

**BEFORE THE ZONING COMMISSION
FOR THE
DISTRICT OF COLUMBIA**

Z.C. Case 14-24

Applicant: 1900 11th Street, N.W. LLC

**PREHEARING STATEMENT IN SUPPORT OF
AN APPLICATION FOR A MAP AMENDMENT
FROM THE R-4 DISTRICT TO THE R-5-B DISTRICT AND VARIANCE FROM
THE REQUIRED SIZE OF PARKING SPACES
FOR
SQUARE 2848,
LOT 39 (1368 Kenyon Street, N.W.)
LOT 40 (1370 Kenyon Street, N.W.)
LOT 838 (1372 Kenyon Street, N.W.)
AND
LOT 72 (1361 Irving Street, N.W.)**

ANC 1A, SMD 06

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I.

INTRODUCTION

This prehearing statement and the attached exhibits are submitted on behalf of 1900 11th Street, N.W. LLC (the “**Applicant**”) in support of its application to the District of Columbia Zoning Commission (the “**Commission**”) to amend the Zoning Map of the District of Columbia (the “**Zoning Map**”) to rezone Square 2848, Lots 39, 40, 72, and 838 (the “**Property**”) from the R-4 District to the R-5-B District and a variance from the required size of parking spaces for Lots 39 and 40 (“**Application**”). The Applicant acquired Lots 39 and 40, which have been vacant for many years, from the District of Columbia in a foreclosure action in March 2013 (“**Vacant Lots**”).

As discussed more fully in Section VII below, the requested map amendment is not inconsistent with the Comprehensive Plan, would not create any adverse impacts on surrounding properties, and would result in a number of important benefits to the surrounding community and the District of Columbia as a whole. The proposed map amendment to the R-5-B District will ensure that the zoning designation for the Property is consistent with the site's designation on the Future Land Use Map of the Comprehensive Plan, which designates the Property for Moderate Density Residential use.

II.

NATURE OF RELIEF SOUGHT AND JURISDICTION OF THE COMMISSION

The Applicant seeks, pursuant to 11 DCMR §102, a map amendment to rezone the Property from R-4 to R-5-B. The Applicant also seeks, pursuant to 11 DCMR §3103.2, a variance from the required size of parking spaces under 11 DCMR §2115.1.

III.

DESCRIPTION OF THE SUBJECT PROPERTY AND SURROUNDING AREA

The Property consists of 19,768 square feet of land area currently configured as four (4) separate lots and is situated between Kenyon and Irving Street, N.W. east of 14th Street and the Columbia Heights Metro Station. (See, Exhibit A and Exhibit B). Lot 72 (7,413 square feet) is improved with a four-story, 16 unit apartment building (Irving Station Condominium) built in 1918 at 1361 Irving Street, N.W. Lot 838 (7,413 square feet) is improved with a four-story 18 unit apartment building (The Kenyon Street Yes We Can Cooperative) built in 1910 at 1372 Kenyon Street, N.W. The Vacant Lots are approximately 800 feet from the Columbia Heights Metro Station and will be subdivided into a single Record Lot of approximately 4,942 square feet for development purposes.

As shown on the Zoning Map attached hereto as Exhibit C, the Property is currently zoned R-4. The Future Land Use Map of the Comprehensive Plan designates the Property for Moderate Density Residential. (See, Exhibit D). The Property was placed in its current land use designation during the 2006 Comprehensive Plan cycle when it was recognized that mixed-use development should be encouraged in such close proximity to the metro station. The Property is designated within a Neighborhood Conservation Area on the Generalized Policy Map. (See, Exhibit E). The Property is also located immediately adjacent to the 14th Street Corridor/Columbia Heights Focus Area within the Mid-City Area Element of the Comprehensive Plan. The Property is not located within a historic district.

The area immediately west of the Property is zoned C-3-A, which permits a 4.0 FAR with a 65 foot height, and is improved with mixed use retail and multi-story residential buildings

and the three level DC USA shopping mall (Target, Best Buy, Bed, Bath & Beyond, Staples) above the Columbia Heights Metro Station.

IV.

EXISTING AND PROPOSED ZONING

A. Existing Zoning and Proposed Zoning

The Property is currently zoned R-4. (See, Exhibit C). The R-4 Districts are “designed to include those areas now developed primarily with row dwellings, but with very little vacant land.” 11 DCMR §330.1-2. The R-4 District does not permit new multi-family residential development as a matter of right. The maximum permitted height for new construction of two row dwellings in the R-4 District is 35 feet/3 stories with a minimum lot area of 1,800 square feet and minimum lot width of 18 feet for a row dwelling or flat. 11 DCMR §400.1, 401.3.

For a row dwelling or flat, lot occupancy is limited to 60%. 11 DCMR §403.2. A rear yard with a minimum depth of 20 feet is required for each structure in the R-4 District. 11 DCMR §404.1.

The Applicant is requesting a map amendment to rezone the Property to the R-5-B District. The R-5-B District, in contrast to the R-4 District, is designed to serve multi-family residential functions with moderate-density residential, which is consistent with the Property’s designation on the Future Land Use Map of the Comprehensive Plan, 11 DCMR §350.1.

The maximum permitted matter-of-right height in the R-5-B District is 50 feet with no limit on the number of stories. 11 DCMR §400.1. The maximum FAR in the R-5-B District is 1.8, for all other structures, except 2.0 for public libraries. 11 DCMR §402.4. In the R-5-B District, the maximum percentage of lot occupancy is 60%. 11 DCMR §403.2. There are no minimum lot area or lot width requirements, except for a public library. 11 DCMR 401.3. A

rear yard of 4 inches per foot of vertical distance from the main finished grade at the middle of the rear of the structure to the highest point of main roof or parapet wall, but not less than 15 feet is required. 11 DCMR §404.1. Side yards generally are not required in the R-5-B District. 11 DCMR §405.9. However, if a side yard is provided, it must be at least 3 inches wide per foot of building height, but not less than 8 feet. 11 DCMR §405.6.

B. Effect of the Proposed Map Amendment

As discussed in more detail below, the proposed map amendment from R-4 to R-5-B is not inconsistent with the Comprehensive Plan and will further the objectives of the Zoning Act, and the objectives of the Council in the adoption of the Comprehensive Plan. The requested rezoning of the Property to R-5-B satisfies each of the statutory standards applicable to map amendments. The proposed map amendment would permit multi-family residential development of the Vacant Lots as a matter-of-right. The proposed map amendment would increase the maximum height on the Vacant Lots from 40 feet to 50 feet with a maximum FAR of 1.8, which is consistent with the developed height and FAR of the existing properties located to the immediate west of the Property, including specifically the apartment buildings at 1372 Kenyon and 1361 Irving Street, N.W.

In addition, the proposed rezoning would:

- a) Implement the Future Land Use Map's designation of the Property for Moderate: Density Residential uses; and
- b) Permit the matter-of-right development of new residential uses on the Property, which is consistent with the Property's designation within a Neighborhood Conservation Area on the Generalized Policy Map.

V.

DESCRIPTION OF THE PROJECT

The Applicant proposes to rezone the two lots currently improved with apartment buildings (lots 72 and 838) (“**Existing Buildings**”) as well as rezone and develop the two Vacant Lots (lots 39 and 40) with one apartment building (“**Apartment Building**”). (See, Exhibit F for list of owners).

A. Existing Buildings

The Applicant only proposes to rezone, not develop, the Existing Buildings. The Existing Buildings were included in the rezoning at the suggestion of the Office of Planning in order to maintain consistent zone boundaries and provide for an appropriate buffer or transition to the abutting C-3-A Zone to the west. Under the existing R-4 zoning, these buildings are currently non-conforming to the zone standards for use and area requirements. Under the proposed R-5-B zoning, both buildings would remain non-conforming to FAR and lot occupancy. The Zoning Regulations allow these existing non-conforming structures to remain. Although nothing is currently planned for the Existing Buildings, future building changes or additions may require some form of zoning relief, but the same would be true under the existing R-4 zoning.

B. Vacant Lots

As shown on the architectural plans and elevations, attached as Exhibit G (the “**Plans**”), the Applicant proposes to construct a new five-story (5) residential building with approximately 8,896 square feet of gross floor area. The Apartment Building will consist of eight (8) residential units as shown on the Plans. The apartment mix will be as follows:

Number of Apartment Units	Type of Unit	Size
1	2 Story, 2 Bdrm, 2.5 Bath, 2 Patios	Unit #1 @ 1,537 sq. ft.
1	1 Story, 2 Bdrm, 2.5 Bath, 2 Patios	Unit #2 @ 955 sq. ft.
1	1 Story, 2 Bdrm, 2.5 Bath, 1 Terrace	Unit #3 @ 667 sq. ft.
1	1 Story, 2 Bdrm, 2.5 Bath, 1 Terrace	Unit #4 @ 759 sq. ft.
2	1 Story, 2 Bdrm, 2 Bath, 2 Terraces	Units #5 & #7 @ 667 sq. ft.
1	2 Story, 3 Bdrm, 3.5 Bath, 1 Terrace, 1 Roof Deck	Unit #6 @ 1,643 sq. ft.
1	2 Story, 2 Bdrm, 2.5 Bath, 2 Terraces, 1 Roof Deck	Unit #8 @ 1,017 sq. ft.

The building will have a maximum height of 50 feet to the top of the main parapet. The central courtyard will be landscaped and the proposed Apartment Building will comply with the Green Area Ratio.

The four (4) off-street parking spaces to the rear of the Apartment Building will satisfy the residential parking requirement of one space for every two units. 11 DCMR § 2101.2. However, the parking spaces will be 8ft. 2 in. by 19 ft. where full-size spaces (9 ft. by 19 ft.) are required. 11 DCMR § 2115.1.

Apart from needing zoning relief from the required dimensions of the parking spaces, the proposed Apartment Building will be in compliance with the zoning requirements as set out in the chart below.

1. Vacant Lots

Vacant Lots 39 & 40 (to be subdivided into one lot)

Address: 1368 – 1370 Kenyon Street, NW

Lot Area: 4,942 sf

Requirement	R-4 Matter of Right	R-5-B Matter of Right	Proposed Project Design	Relief Needed
FAR	None Prescribed	1.8 max	1.8	None
Building Height	35 ft. max/3 stories	50 ft. max/no story limit	50 ft./5 stories	None
Lot Area	4,000 ft.	None Prescribed	4,942 sf.	None
Lot Width	40 ft.	None Prescribed	33.33	None
Lot Occupancy	60% Row Dwelling or flat	60%	50.5%	None
Gross Floor Area	N/A	8,895.6 maximum (1.8 x 4,942)	8,895.0 sf.	None
Rear Yard	20 ft. minimum	15 ft. minimum	23 ft. 2 in.	None
Side Yard	None	If provided, 8 ft. minimum	N/A	None
Open Court	Width: 10 ft. minimum	Width: 10 ft. minimum	Width: 20 ft. 6 in.	None
Closed Court	Width: 15 ft. minimum Area: 350 sf. minimum	Width: 15 ft. minimum Area: 350 sf. minimum	N/A	None
Inclusionary Zoning (§2603)	Required for 10 or more dwelling units	Required for 10 or more dwelling units	N/A	None
Parking (§2101.1)	1 for each 2 dwelling units	Amount: 1 for each 2 dwelling units Size, per §2115: 9 ft. minimum width 19 ft. minimum length	Amount: 4 Parking Spaces Size: 8 ft. 2 in. width 19 ft. length	None Variance Requested
Bicycle (§2119.2)	N/A	N/A	N/A	None

Loading (§2201.1)	N/A	N/A	N/A	None
Green Area Ratio (§3400)	N/A	0.40	0.40	None

2. Existing Buildings

The table below indicates changes to the zoning requirements for the Existing Buildings as a result of the map amendment from R-4 to R-5-B.

Lot 72 improved with a four-story, 16 unit apartment building built in 1918
Address: 1361 Irving Street, NW
Lot Area: 7,413 sf

Lot 838 improved with a four-story, 18 unit apartment building built in 1910
Address: 1372 Kenyon Street, NW
Lot Area: 7,413 sf

Requirement	Lot 72	Lot 838	R-4 Matter of Right	R-5-B Matter of Right	Relief Needed
FAR	2.7	2.9	None Prescribed	1.8 max	None - will remain nonconforming
Building Height	50 ft./4 stories	50 ft./4 stories	40 ft. max/3 stories	50 ft. max/no story limit	None
Units	16	18	900 sf/apartment min.	Not regulated	None
Lot Occupancy	70%	74%	60% Row Dwelling or flat	60%	None - will remain nonconforming

VI.

STANDARDS APPLICABLE TO AN APPLICATION FOR A ZONING MAP AMENDMENT

The Zoning Act sets forth a number of criteria that must be applied by the Commission in adopting and amending the Zoning Regulations and Zoning Map. The Zoning Act states that the Zoning Regulations are designed to “promote the health, safety, morals, convenience, order,

prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital ...” D.C. Code §6-641.01 (2001). The Zoning Act further provides that:

[z]oning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

D.C. Code §6-641.02 (2001). The Commission must apply those standards and criteria in determining whether to approve a requested map amendment. As set forth below, the proposed rezoning of the Property from the R-4 District to the R-5-B District will promote each of the purposes described above.

VII.

EVALUATION OF PROPOSED MAP AMENDMENT AND COMPLIANCE WITH STATUTORY STANDARDS

As described in detail below, the proposed map amendment meets each of the specific requirements set forth in the Zoning Act. The Commission should therefore approve the Application.

A. The Comprehensive Plan

The rezoning of the Property to the R-5-B District is “not inconsistent with the Comprehensive Plan” and is in fact consistent with and implements many of the elements of the Comprehensive Plan.

1. The Future Land Use Map

The Future Land Use Map of the Comprehensive Plan designates the Property for Moderate Density Residential uses. (See, Exhibit D). Moderate Density Residential areas are intended to include row house neighborhoods which also include a mix of housing types (2-4 unit buildings, row houses and low rise apartment buildings). In older inner city neighborhoods like Columbia Heights, there are existing multi-story apartments which were built prior to the enactment of the 1958 Regulations. The R-5-B district is specifically included and is in keeping with and consistent with the existing adjacent R-5-B zone and appropriate transition to the existing C-3-A zone and improvements. 10 DCMR §225.4, The proposed map amendment to R-5-B will allow the matter-of-right development of a multi-family residential use on the Vacant Lots and the R-5-B District is specifically listed in Section 225.4 of the Comprehensive Plan. Thus, the proposal is consistent with the Property's designation on the Future Land Use Map.

2. The Generalized Policy Map

The Generalized Policy Map designates the Property within a Neighborhood Conservation Area. (See, Exhibit E). The Comprehensive Plan provides that Neighborhood Conservation Areas “are primarily residential in character... where change occurs, it will be modest in scale and will consist primarily of scattered site in fill housing...” 10 DCMR §223.4. “The guiding philosophy in Neighborhood Conservation Areas is to conserve and enhance established neighborhoods. Limited development and redevelopment opportunities do exist

within these areas, but they are small in scale. The diversity of land uses and building types in these areas should be maintained and new development and alterations should be compatible with the existing scale and architectural character of each area. Densities in Neighborhood Conservation Areas are guided by the Future Land Use Map.” 10 DCMR §223.5.

3. Compliance with the Citywide Elements of the Comprehensive Plan

The proposed map amendment is consistent with the citywide elements of the Comprehensive Plan and will advance a number of the stated goals and policies.

a. Land Use Element (Chapter 3)

The Comprehensive Plan provides that “[b]ecause the Land Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced.” 10 DCMR §300.3.

The underlying goal of the Land Use Element is to:

[e]nsure the efficient use of land resources to meet the long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries.

10 DCMR §302.1. The proposed map amendment will advance this important goal by complying with the following four policies set forth in the Land Use Element of the Comprehensive Plan.

Policy LU-1.3.2: Development Around Metrorail Stations: Concentrate redevelopment efforts on those Metrorail station areas which offer the greatest opportunities for infill development and growth, particularly stations in areas with weak market demand, or with large amounts of vacant or poorly utilized land in the vicinity of the station entrance. Ensure that development above and around such

stations emphasizes land uses and building forms which minimize the necessity of automobile use and maximize transit ridership while reflecting the design capacity of each station and respecting the character and needs of the surrounding areas. 10 DCMR §306.11.

Policy LU-1.4.1: Infill Development

Encourage infill development on vacant land within the city, particularly in areas where there are vacant lots that create "gaps" in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern. 10 DCMR §307.5.

Policy LU-1.4.3: Zoning of Infill Sites

Ensure that the zoning of vacant infill sites is compatible with the prevailing development pattern in surrounding neighborhoods. This is particularly important in single family and row house neighborhoods that are currently zoned for multi-family development. 10 DCMR §307.7.

Policy LU-2.1.8: Zoning of Low and Moderate Density Neighborhoods

"Discourage the zoning of areas currently developed with single family homes, duplexes, and rowhouses (e.g., R-1 through R-4) for multi-family apartments (e.g., R-5) where such action would likely result in demolition of housing in good condition and its replacement with structures that are potentially out of character with the existing neighborhood. 10 DCMR §309.13.

b. Housing Element (Chapter 5)

The stated goal of the Housing Element of the Comprehensive Plan is to “[d]evelop and maintain a safe, decent, and affordable supply of housing for current and future residents of the District of Columbia.” 10 DCMR §501.1. The proposed map amendment is consistent with the general and specific policies set forth in the Housing Element of the Comprehensive Plan, including the following:

Policy H-1.1.1: Private Sector Support

Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 10 DCMR §503.2.

Consistent with Policy H-1.1.1, the map amendment will enable the development of up to 1.8 FAR on the Property, for multiple dwellings or apartments on the Vacant Lots which will be entirely consistent with the immediately adjacent apartment buildings, the surrounding zoning and immediate proximity to the Columbia Heights Metro Station.

4. Compliance with the Area Elements of the Comprehensive Plan

In addition to the citywide elements, the Comprehensive Plan includes ten geographically based “area elements.” The Property is located immediately adjacent to the 14th Street Corridor/Columbia Heights Focus Area within the Mid-City Area Element of the Comprehensive Plan. As discussed below, the proposed map amendment is consistent with the following objectives and policies set forth in the Mid-City Area Element:

Policy MC-2.2.1: Columbia Heights Metro Station Area Development
Develop the Columbia Heights Metro Station area as a thriving mixed use community center, anchored by mixed income housing, community-serving retail, offices, civic uses, and public plazas. Strive to retain the neighborhood's extraordinary cultural diversity as development takes place, and place a priority on development and services that meet the needs of local residents. 10 DCMR §2012.7.

The proposed map amendment will significantly advance the objectives of Policy MC-2.2.1 since rezoning the Property from an R-4 zone to R-5-B will facilitate moderate density residential development on the Vacant Lots which is consistent with the immediately adjacent apartment buildings and will capitalize on the immediate presence of the Columbia Heights Metrorail station and will enable the development of new transit-oriented housing.

Policy MC-1.1.1: Neighborhood Conservation: Retain and reinforce the historic character of Mid-City neighborhoods, particularly its row houses, older apartment houses, historic districts, and walkable neighborhood shopping districts. The area's rich architectural heritage and cultural history should be protected and enhanced. 10 DCMR §2008.2.

Policy MC-1.1.2: Directing Growth: Stimulate high-quality transit-oriented development around the Columbia Heights, Shaw/Howard University, and U St./African American Civil War Memorial/Cardozo Metrorail station areas, as well as along the Georgia Avenue corridor and the North Capitol Street/Florida Avenue business district. Opportunities for new mixed income housing, neighborhood retail, local-serving offices, and community services should be supported in these areas, as shown on the Comprehensive Plan Policy-Map and Future Land Use Map. 10 DCMR §2008.3.

B. Health, Safety, and General Welfare

The proposed map amendment would further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the R-5-B District will ensure that the Vacant Lots are developed in a consistent manner with its land use designation and the surrounding residential mixed use and commercial uses. By facilitating the redevelopment of the Vacant Lots with a similar apartment building to the neighboring structures and in close proximity to Metro, the proposed map amendment will protect the health and safety of District residents. The map amendment will also promote the general welfare by allowing the redevelopment of the Vacant Lots with a residential use that is appropriate and in furtherance to the existing residential and commercial uses and will generate new jobs for District residents and significant new tax revenues for the District government.

C. No Adverse Consequences

The proposed map amendment will not result in the overcrowding of land or the undue concentration of population, nor will it have any significant adverse impacts on traffic congestion in the surrounding area. Although the map amendment will result in an increase in the overall density permitted on the Vacant Lots, the maximum height and density permitted on the Property is consistent with both the Future Land Use Map designation of the Property and the existing zoning to the immediate east of the Property and benefited by the immediate proximity of the

Columbia Heights Metro Station. In short, the proposed map amendment will have no adverse effects on other adjacent properties and provide many benefits over the current vacant land.

D. Development under the R-5-B District Would Create Favorable Conditions

As discussed above, the proposed map amendment will further a number of the policies embodied in the District's Comprehensive Plan. The rezoning will allow the redevelopment of the Vacant Lots with a moderate density multiple dwelling residential use on the Property that is consistent with both the Future Land Use Map and the Generalized Policy Map designations for the Property and in keeping with the immediate adjacent apartment buildings and the immediate proximity of the Columbia Heights Metro Station.

VIII.

THE APPLICATION SATISFIES THE AREA VARIANCE STANDARD FOR RELIEF FROM THE PARKING SPACE DIMENSIONS

A new apartment house in the R-5-B District is required to have 1 parking space for each 2 dwelling units and since the Apartment Building will consist of 8 units, 4 spaces are required. While the Applicant will be providing the required number of spaces, the spaces cannot meet the required dimensions. Zoning requires each parking space to be a minimum of 9 ft. in width and 19 ft. in length whereas the Applicant proposes the width of each space to be 8 ft. 2 in. while the length of 19 ft. will be in compliance. While the proposed dimensions (8 ft. 2 in. by 19 ft.) exceed the minimum dimension for compact spaces (8 ft. by 16 ft.) (See 11 DCMR § 2115.3), compact spaces cannot be counted toward required spaces. Therefore, the Applicant requests a 10 inch area variance from the width of each of the four parking spaces.

The burden of proof for an area variance is well established. The D.C. Court of Appeals has distilled a three-part test that “[i]n order to obtain [area] variance relief, an applicant must

show that (1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.” *Washington Canoe Club v. District of Columbia Zoning Com'n*, 889 A.2d 995, 1000 (D.C.2005)

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

The Property has been left vacant for many years as a result of the limited ability to redevelop it under the existing R-4 restrictions. The Applicant purchased the Vacant Lots at a foreclosure sale in February 2013 from the District of Columbia. The Property is in close proximity (800 feet) to the Columbia Heights Metro Station and just one block away from 14th Street, a busy thoroughfare servicing several bus lines.

The width of the Vacant Lots (combined) is 33.33 ft. and therefore it is impossible to provide the required minimum width for four spaces (the width of the combined lots would have to be 36 ft. in order to have four parking spaces each with the required 9ft. width).

Despite the request for zoning relief from the width, the Applicant meets the number of required parking spaces (4) and the size of the proposed spaces at 8 ft. 2 in. by 19 ft. are larger than the minimum dimensions for compact spaces (8 ft. by 16 ft.).

B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty

The requested relief from parking space dimensions is for an area variance, which requires the Applicant prove the strict application of the zoning regulations for complying with the required size of parking spaces will result in a “practical difficulty.” It is important to note how the DC Court of Appeals has defined “practical difficulty.” In reviewing the standard for

practical difficulty, the D.C. Court of Appeals stated in *Palmer v. D.C. Bd. Of Zoning Adjustment*, 287 A. 2d 535, 542 (D.C. 1972) that, “[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 “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 regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

The spaces in the rear are unable to be reconfigured due to the size of the rear exterior egress stairs. (See, Exhibit G). The narrowness and depth of the lot and no Kenyon Street access or curb cut would not allow the required configuration, drive aisle width and accessibility for underground parking on the Vacant Lots. Reducing the number of units to six to meet the parking dimension requirements for three spaces would yield fewer oversized units which would be economically impractical or require a substantial reduction in the permitted density which could not be justified with the high cost/value of the underlying land.

C. **Relief Can Be Granted Without Adversely Affecting the Use of the Neighboring Property in Accordance with the Zoning Regulations and Zoning Map**

The Project has been thoughtfully designed to comply with the Zoning Regulations and to integrate the Apartment Building into the neighborhood. Granting the variance to allow for 8 ft. 2 in. width for the parking spaces (instead of the required 9 ft. minimum width) will still allow for compact cars to fit in the spaces. The reduction of the mandatory width is minor and will not adversely affect neighboring property.

IX.

STATEMENT OF SATISFACTION OF BURDEN OF PROOF FOR ZONING RELIEF SOUGHT

The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction herewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted hereto, it will satisfy and comply with the applicable legal standards and burdens for the map amendment and variance requested.

X.

AGENCY AND COMMUNITY OUTREACH

The Applicant will continue to work with the Office of Planning throughout the process. The Applicant has maintained contact with ANC 1A and the Existing Building owners. Moving forward, the Applicant plans to meet informally and formally with the ANC and other interested parties in advance of the scheduling of the public hearing. The Applicant will provide an update to the Commission, regarding these discussions.

XI.

WITNESSES EXPECTED TO TESTIFY

Applicant's Representative: Dr. Sahr Bockai

Architect's Representative: McAllister Architects, P.C.

XII

LIST OF EXHIBITS

- Exhibit A** Building Plat From the D.C. Surveyor's Office
- Exhibit B** Aerial and Street Photographs Showing the Property and Surrounding Neighborhood
- Exhibit C** Relevant Portion of the Zoning Map
- Exhibit D** Relevant Portion of the Future Land Use Map
- Exhibit E** Relevant Portion of the Generalized Policy Map
- Exhibit F** Names and Addresses of the Owners of the Property to be Rezoned
- Exhibit G** Plans
- Exhibit H** Outlines of Testimony

XIII.

CONCLUSION

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from R-4 to R-5-B meets all of the requirements for an amendment to the Zoning Map. The proposed map amendment is consistent with the District's policies for this property and for the development of the surrounding area. Furthermore, the proposed rezoning is not inconsistent with the Comprehensive Plan, and in fact aligns the Property's zoning with the Comprehensive Plan. Finally, the requested rezoning will further each of the specific objectives

set forth in the Zoning Act. In addition, the requested variance is minor and fully complies with the applicable variance test and will have no adverse impact on the neighboring properties.

The Applicant respectfully requests that a hearing be scheduled at the earliest possible date. The required hearing fee is included with this Prehearing Statement.

Respectfully submitted:

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