

BEFORE THE DISTRICT OF COLUMBIA
ZONING COMMISSION

Application of Camden Development, Inc. for
Zoning Commission Review of
Square 653, Lot 111

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**INITIAL APPLICATION FOR ZONING COMMISSION REVIEW OF STRUCTURE
WITHIN CAPITOL GATEWAY OVERLAY DISTRICT**

I. Nature of Relief Sought

This is an application of Camden Development, Inc. (the “Applicant”) for Zoning Commission design review of its proposed residential building along South Capitol Street in Square 653, pursuant to proposed Section 1610.1(d) of the Zoning Regulations. The Applicant also seeks variance relief from the height requirements set forth in 11 DCMR Section 770.1, the residential recreation space requirements set forth in 11 DCMR Section 773.3, and the court requirements of 11 DCMR Section 776.3. Finally, the Applicant seeks a special exception for the number, location, and differing heights of the rooftop structures pursuant to 11 DCMR Section 411.11.

II. Description of the Property and the Project

The property that is the subject of this application is located in Square 653, Lot 111¹ (the “Property”) and is known by the address 1325 S. Capitol Street, SW. Square 653 is bounded by South Capitol Street to the east, Half Street, SW to the west, N Street, SW to the north, and O Street, SW to the south. Plats of the Property are attached as Exhibits C and D. The proposed

¹ The site was previously comprised of Lots 71, 72, 74, 823, and 824 but the Applicant recently received approval for its subdivision of those lots.

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structure will be located immediately across South Capitol Street from the proposed Washington Nationals' baseball stadium. The Property is adjacent to rowhouses to the west.

The Property is located in the C-2-C Zone District. See Zoning Commission Order attached as Exhibit E. On May 19, 2006, the Office of Planning ("OP") submitted a proposal to extend the Capitol Gateway Overlay to the west of South Capitol Street to include this site. The Zoning Commission set the Office of Planning's proposal down for a public hearing at its May 25, 2006 meeting and a public hearing has been scheduled for November 16, 2006. The Overlay as it pertains to this Property includes, among other things, a 15 foot setback from South Capitol Street. Unfortunately, the Applicant had progressed considerably far along in a matter-of-right project when OP made its proposal. Nevertheless, the Applicant revised its plans and solicited OP's input during its formulation of the current proposal. It is pursuant to the proposed regulations that the Applicant files for Zoning Commission review.

Similarly, the Office of Planning did not initially propose including this site within the Inclusionary Zoning ("IZ") Overlay. The Office of Planning proposed including this site within the IZ Overlay only after the Applicant had developed its plans. The plans have been revised significantly and now comply with both the requirements of the Capitol Gateway and IZ Overlays.

The Applicant is proposing to construct an 11-story residential structure on the site. The building will be at its greatest height of 110 feet along South Capitol Street. As the building reaches back to the adjacent rowhouses, the height will gradually step down to 70 feet and 8 inches (70'8"). The stepping down of the height breaks up the massing of the structure and it respects the adjacent rowhouses by reducing the immediate presence of the structure. The

proposal includes 3 levels of below-grade parking and the applicant is considering approximately 2,390 square feet of retail for the ground floor. The project is depicted in further detail in the plans attached as Exhibit F.

The building façade presents a modern asymmetric frontage above South Capitol Street, which honors, in its distribution of architectural elements, the historic Washington division of building base, middle, and top. The single level building base, which encloses residential amenity spaces and potential retail space at the southwest corner, maintains the designated setback line, and is sheathed in a combination of oversized masonry units, glass and metal, with cast stone accents. The setback line is held above by the full height entry bay, as well as projecting bays and balconies at levels three through ten. The top level and level two are setback to provide clarity, rhythm, and hierarchy to overall façade composition. The building enclosures at these planes consist of a variety of sizes and colors of masonry units, in concert with glass, metal, and cast stone.

In addition to a distinctive design, the project will incorporate several elements of green design. Its location encourages public transportation as it is located only blocks away from the Navy Yard and the Waterfront-Southeastern University Metrorail stations. The Applicant is also including bicycle storage areas in its garage to facilitate the use of bikes as a mode of transportation. In addition to these attributes, the building will include the following:

- Use of landscaping on rooftop and around the building to reduce heat island effect;
- Water efficient landscaping (drip irrigation and drought resistant landscaping);
- Use of recycled content and regional materials in construction of the building;

- Efficient stormwater design, quantity control;
- Use of low-emitting materials such as paints and coatings; and
- Provision of daylight and views for each unit.

III. Jurisdiction of the Zoning Commission

The Zoning Commission has jurisdiction to review the design of structures constructed along South Capitol Street within the Capitol Gateway Overlay pursuant to the proposed Section 1610.1(d) of the Zoning Regulations. Section 1610.7 of the proposed revision of the Capitol Gateway Overlay regulations provides that the Commission may hear and decide any additional requests for special exception or variance relief needed for the property. Accordingly, the Applicant simultaneously files for additional special exception and variance relief.

IV. Burden of Proof for Design Review

Section 1605 sets forth several requirements with which construction on the proposed site must comply. As demonstrated herein, the Applicant fully complies with each design requirement.

1. Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet, with the exception of buildings within Squares 649 and 651.

As the plans attached as Exhibit F demonstrate, the Applicant has set the proposed building 15 feet from the property line.

2. For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line.

The attached plans show that the building is constructed on the setback line when including the full floor length of the balconies. Should the Zoning Commission require the facade of the main structure to be pulled forward to the setback line, full projections into the 15 foot setback would have to be allowed to accommodate the balconies and glass enclosures. Allowing the projections into the setback maintains the dynamic of creating a monumental boulevard while allowing residents to enjoy the views surrounding the building. Other monumental boulevards in the city take a similar approach such as Pennsylvania Avenue and Massachusetts Avenue, both of which are prominently located in the District.

3. Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one step back from the building line along South Capitol Street, with the exception of buildings within Square 649.

The Applicant is not proposing to construct this building to a height greater than 110 feet; therefore, this section is inapplicable.

4. No private driveway may be constructed or used from South Capitol to any parking or loading berth areas in or adjacent to a building or structure constructed after the effective date of this section.

The attached plans show that there is no driveway access to parking or loading berth areas from South Capitol Street. All access is provided via O Street.

V. Requested Relief

A. Special Exception

The Applicant is also seeking special exception relief pursuant to Sections 1610.7 and 411.11 from 11 DCMR Section 411.3 for 4 roof top structures on the roof of the proposed building, and from Section 411.5 because the roof top structure in the northeast section of the roof does not have a uniform height. In order to obtain relief, 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 Maps. 11 DCMR § 3104.1.

1. 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. 11 DCMR § 101.1. Specifically, the requested relief must take into consideration the character of the respective districts as well as the suitability of each district for the uses permitted; and must be designed to encourage the stability of districts and of land values. Id. at § 101.2. The relevant sections of the Zoning Regulations provide guidelines, which are described in more detail below, by which to evaluate whether a special exception should be granted.

Number of Enclosures

Pursuant to 11 DCMR section 411.3, “all penthouses and mechanical equipment shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material and color.” The Zoning Regulations further provide that “[w]here impracticable because of operating difficulties, size of building lot, or other conditions relating to

the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the ... location, design, number, and all other aspects of such structure..., even if such structures do not meet the normal setback requirements...; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.” 11 DCMR § 411.11.

The Applicant is proposing four rooftop structures: two elevator overruns and two stairways. The four structures are located in the northwest, northeast, southwest, and southeast areas of the roof. The Applicant is providing two elevator banks because of the length of the building. At its greatest length, the building is 249 feet long. Given the long and relatively narrow nature of the lot and in order to make access to the residential units convenient, the Applicant must provide elevators for each wing of the building; thus, two elevator cores are necessary.

The Building Code requires the Applicant to provide two stairways, which creates additional difficulty in trying to enclose all rooftop structures within one enclosure. The Applicant has located a stairway on each wing to provide, *inter alia*, a means of egress for residents in the event of a fire. Again, the length of the building and its “u-shape” design require the stairways to be located on separate wings of the building in order to be effective as points of egress for all building tenants.

The four structures are located on opposite corners of the roof; requiring them to be enclosed within one structure would result in a penthouse that would encompass a large portion

of the roof and would be unnecessarily large. One of the primary reasons for staggering the height of the building is to diminish the size of the structure as it nears the adjacent rowhouses; establishing such a large roof structure would undermine the Applicant's efforts to reduce any impact its construction may have on neighboring properties.

Uniform Height of Rooftop Structure

Section 411.5 requires enclosing walls for a rooftop structure to be of equal height. The elevator overrun on the northeast portion of the roof has varying heights. The rooftop structure encloses two elevator overruns, as well as mechanical equipment, the elevator machine room, and pool equipment. In an effort to diminish the presence of the rooftop structures wherever possible, the Applicant reduced the height of the portions of the structure that were used as storage or mechanical space. The elevator overruns, however, are required to go to a height of 18 feet in order to provide access for all residents (including disabled residents) to the residential recreation space on the roof. If the elevator overruns are reduced, the Applicant would have to provide a complicated ramping system to allow access for all residents to the roof. In light of this alternative, providing rooftop access via the elevators minimizes the impact of the roof top structures. Moreover, the height of the elevator overruns is within the 18'6" permitted under the Zoning Regulations. Reducing the height of the penthouse, where possible, minimizes the overall impact of the roof structure, further ensuring there will be no adverse impact on adjacent properties.

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

The fact that the penthouses are not set in one structure will not adversely affect the use of neighboring property, but will in fact minimize the impact of the rooftop structures. The

penthouses will be no taller than eighteen feet tall, which is within the permissible height of eighteen feet and six inches. The Applicant designed the proposed roof structures to avoid providing structures that are unnecessarily large or tall. The structures that are provided have been minimized as much as possible while maintaining their functionality: the overall massing has been reduced by not trying to enclose them within one structure and the height has been reduced by keeping as much of the structure below 18 feet as possible.

B. Variance

The Applicant seeks variance relief pursuant to section 1610.7 of the Zoning Regulations from the height requirements of Section 770, the residential recreation space requirements of 773, and the court requirements of Section 776. Section 770 limits buildings in the C-2-C Zone District to a height of 90 feet; Section 773 requires 15% of the gross floor area of the building dedicated to residential use to be set aside as residential recreation space; and Section 776 requires the width of a court to be a minimum of four inches per foot of height. In order to satisfy the standards for area variance relief, the Applicant must satisfy a three part test:

- (1) the property must be subject to an extraordinary or exceptional situation or condition;
- (2) a practical difficulty will result if the applicant is required to satisfy the strict application of the Zoning Regulations; and
- (3) no harm to the public or to the zone plan will occur as a result of the approval of the variance application.

See Gilmartin v. District of Columbia Bd. of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990). As detailed below, the Applicant meets this test.

1. An Extraordinary Or Exceptional Situation Or Condition Is Inherent To The Property

The D.C. Court of Appeals held in Clerics of St. Viator v. D.C. Board of Zoning Adjustment, 320 A.2d 291 (D.C. 1974) that the exceptional situation or condition standard goes to the “property”, not just the “land”; and that “....property generally includes the permanent structures existing on the land [footnote omitted].” *Id.* at 293-294. The Court held that the exceptional situation standard of the variance test may be met where the required hardship inheres in the land, or the property (i.e., the building on the land).

Height

The Applicant is seeking variance relief from the height prescribed for the C-2-C Zone District. The CG/C-2-C Zone District imposes a maximum height restriction of 90 feet. The configuration of the Applicant’s property, however, justifies the needs for a variance from this requirement.

The Property is long and narrow. As noted above, the property is approximately 250 feet long with a depth of as little of 135 feet. In addition to this condition, the Property is subject to two opposing setback requirements which serve to squeeze the building into the middle of the Property: a 15 foot setback from South Capitol Street in the front and a 15 foot setback from the rear lot line. Both of these setbacks are required along the Property’s greatest length, limiting the footprint of the building and condensing construction in the center of the Property.

Additionally, the Applicant is required to set aside 8% of the residential portion of the development to affordable housing, but is having difficulty in capturing the bonus density afforded under inclusionary zoning regulations. The proposed IZ regulations for the C-2-C Zone

District allow an increase in lot occupancy from 80% to 90%, but do not provide any additional height relief as they do for other zones. The increase in lot occupancy does not provide relief for the Applicant because it must still comply with the required setback from South Capitol Street and the rear yard setback. Additional lot occupancy would make the structure too bulky, create awkward unit configurations and would not allow for adequate light to the units. With the 20% density bonus afforded by IZ, the Applicant should be able to construct up to 295,336 square feet of development. Because of the constraints of the site, the Applicant can only capture 270,304 square feet of development, yet it is still required to provide 8% of its residential project to affordable housing.

The Applicant purchased the property and had almost finalized its plans for submission to the Board of Zoning Adjustment for penthouse and residential recreation space relief before the extension of the Capitol Gateway Overlay was proposed and before the property was included in the Inclusionary Zoning overlay maps distributed by the Office of Planning; therefore, it has become especially important for the Applicant to capture as much of the density that it believed would be permitted as a matter-of-right, while minimizing any impact on adjacent properties.

In order to reconcile the amount of density needed to create a feasible project and the limited amount of space, the Applicant considered several alternatives. It proposed reducing ceiling heights on each floor, which allowed the addition of another floor within the 90 feet height requirement. Reducing ceiling heights, however, made the residential units less attractive and made the retail space nearly unmarketable because portions were below-grade. The Applicant also proposed designs requiring greater lot occupancy, which resulted in deep units, and compromised the available light and air of existing and future adjacent buildings as well as for the tenants of the proposed residential project.

After review of the Applicant's plans and in light of the effect of the IZ regulations and the Capital Gateway Overlay on the property, the Office of Planning proposed that the Applicant design the building with a height of 110 feet along South Capitol Street with stepping down toward the rear of the building. South Capitol Street is 130 feet wide in front of the Property. A height of 110 feet creates a continuity along South Capitol, particularly with the baseball stadium directly across South Capitol. Moreover, reducing the height of the rear of the building below 90 feet, which is what is permitted as a matter of right, better integrates the building with the adjacent rowhouses. This compromise breaks up the massing of the building and better integrates the building with the surrounding uses. It also permits more attractive and marketable floor to ceiling heights, better units, less lot occupancy and increases the Applicant's ability to meet the IZ requirements.

Residential Recreation Space

40,546 square feet of residential recreation space is required with this development; however, 27,972 square feet are proposed. As discussed above, the Applicant is faced with the challenge of integrating this structure with its broader context between adjacent rowhouses and a street that serves as a major gateway to the city, which have conflicting objectives. The design of the building attempts to respect the objectives of each – the higher height is concentrated along South Capitol, while lower heights are reserved for the portions of the building closest to the rowhouses. The building's context limits the amount of open space that can be provided in the design of the building. The Applicant has also had to design the building with constraints established by the overlays that were not previously applicable. In complying with required setbacks and affordable housing set-asides, the building design has been manipulated in order to maximize space and to create the most attractive and marketable structure as possible. The

Applicant designed the building to provide the maximum amount of green space; thus, it provides a front, rear, and two courtyards.

Additionally, OP has indicated its desire that the Applicant use the ground floor of the building for retail space. While the Applicant is contemplating retail uses on the ground floor; it will provide a fitness room, club room and other residential recreation areas for its tenants on the ground floor. Any portion of the ground floor that is dedicated to retail use will further limit the amount of space available as indoor residential recreation space.

Court

Pursuant to the Zoning Regulations, the court along the northern edge of the Property would be required to be 36'8" wide; the Applicant is providing a courtyard that is 31'7" wide. Though the lot is long, it abuts another lot directly to its north. Because the lot is immediately adjacent to another lot to the north, the Applicant established a courtyard to provide green space and to remove some of the residential units from the lot line in order to create attractive residential units along the northern edge of the Property. The regulations mandating that the building be set back from the front and rear lot lines reduces the Applicant's flexibility in developing a design with green spaces that are in compliance with the Zoning Regulations. Development has been relegated to the center of the lot which competes with the area needed for additional green space. Unfortunately, because of the circumstances of this case, as described in greater detail above, the Applicant is not able to narrow the building to increase the width of the northern courtyard. Nevertheless, the Applicant and OP agree that of the various designs created by the Applicant, the proposed design offers the best use of space and still allows for two generous courtyards.

2. A Practical Difficulty Exists in Satisfying The Strict Application Of The Requirements Of The Zoning Regulations

The DC Court of Appeals defined "practical difficulty" in Palmer v. D.C. Bd. of Zoning Adjustment, 287 A. 2d 535, 542 (D.C. 1972) as the following: "[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of 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 v. D.C. Bd. of Zoning Adjustment, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider "... a wide range of factors in determining whether there is an 'unnecessary burden' or 'practical difficulty'". 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 v. D.C. Bd. of Zoning Adjustment, 606 A.2d 1362, 1367 (D.C. 1992). Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with the regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

Height

Constructing a building with a uniform 90 foot height would require the Applicant to make internal changes to the building that would render the potential retail and residential space undesirable. The building would require an additional floor to make the project financially viable; however, the additional floor would create a particularly dense building with unappealing floor to floor heights that would neither be practicable nor marketable. Squeezing an additional floor into a 90 foot building would also result in an awkward configuration of some of the units

and limit some unit's access to light. If the Applicant expanded the footprint of the building to capture additional square footage, the units would be deep and have little access to natural light.

Limiting the height of the building would create a sub-par structure that would be difficult to market and would detract from the monumental nature of South Capitol Street. The Applicant purchased the property prior to the extension of the CG Overlay and the IZ Overlay and, therefore, did not appreciate the repercussions those requirements would have on its residential development. It was only after the Applicant had purchased the property and expended considerable funds in developing plans did OP propose including the site within both overlays. The Applicant is left in a position of trying to recoup as much of the square footage it believed it could achieve when it purchased the site as possible. Permitting a building height of up to 110 feet along South Capitol Street creates flexibility for the Applicant in designing the project and allows the Applicant to create attractive and marketable units, while stepping down to adjacent properties.

Residential Recreation Space

The Applicant is limited to developing its project on the center stretch of its land in order to comply with the 15 foot setback required by the Capitol Gateway Overlay and the 15 foot rear-yard setback required by the Zoning Regulations. This limits the building designs that the Applicant is able to pursue and the amount of additional green space that can be made available. Again, the Applicant is attempting to maximize the amount of space that can be used for residential units in order to recover the loss it suffered from being included within the CG and IZ Overlays; diminishing residential unit space for use as residential recreation space would create a financial hardship for the Applicant.

The Applicant has experimented with several different designs in order to develop a structure that maximizes the recreation space available to residents. In the proposed design, the number of HVAC units limits the amount of available recreation space available at the rooftop level, whereas the possibility of using portions of the ground floor for retail limits the amount of available recreation space available at the ground floor level. The Applicant is providing an indoor fitness room, a club room and a Wi-Fi area in its lobby. Including additional indoor recreational space would require carving out spaces within the building, which would conflict with the Applicant's need to capture as much space for units as possible in order to make the project financially viable. With regard to outdoor recreation space, the Applicant is providing a rooftop pool with a deck and a small kitchen area, the front yard, rear yard, and two courtyards for residential recreation space. The rooftop space is all fully accessible. In order to provide more outdoor recreation space, the footprint of the building would have to be reduced. The lot occupancy of the building is only 67%, whereas the permitted lot occupancy is 90%;² therefore, the Applicant is proposing a building footprint that is already considerably smaller than what is permitted in the C-2-C Zone District. To reduce the footprint any further would in turn reduce the size of and the number of the residential units, which would threaten the feasibility of this project.

Additionally, there are many recreation opportunities in the immediate vicinity of the site including the ballpark that will be located across the street. The site is located only a few blocks north of the Anacostia Waterfront, which has been targeted by the National Capital Planning Commission for revitalization. NCPC envisions the creation of a park at the waterfront as well construction of a mixed-use cultural development zone, which may include a museum. NCPC

² In order to accommodate the bonus density provided by inclusionary zoning, a lot occupancy of 90% is allowed for the C-2-C Zone District.

also has plans for the revitalization of South Capitol Street, which include a major public open space where South Capitol Street intersects with Potomac Avenue. The Property is located a few blocks from the Navy Yard Metrorail Station, which provides the opportunity for residents to visit other sites within the District, such as the National Mall or any of the numerous museums lining the Mall. In addition to the recreation space provided by the building, residents will have a variety of options for seeking out recreation areas near the Property.

Court

To require a wider court would require shifting the northern arm of the building further south, which would diminish the size of the central court. The Applicant is not able to narrow the northern arm because that would create sub-par units in that portion of the building, and as has been explained above, the Applicant is in a position of trying to recoup all available square footage for this project in order to make it financially feasible. Instead, the entire arm would have to shift southward and the attractiveness of the central open space would be compromised. Keeping the width of the central court is important to the Applicant because it does not want to create a situation where residents feel that they are intruding on the privacy of other residents, which may occur with a more narrow court. The Applicant also wants to be sure that it retains the attractiveness of the central court to ensure that it will be a space that can be used by residents in light of the fact that it is simultaneously requesting relief from the residential recreation space requirements.

Shifting the arm of the building southward would also increase the amount of the building directly east of the adjacent rowhouses. Per the suggestion of the Office of Planning, the Applicant has tried to stagger the building design in conjunction with the neighboring rowhouses, the idea being to minimize the area where both structures extend closer to the

property line (it should be noted that both structures maintain a setback from the rear lot line).

The northern building arm was designed to balance the need for an attractive courtyard along the northern portion of the property and the need to avoid adverse impacts on the adjacent property owners. If the arm were to shift southward to enlarge the northern courtyard, the arm of the building would no longer be staggered with the adjacent property and both buildings would extend to the rear set back line directly adjacent to each other. The court the Applicant is proposing in fact minimizes the impact of the building on adjacent property owners.

3. No Harm To The Public Good Or To The Zoning Plan Will Occur As A Result Of The Approval Of The Variance Application

Relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan. The proposed building height will benefit the neighboring properties as the varied height relates to the immediately adjacent uses. The adjacent rowhouses will not be overwhelmed with a 90 foot structure that is flush with the rear setback line and the front of the building will be consistent with the long term goals and future development for South Capitol Street. The varied heights also break up the massing of the building and diminish the “box-like” appearance that pervades many of the District’s buildings.

Similarly, providing less residential recreation space will not create a substantial detriment to the public good. The Applicant is providing 28,160 square feet of residential recreation space; therefore, it is close to compliance. Importantly, the majority of the recreation space provided is outdoors, which exceeds the 50% requirement of Section 773.8 of the Zoning Regulations. In fact, the amount of outdoor recreation space provided exceeds what would be required to be outdoor if the Project were able to comply with the 15 percent requirement. Thus, the remaining amount relates to indoor recreation space, which in most cases is less desirable

than outdoor recreation space. The landscaped roof, pool, courtyards, rear-yard and front yard are fully accessible to all residents and will provide spaces for them to retreat and relax. The Applicant is also providing a fitness center, a lobby with access to wireless internet and other internal space. While not included in the required calculation, the Applicant is providing over 15,000 square feet in balconies and porches for the private use of the residents which will also provide an escape for the tenants. Thus, there are number of spaces currently available on-site and, as described above, there are numerous sites in the immediate area that will be available to the tenants.

Finally, permitting a reduced courtyard width along the northern edge of the property does not compromise the open space that is available to tenants, as described above. The courtyard, as provided, will be 31'7" wide, falling approximately 5 feet short of the regulatory requirement. It is important to note that the northernmost court will be over 78 feet long, while the central court will be over 84 feet long. Though the northernmost court may not meet the width requirements, it is a substantial area given that it runs over half the length of the entire width of the building. This is significant since side yards are not required in the C-2-C Zone District, yet more than half of the units along the northern edge of the property will be set back from the property line over thirty feet.

VI. EXHIBITS

In support of this application, the following exhibits are attached to this document:

Exhibit A. Application for design review;

Exhibit B. Agent authorization letter;

Exhibit C. Surveyor's plat of the Property;

Exhibit D. Sanborn plat of the Property;

Exhibit E. Zoning Commission Order rezoning the Property;

Exhibit F. Architectural plans, elevations, and sections;

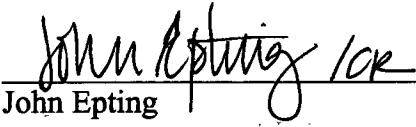
Exhibit G. Aerial photographs of site; and

Exhibit H. Property owners list.

VII. CONCLUSION

In light of the superior materials and quality of design, the Applicant asks that the Zoning Commission approve the design of the proposed building. The Applicant also asks that the Zoning Commission approve its request for variance and special exception relief in light of the regulatory restrictions imposed upon this property.

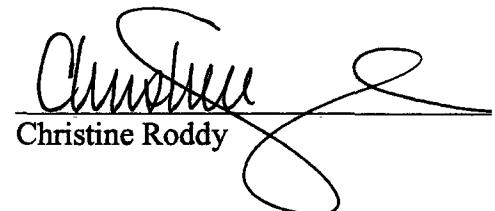
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Certificate of Service

I certify that on September 8th, 2006, I delivered a copy of the foregoing document via hand delivery or first class mail to the addresses listed below.



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