback requirements of Subtitle C § 1504.1, so the relief requested is limited to the setback from the Property's own open court. The penthouse is not visible from 11th Street, NW, as shown by the sightlines on Street Sections A-1.11 and A-1.12, and the Historic Preservation Review Board reviewed the Project, including the penthouse, and found it compatible with the historic district. As shown in Section IV.B above, the penthouse impact is very limited with respect to the solar energy system at 1922 11th Street, NW. The abutting property to the south, 1918 11th Street, NW, also has a third floor addition.

Section 1506.1(b) "The applicant's demonstration that reasonable effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and"

The penthouse is limited to the stairway providing access to the roof and ancillary space associated with the rooftop deck, and it has been designed to comply with every required setback other than the open court setback. The Property is 22.40 feet wide, and the existing open court, which the Applicant is maintaining, adjoins the roof area on which the penthouse sits. Compliance with Subtitle C § 1504.1(d) would require a nine foot (9 ft.) setback from the court walls. Moving the penthouse farther along the roof, away from the court, is not a feasible alternative: it would make the penthouse visible from the street, place it too close to the turret in violation of HPRB approval, and increase shading of the neighboring solar energy system to a degree that violates the zoning regulations.

Section 1506.1(c) "The applicant's demonstration of at least one (1) of the following:"

The Application satisfies Subtitle C § 1506.1(c)(1) and (c)(4), as follows.

Section 1506.1(c)(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;"

Strict application of Subtitle C § 1504.1(d) would require the Applicant either to eliminate the Building's existing open court or to eliminate the rooftop stairway and the roof access it provides. Either result would be unduly restrictive and unreasonable. As noted directly above in

(b), moving the penthouse farther along the roof, away from the court, is not a feasible alternative: it would make the penthouse visible from the street, place it too close to the turret in violation of HPRB approval, and increase shading of the neighboring solar energy system to a degree that violates the zoning regulations.

Section 1506.1(c)(4) "Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle C § 115 building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable."

The penthouse stairway is the continuation of the Building's stair through the floors below, and the narrow 22.40 foot wide lot, together with the existing open court, leaves no location for the roof access stair that would satisfy the court setback. The ideal location for the stair would wrap around and go over the Building's existing stairs, but that location would make the penthouse visible from the street in a historic district, and the Historic Preservation Office prefers that any rooftop addition be set back and built on the dog-leg rather than on the main part of the house. The next best arrangement is a landing followed by a continuation of the stair, as shown on the plans. That arrangement also keeps the stair within the existing volume of the Building, which limits demolition and reduces the carbon footprint of the Project. Relocating the penthouse farther along the roof would not resolve these difficulties, because that location would be visible from the street, too close to the turret, and would increase shading of the neighboring solar energy system. These conditions relating to the Building and the Property make full compliance unduly restrictive and unreasonable.

V. CONCLUSION.

For the reasons stated above, this Application meets the requirements for special exception relief by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully Submitted,

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