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January 15, 2009

By Hand Delivery

Anthony Hood, Chairman
District of Columbia Zoning Commission
441 4th Street, NW
Suite 210-S
Washington, DC 20001

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Re: Zoning Commission Case No. 08-30 – Supplemental Filing

Dear Chairman Hood and Members of the Commission:

Enclosed please find an original and twenty copies of an appendix to the pre-hearing statement filed by the Applicant in the above-referenced case on January 9, 2009. The Applicant asks that the Commission waive the requirements of Section 3013.8 and accept the enclosed plans into the record for Case No. 08-30. The Applicant has been refining the plans since its initial submission and to avoid confusion, opted to submit all of the plans at once rather than piecemeal.

Additionally, the Applicant has determined that the building requires variance relief from Section 634.1 of the Zoning Regulations, which provides that no building devoted to residential use be permitted a lot occupancy greater than 75%, calculated on a horizontal plane at the lowest level where residential uses begin. The proposed building has a total lot occupancy of 93%, a 81.8% lot occupancy for the entire building starting at the second floor, and a 79.8% lot occupancy for the residential portion of the building. As outlined in the pre-hearing statement (dated January 9, 2009), the Applicant bears the burden of proving each prong of the following three-prong test in order to secure a variance (see pages 23-24).

There are many unique conditions affecting the Property, including its size, configuration, and location. These conditions are discussed in detail on pages 25 and 26 of the statement and apply to the request for lot occupancy relief.

Strict application of the lot occupancy requirements will result in a practical difficulty for the Applicant in that it will unnecessarily restrict the development envelope for the office building and it will detrimentally affect the design of the residential building. Because this building is considered one building for zoning purposes, the seventy-five percent lot occupancy restriction applies to the entire building (starting at the second floor -- the horizontal plane where residential uses begin), despite the fact that approximately 370,000 square feet of it is dedicated to office use. However, if the building were considered two separate buildings -- one residential and one commercial -- the office portion would be permitted a 100% lot occupancy and the residential portion would be limited to a 75% lot occupancy. Yet, Section 634.1 would require a 75% lot occupancy across the entire site (starting at the second floor), including the office portion. Providing a uniform 75% lot occupancy would reduce the square footage of the office portion by nearly 93,000 square feet. Whereas a lesser lot occupancy is required for residential use to protect the light and air of the building's residents, the same concerns do not apply to the office portion¹. The office portion would be required to reduce its footprint simply by virtue of its connection to the residential portion. Thus, the significant reduction in the size of the office building would serve absolutely no purpose. It is in light of this discrepancy that the Applicant believes it makes more sense to view the building, for lot occupancy purposes, as a residential portion and an office portion.

The residential portion of the building has a lot occupancy of 79.8%, which exceeds the permitted 75% lot occupancy. The excess lot occupancy is created in part by the larger balconies the Applicant is proposing for the building residents. Eliminating the balconies, however, would reduce the attractiveness and functionality of the residential units. The residential building is designed around an elaborate courtyard that is meant to serve the residents and to provide an oasis amid the hustle of Half Street and the nearby ballpark. The balconies maximize the effect of the courtyard and are a means to provide residents a private, outdoor recreation space with plenty of access to light and air. Eliminating the balconies will undermine the effectiveness of the courtyard as well as reduce the attractiveness of the building as a place to live.

Finally, approving the variance request will not adversely affect the public or the zone plan. The flexibility the Applicant is seeking is within 5% with regard to the residential portion of the building, which is minimal given the size of the structure. Most importantly, the light and air of the residents will actually be improved with the provision of the balconies (and increase in

¹ The Zoning Regulations clearly contemplate mixed-use buildings having different maximum lot occupancies at different horizontal planes. In a typical mixed-use residential building, retail occupies 100% of the ground floor, and the residential uses on the upper floors are set-back or include courtyards to reduce the lot occupancy. In this case, we are requesting that the Zoning Commission recognize that this is a mixed-use building that has different uses that are separated not just horizontally, but also vertically.

the lot occupancy) rather than if the balconies were removed and the lot occupancy reduced. The project satisfies the zoning requirements for courtyard size, thus it can be assured that the courtyard provides adequate light and air to the interior building units. In addition to the courtyard, the building takes advantage of its extensive street frontage on N, Half, and Van Streets – all of which contribute to the light and air available to the exterior residential units. In light of these conditions, it is clear the residential units are not adversely affected by the increased lot occupancy. Though the effect of the variance relief on neighboring properties can also be considered when determining if relief is appropriate; in this case, it is not necessary since the residential structure is surrounded by commercial uses.

The Applicant appreciates the acceptance of the enclosed submission into the record and believes that this completes the record regarding the Applicant's project. The Applicant will address any comments or questions the Commission may have at the public hearing on January 29, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Tummonds", with a stylized flourish at the end.

Paul Tummonds

A handwritten signature in black ink, appearing to read "Christine Roddy", with a stylized flourish at the end.

Christine Roddy

Certificate of Service

I hereby certify that the enclosed document was hand-delivered or sent by first-class mail to the following addresses on January 15, 2009:

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Christine A. Roddy