

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

**Application of
Milestone East Capitol 4 LLC
Square 5413, A&T Lot 802 (Underlying Record Lots 28-41)**

**BZA Application No. 19704
ANC7F, SMD06**

Hearing Date: March 7, 2017

APPLICANT’S PRE-HEARING STATEMENT

This Pre-Hearing Statement (“**Statement**”) is submitted by Milestone East Capitol 4 LLC (the “**Applicant**”) in support of an application (“**Application**”) for Board of Zoning Adjustment (“**BZA**” or “**Board**”) approval to construct a new three-story residential affordable apartment building (“**Apartment Building**”) located on a proposed new record lot in the RA-1 zone district. The Applicant seeks the Board’s special exception review for the new residential development and variance relief for six existing three-story apartment buildings to remain on the site (“**Project**”) located on Square 5413, A&T Lot 802 (Underlying Record Lots 28-41) (“**Property**”).

EXECUTIVE SUMMARY

The Applicant is pursuing a BZA Application now for the new Apartment Building in order to take advantage of upcoming DC financing deadlines (May 2018) to meet the Applicant’s rent targets (not less than 70% of the 89 residential apartment units will be affordable at or below 60% MFI) while the Master Plan is being finalized for the future PUD application. The Applicant is committed to rehousing current, eligible residents of Meadow Green in the newly constructed units in the Apartment Building. The 20 ft. grade change at the Property, the significant number of Heritage Trees, and the concerns voiced by both the existing tenants and the DC Metropolitan Police Department regarding safety, have all impacted the design and further revision of the Apartment Building.

Significant Actions Taken, and Revisions to Plans Made Subsequent to Submission of Application on December 28, 2018

The Applicant has engaged in a meaningful review process with the existing tenants, the DC Department of Transportation (“**DDOT**”), DDOT’s Public Space Division, the Office of Planning (“**OP**”), and the DC Metropolitan Police Department (“**MPD**”). As a result of these efforts, significant revisions to the design have been agreed to by the Applicant subsequent to the submission of the Application, including the following:

Site

- The proposed lot area for the new record lot has been increased from 73,110 sf. to 75,811 sf. (FAR to remain at 1.07).
- This slightly larger proposed record lot results in an increase in nonconformity of six lots on the Property (but no new nonconformities since the Application was submitted).
- An exterior at-grade courtyard terrace (“**Courtyard Terrace**”) was added to enhance the quality of life for the tenants. This Courtyard Terrace amenity will include 1,640 sf. of usable paved area, which will have direct access to the expansive courtyard. A garden is also proposed adjacent to the Courtyard Terrace.
- Revised location and condition of existing heritage trees to reflect updated on-site surveying by a certified arborist.

Building

- The Proposed Building has been shifted 4 ft. to the west and 3 ft. to the north to allow raised retaining walls and recessed areaway walls at windows to be on the proposed Property (not in public space).
- The proposed entry terrace areaway along 35th Street was reconfigured and remains in public space (maximum projection of 6.5 ft.).
- The addition of 50 balconies (40 Juliet balconies and 10 projecting balconies – none projecting into public space).
- Revision to window types.
- Revisions to the distribution of exterior materials. Panelized fiber cement cladding has been removed and replaced with fiber cement lap siding. Otherwise, the proposed material pallet of red brick, buff brick, gray brick and painted fiber cement siding has not changed. Only the distribution of this material pallet has been revised.

The visual and physical connection from the main entry off of 35th Street through the interior lobby to the proposed Courtyard Terrace is reflective of MPD’s recommendations. As such, the

proposed alignment of the floor elevations of the front entry, the lobby, and the Courtyard Terrace is essential to achieve this. The inclusion of this revision necessitated the following updates to the initial Application:

- The primary pedestrian entry from 35th Street SE was shifted to the north to allow a continuous physical connection to the Courtyard Terrace via the entrance lobby.
- To accommodate this entrance shift and physical connection to the Courtyard Terrace, one 1-bedroom apartment was deleted bringing the total to 89 units (previously 90 units).
- To accommodate this entrance shift, proposed site walls providing access to the entry were revised in public space along 35th Street.
- The inclusion of the Courtyard Terrace at the same elevation as the entrance lobby required lowering the proposed grade adjacent to the building in that area, leading to less of the C1 floor allowed to be excluded from gross floor area (GFA) as cellar. The proposed Property was slightly enlarged to accommodate the additional GFA but it is still within the floor area ratio (“**FAR**”) limit allowed with the 20% Inclusionary Zoning bonus (1.08).

Transportation

- Reduction of the parking spaces from 51 to 49 spaces.
- Elimination of the 2 outdoor parking spaces to the rear of the Building.
- The configuration of the proposed curb cut at the east end of B Street was revised to make the drive aisle servicing the P1 garage level to be perpendicular to B Street from the face of curb to face of building. The minimum separation of the proposed curb cut to 35th Street is maintained.
- Trash collection will now take place on-site at the rear of the Building (not curbside).
- Minor revisions to the rear parking area to accommodate truck movements to access loading dock.

Summary of Requested Action

In order to develop a new multi-family residential development in the RA-1 zone district special exception relief must be granted by the BZA pursuant to 11 DCMR Subtitle U § 421 and Subtitle X § 901. In addition, the Applicant seeks variance relief from FAR, lot occupancy, and rear yard requirements pursuant to Subtitle F §§ 421, 304, 305 and Subtitle X § 1002 for six of existing non-conforming three-story apartment buildings to remain on the Property.

I. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the requested special exception and variance relief pursuant to 11 DCMR Subtitle X §§s 901 and 1002.

II. DESCRIPTION OF THE PROPERTY AND THE SURROUNDING AREA

The Meadow Green Courts Apartments (“**Meadow Green**”) is an existing apartment community of 461 units in 53 buildings on five contiguous Squares or blocks. The site is approximately 13 acres, located at the intersection of Minnesota Avenue and East Capital Street, SE within the Fort Dupont Park neighborhood (Ward 7). Built in the early 1940’s the buildings and units are functionally and economically obsolete. The subject Square (Square 5413) is currently improved with 13 three-story apartment buildings and a three-story community center amenity building.

The portion of Meadow Green, which is the subject of this Project, will have a lot area of 75,811 square feet as a result of a proposed Record Lot (“**Record Lot**”). The Property is bordered by A Street to the north, 35th Street to the east, B Street to the south and 34th Street to the west. See **Tab A**, Surveyor’s Plat. The Property, as well as the other Squares in Meadow Green to the north and east of the Property (Squares 5413N, 5411, 5412, and 5410), are all located within the RA-1 Zone District. See **Tab B**, Annotated Zone Map.

Square 5414, located directly west, across 34th Street (34th Street is 90 ft. wide at the portion of the street adjacent to the Project), is improved with two-story homes. Square 5418, located directly south across B Street (B Street is 90 ft. wide), is split-zoned R-3/RA-1 and is improved with two-story homes and two-story apartment buildings.¹

¹ Square 5418 is split-zoned R-3/RA-1. While the majority of the square is in the R-3 zone, the northwest corner of the square, directly across from the proposed Project, is zoned RA-1 and contains two-story apartment buildings.

The Benning Road Metro Station, servicing the Silver and Blue lines, is approximately one mile to the east on East Capitol Street. There is an approximate 20 ft. grade change on the Property. See Plans, **Tab C**, Grading Plan pg. 9. The Property does not currently provide any off-street parking.

III. BACKGROUND ON THE DEVELOPER

The Applicant is Milestone East Capitol 4, LLC, (“**MEC 4**”), the owner of the property since May 2017. The Managing Member (“**MM**”) of MEC 4 is Milestone East Capital 4MM, LLC (“**MEC 4 MM**”). The Managing Member of MEC 4 MM is TAI, LLC. The Manager and sole member of TAI, LLC is Turnaround, Inc., Thomas P. Gallagher, President. Turnaround, Inc. is a District of Columbia nonprofit corporation, which has received an exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code. Turnaround, Inc. provides on the job training and long-term employment to people at risk of homelessness. Turnaround, Inc. is empowered to own and operate affordable rental housing.

IV. EXISTING AND INTENDED USE

The creation of the Record Lot will establish one lot which is currently improved with seven buildings: six are three-story garden apartment buildings consisting of 52 affordable rental apartments, and the seventh consists of a three-story building that provides resident amenities and a gathering space. All of these buildings were constructed in the 1940s and provide no on-site parking spaces. See **Tab D**, Photos.

Five of the seven buildings (the buildings on lots 28, 29, 30, 40, and 41) will be immediately razed to make room for the Apartment Building. These five buildings contain a total of 43 apartment units. The other two buildings (one containing 9 residential units on lot 31 and the other providing amenity space on lot 38) will be demolished at a future time, as discussed in

more detail below. In total, 52 residential units will be replaced with the proposed three-story, 89 unit rental Apartment Building. Not less than 62 of the 89 units will be reserved for affordable units at or below 60% MFI. The Project will also provide a two-level below grade parking lot with 49 parking spaces. The Project is the second phase of a multi-phase project that will result in the total redevelopment of Meadow Green.

V. MEADOW GREEN

The first phase consisted of affordable senior housing located on lot 800 in Square 5410. See **Tab B**, Annotated Zone Map. The Applicant is in the master plan development phase obtaining feedback from the community on the redevelopment, which will culminate in the Applicant's submission of a PUD application in 2018 for the Meadow Green property.

A. Recent Development (Milestone Senior Housing)

The BZA approved the first phase of the Meadow Green redevelopment in 2015 pursuant to BZA Order 18972-A. The BZA granted a variance from the loading requirements and a special exception from the new residential developments requirements to construct a new residential development, "**Milestone Senior Housing**", consisting of 60 multi-family affordable rental housing units for seniors on lot 800 in Square 5410. The project is currently underway, with demolition of the existing three buildings and ongoing excavation of the site. The Milestone Senior Housing project has received the required permits and funding with an expected date of operations to begin by the end of 2018.

B. Future Development (PUD)

The Applicant is in the master plan development phase and is preparing a planned unit development ("**PUD**") application for Meadow Green. While the master planning process is underway, and in an effort to take advantage of the upcoming federal Low Income Housing Tax

Credits (“LIHTC”) funding deadline, the Applicant is pursuing this proposed BZA Project in advance of applying for the PUD. It is expected that the PUD will include a request to rezone the Meadow Green property to include additional height and density. The PUD will include information on the development of the Remaining Lots in the subject square.

MEADOW GREEN TIMELINE

Property	Zoning Relief	Funding	Level of Affordability	Demolition	New Construction	Occupancy
PHASE 1: “Milestone Senior Housing” (New 3-story apartment building consisting of 60 affordable rental housing units for seniors)						
Square 5410, Lot 800 3605 Minnesota Ave, SE	BZA Order 18972-A (DC Register: June 5, 2015)	\$21.97 Million Fully Funded	60 units all at 50% MFI Breakdown of Units: 8 = Efficiency 45 = One-Bedroom 7 = Two-Bedroom CIZC Form Signed 10/23/17	Raze Permit Issued 11/6/17 Raze Complete	Bldg Permit Issued 11/2/17 Started Construction	Projected Occupancy Date anticipated 4 th Quarter 2018
PHASE 2: “125 35th Street SE” (SUBJECT OF EXISTING BZA APPLICATION) (New 3-story apartment building consisting of 89 affordable rental housing units) The Applicant is pursuing a BZA Application now for a new Apartment Building in order to take advantage of some upcoming DC financing deadlines to meet the Applicant’s rent targets while the Master Plan is being finalized for the PUD application.						
Square 5413, Lot 802	Subject of current BZA Case 19704	Deadline for Funding: Spring 2018	Apt Bldg: Not less than 70% of the 89 residential units will be affordable at or below 60% MFI Breakdown of Units: 33 = One-Bedroom 45 = Two-Bedroom 11 = Three-Bedroom Upon expiration of the 40 yr. affordability period required by the LIHTC Program, the Applicant will reserve 10% of the gfa dedicated to residential use for households with incomes not exceeding 60% MFI.	Demolition of the 5 Lots for the Apt Bldg anticipated Spring 2019 Demolition of the existing apt bldg on Lot 31 anticipated Summer 2020 Demolition of the Amenity Bldg on Lot 38 anticipated Summer 2020	Projected Start of Construction of Apt Bldg anticipated Spring 2019	Project Occupancy Date of Apt Bldg anticipated Spring 2020

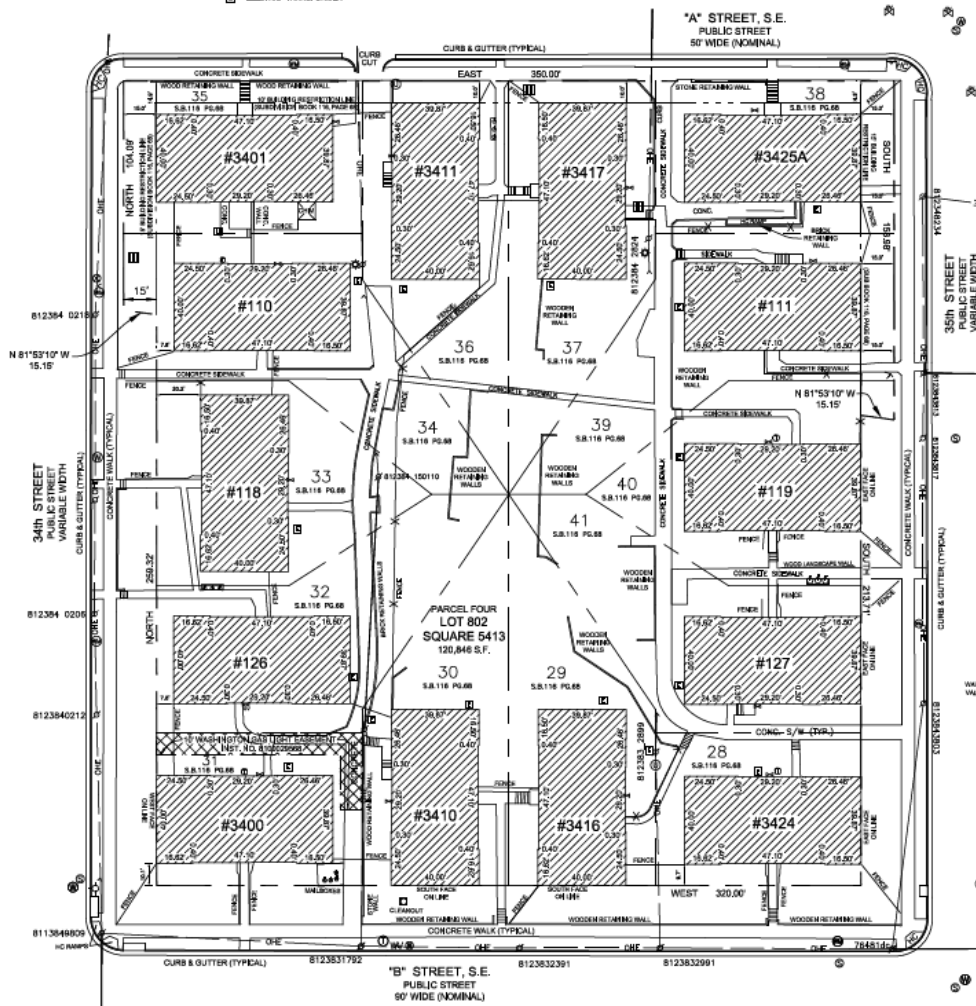
Property	Zoning Relief	Funding	Level of Affordability	Demolition	New Construction	Occupancy
FUTURE PHASE: PUD						
TBD	TBD	TBD	TBD	TBD	TBD	TBD

VI. SUBDIVISION OF SQUARE 5413

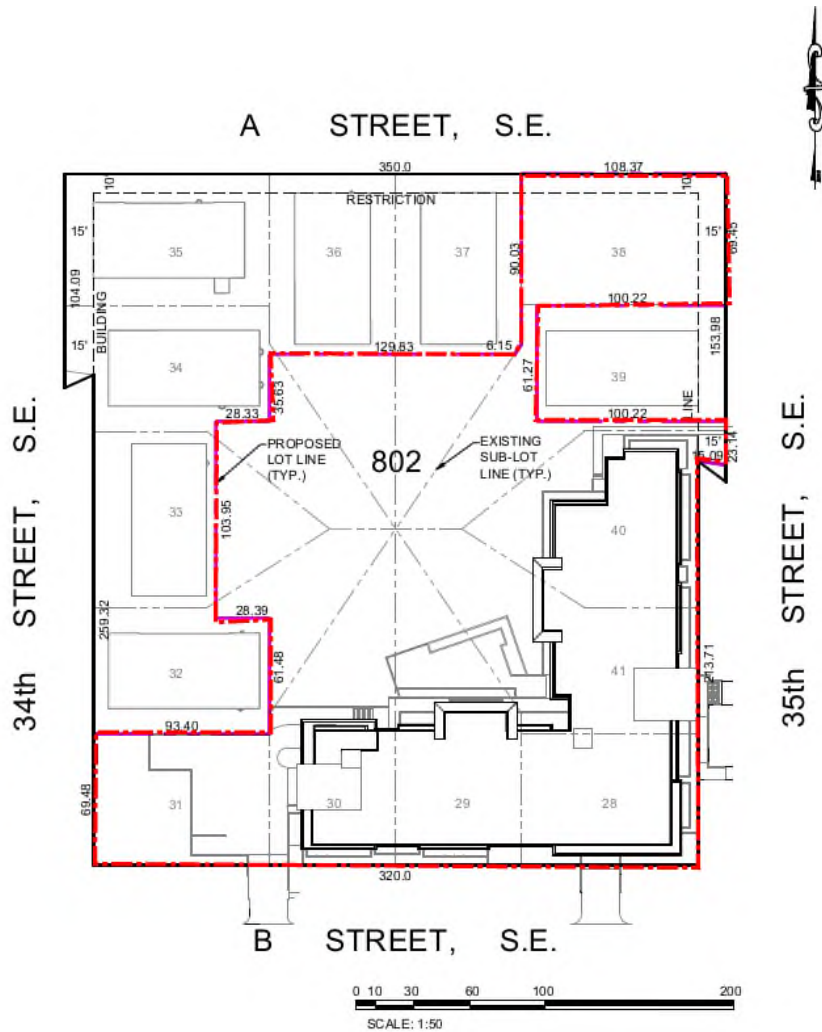
A. Proposed Development and the Need for the Subdivision

The subject square (square 5413) is divided into 14 record lots (lots 28-41), each containing a non-conforming apartment building (nonconforming as to FAR) built in the 1940s.

See Survey below.



All of these record lots are included in the Assessment and Taxation Lot 802. In order to create a new parcel large enough for the Apartment Building (lot area of 75,811 sf.), with the least impact on the remainder of the Square (taking into account the significant 20 ft. grade change and the significant number of Heritage Trees), the Applicant will pursue a subdivision of the Square to create a new Record Lot to include the entirety of seven of the lots (Lots 28, 29, 30, 31, 38, 40, 41) and partial land from six of the remaining lots in the Square (Lots 32, 33, 34, 36, 37, 39) (“**Remaining Lots**”). The seventh lot (Lot 35) will not be reconfigured. See below proposed new Record Lot outlined in red and attached as **Tab E**, Proposed Plat.



B. Result of the Subdivision on the Remaining Lots in the Square

This subdivision will further increase the nonconformity of six out of seven lots. As a result, the Applicant requests zoning variance relief from FAR, lot occupancy, and rear yard for these six Remaining Lots.

C. Conditional Certificate of Occupancy

The proposed Record Lot will include a site currently improved with seven buildings. Five of these buildings will immediately be demolished to make room for the Apartment Building. The Applicant proposes that the two other buildings (the apartment building in the lower southwest corner (Lot 31) and the amenity building in the northeast corner (Lot 38)) be demolished in the future before the issuance of a final Certificate of Occupancy. In order to include the lot area of these two buildings, but not have to count the GFA/FAR into the Apartment Building zoning tabulation, the Applicant proposes that a conditional Certificate of Occupancy be issued for the Apartment Building subject to the demolition of the two buildings on Lots 31 and 38 and the recordation of the subdivision plat. See below and attached **Tab F**, Timing of Demolition.



- = Boundary of Meadow Green Courts Apartments "Meadow Green"
- = BZA Project Boundary
- - - - - = Proposed Record Lot
- X = 5 Existing Buildings to be Demolished Immediately to Build the Proposed Apartment Building
- X = 2 Existing Buildings to be Demolished at a Future Time (*conditional certificate of occupancy to be issued for the Apartment Building subject to the demolition of these two buildings and the recordation of the subdivision plat*)



VII. DESCRIPTION OF THE PROJECT

A. Apartment Building

As part of a multi-phase project that will result in the total redevelopment of Meadow Green, the Applicant proposes a new rental Apartment Building consisting of 78,520 gross square feet. The three-story, with basement, Apartment Building will consist of 89 rental units, with not less than 62 (70% of the units) of these rental units at or below 60% MFI. In total, 52 residential units will be replaced by the 89 unit rental Apartment Building. A comparison of the existing and proposed unit mix is set forth below.

Unit Mix for Existing 52 Residential Units

Number of Apartment Units	Type of Unit	Size
13	One-Bedroom	608-665 sq. ft.
32	Two-Bedroom	767-1,006 sq. ft.
7	Three-Bedroom	1,300-1,330 sq. ft.
Total: 52 Units		

Unit Mix for Proposed 89 Unit Apartment Building

Number of Apartment Units	Type of Unit	Size
33	One-Bedroom	540- 730 sq. ft.
45	Two-Bedroom	840-1,090 sq. ft.
11	Three-Bedroom	1,020 – 1,190 sq. ft.
Total: 89 Units		

The design of the Apartment Building will be inviting to, and connected with, the surrounding community. Siting the Apartment Building at the corner of 35th and B Streets creates a consistent streetscape on each Street while preserving the existing open space in the center of the Square. The primary pedestrian entrance is from 35th Street with vehicular entrances accessed from B Street taking advantage of the steeply sloping topography along B Street west of 35th Street (there is an approximate 20 foot change in elevation).

The Applicant received valuable input from MPD on site design strategies to enhance security. The visual and physical connection from the main entry off of 35th Street through the interior lobby to the proposed Courtyard Terrace is reflective of MPD’s recommendation. As such, the proposed alignment of the floor elevations of the front entry, the lobby, and the Courtyard Terrace is essential to achieving this. The Applicant confirmed with both David Taylor and Robert Contee, III, of MPD, that the proposed site line is what was requested. See

Tab G, Email Correspondence. The inclusion of this revision necessitated the following updates to the initial application design package:

- The primary pedestrian entry from 35th Street was shifted to the north to allow a continuous physical connection to the Courtyard Terrace via the entrance lobby.
- To accommodate this entrance shift and physical connection to the Courtyard Terrace, one 1-bedroom apartment was deleted bringing the total to 89 units (previously 90 units).
- To accommodate this entrance shift, proposed site walls providing access to the entry were revised in public space along 35th Street.
- The inclusion of the Courtyard Terrace at the same elevation as the entrance lobby required lowering the proposed grade adjacent to the building in that area, leading to less of the C1 floor allowed to be excluded from gross floor area (“**GFA**”) as cellar. The proposed property was slightly enlarged to accommodate the additional GFA, but it is still within the FAR limit allowed with the 20% IZ bonus (1.08).

High quality and long-lasting building materials that are consistent with the surrounding community and convey a residential scale will be used. Alternating bays of brick and siding, in color palettes inspired by the context, form a rhythm compatible with the neighborhood.

Revisions have been made to the distribution of exterior materials. Panelized fiber cement cladding has been removed and replaced with fiber cement lap siding. Otherwise, the proposed material pallet of red brick, buff brick, gray brick and painted fiber cement siding has not changed since the submission of the Application. Only the distribution of this material pallet has been revised. The attention to landscaping and exterior finishes will be a great improvement from the existing 1940s apartment buildings. The Applicant will integrate the designs of this Apartment Building phase into the program and styles of the remaining redevelopment of Meadow Green. The proposed redevelopment will add value to the properties across the neighborhood.

There will be a two-story below grade parking garage consisting of 49 parking spaces and 35 bicycle spaces (30 bicycle spaces located within the garage and 5 located outside). The

Applicant proposes two new curb cuts along B Street to accommodate access to the proposed two-story below grade parking garage. See **Tab C**, Plans. In response to the DC Department of Transportation (“**DDOT**”), the configuration of the proposed curb cut at the east end of B Street was revised to make the drive aisle servicing the P1 garage level to be perpendicular to B Street from the face of curb to face of building. The minimum separation of the proposed curb cut to 35th Street is maintained.

Since the Applicant will be applying to the District Government for financial subsidies in order to make not less than 70% of the residential units (62 of the 89 units) affordable at or below 60% MFI, discussed in more detail below, the Applicant will be exempt from the Inclusionary Zoning (“**IZ**”) requirements pursuant to Subtitle C § 1001.6(a) but, is eligible to use the bonus density authorized by the IZ Regulations, which is 20% of the gross floor area. The proposed Apartment Building will be in compliance with the zoning requirements as set out in the table below.

B. Zoning Requirements for the Apartment Building

Lot Area = 75,811 sf
89 Apartment Units

	Zoning Requirement RA-1	Proposed	Relief
Height Subtitle F, §303.1	40 ft./3 stories max	37 ft./3 stories BHMP is on 35 th Street	No Relief Required
Lot Area Subtitle F, §201.2	Per BZA	75,811 sf.	N/A
Lot Width Subtitle F, §201.4	Per BZA	N/A	N/A

	Zoning Requirement RA-1	Proposed	Relief
Inclusionary Zoning (“IZ”) IZ Subtitle C §1001.2(b) IZ Subtitle C §1001.6(a) IZ Subtitle C §1002.3 IZ Subtitle C §1003.1	Triggered by 10 or more dwelling units Bonus: Up to 20% more gfa than permitted as a matter-of-right No modification to height or lot occupancy A project that does not employ Type 1 construction to construct a majority of dwelling units and located in a zone with a MOR height of 50 ft. or less shall set aside the greater of 10% of the gfa dedicated to residential use or 75% of its achievable bonus density. 10% of 122,187 gfa dedicated to residential use = 12,218.70 gfa 75% of the 13,646 IZ bonus density = 10,234.50 gfa	Not less than 70% of the units (62 of the 89 units) will be set aside at or below 60% MFI. 12,219 gfa will be set aside for so long as the project exists.	No Relief Required
Floor Area Ratio (“FAR”) Subtitle F §302.1 IZ Subtitle C §1002.3	0.9 FAR 0.9 FAR = $\frac{68,231 \text{ gfa}}{75,811 \text{ lot area}}$ Additional 20% IZ Bonus: 1.08 FAR = $\frac{81,877 \text{ gfa}}{75,811 \text{ lot area}}$	1.07 FAR = $\frac{81,122 \text{ gfa}}{75,811 \text{ lot area}}$	No Relief Required
Lot Occupancy Subtitle F §304.1	40%	30.20% = $\frac{22,893}{75,811 \text{ lot area}}$	No Relief Required
Rear Yard Subtitle F §305.1 Subtitle B §318.8	20 ft. In the case of a through or corner lot abutting three or more streets, the depth of the rear yard may be measured from the center line of the street abutting the lot at the rear of the structure. BHMP is on 35 th Street The lot is a through lot abutting 35 th , B and 34 th Streets. 34 th Street is 90 ft. wide	152.75 ft. from center line of 34th Street	No Relief Required

	Zoning Requirement RA-1	Proposed	Relief
Side Yard Subtitle F §306.2(a) §306.4	<u>Side Yard to the North:</u> Minimum distance equal to 3 in. per ft. of building height but not less than 8 ft. 37 ft. height requires a 9.25 ft. side yard <u>Side Yard to the South (along B Street):</u> A side yard shall not be required along a side street abutting a corner lot in this zone. No side yard along B Street is required	Side Yard to the North = 14.5 ft. Side Yard to the South = N/A	No Relief Required
Courts Subtitle F §202	Residential, more than 3 units: <u>Minimum Width Open Court</u> 4 in/ft. of height of court; 10 ft. min <u>Minimum Width Closed Court</u> 4 in/ft. of height of court; 15 ft. min <u>Minimum Area Closed Court</u> Twice the square of the required width of court dimension; 350 sf. min	None	No Relief Required
Green Area Ratio (“GAR”) Subtitle F §307.1	0.4	0.4	No Relief Required
Vehicle Parking Spaces Subtitle C, §701.5	<u>Multiple Dwelling Unit</u> 1 per 3 dwelling units in excess of 4 units $\frac{89-4}{3} = 28$	49 Parking Spaces 24 = located in P1 25 = located in P2	No Relief Required
Loading Subtitle C §901.1	<u>Loading Berth Minimum:</u> 1 @ 12 ft. wide x 30 ft. deep x 14 ft. high <u>Loading Platform Minimum:</u> 1 @ 8 ft. wide and 100 sq. ft. <u>Service Delivery Space Minimum:</u> 1 @ 10 ft. wide x 20 ft. deep x 10 ft. high	<u>Loading Berth:</u> 1 @ 12 ft. wide x 30 ft. deep x 14 ft. high <u>Loading Platform:</u> 1 @ 10 ft. wide and 100 sq. ft. <u>Service Delivery Space:</u> 1 @ 10 ft. wide x 20 ft. deep x 10 ft. high	No Relief Required

	Zoning Requirement RA-1	Proposed	Relief
Bicycle Parking Spaces Subtitle C §802.1	<u>Apartment</u> Long Term Spaces: 1 space for each 3 dwelling units = 30 Short Term Spaces: 1 space for each 20 dwelling units = 5	Long Term Spaces: 30 (located on the P1 level of the parking garage) Short Term Spaces: 5 (located near the entrance of the Apartment Building on 35th Street)	No Relief Required

C. Financing and Eligibility

The Applicant plans to finance the Project with a combination of LIHTC, bank debt or tax-exempt bond financing, and a subordinated loan from the District of Columbia’s Housing Production Trust Fund. The Applicant is committed to rehousing all current, eligible residents in newly constructed units in the Apartment Building. This commitment requires government financing to meet the Applicant’s rent targets. The Applicant will also work with the DC Housing Authority and Department of Human Services to secure rental assistance for very low-income residents.

Obtaining financing from the DC Department of Housing and Community Development (“**DHCD**”) is contingent on obtaining BZA approval for this Project in early 2018 so the Applicant can apply to DHCD in spring 2018. If the DHCD deadline is missed, this Project will be delayed 12 months.

D. Inclusionary Zoning

A project that does not employ Type 1 construction to construct a majority of dwelling units and is located in a zone with a matter of right height of 50 ft. or less shall set aside 10% of the GFA dedicated to residential use or 75% of its achievable bonus density to inclusionary units.

Pursuant to the IZ Regulations, the Project is required to provide 10% of the residential area (10% of 122,187) to IZ units for households earning equal to or less than 60% of the MFI

for rental units pursuant to Subtitle C § 1003.3(a). However, this Project will far exceed this requirement and will provide not less than 70% of the residential units (62 of the 89 units) for households earning equal to or less than 60%.

Upon expiration of the 40 year affordability period required by the LIHTC Program, the building will comply with the IZ requirement in effect at the time the Project is approved by the BZA for the life of the Project, pursuant to Subtitle C § 1001.6(a)(1). Specifically, the Applicant will reserve 10% of the gross floor area of the building dedicated to residential use (10% of 122,187 GFA dedicated to residential use = 12,218.70 GFA) for households with incomes not exceeding 60% MFI. Subtitle C § 1001.6(a)(2)(i).

E. Amenities

The Apartment Building includes attractive amenities for its residents. A multipurpose community room is located on the third (top) floor at the west end of the building. The location and elevation of this space, including an adjoining roof terrace, allows for views over nearby townhomes and across the Anacostia River to the Monumental Core. An exterior at-grade Courtyard Terrace was added to enhance the quality of life for the tenants. This Courtyard Terrace amenity will include 1,640 sf. of usable paved area, which will have direct access to the expansive courtyard. A garden is also proposed adjacent to the Courtyard Terrace. In addition, the Building will have 50 balconies (40 Juliet balconies and 10 projecting balconies – none projecting into public space). The 10 projecting balconies (4.5 ft. deep x 16 ft. wide) will be located on the courtyard facing side of the Building.

As Meadow Green is redeveloped, additional indoor and outdoor amenities will be made available to the residents of this Apartment Building.

F. Relocation Plan for Existing Tenants

Fifty-two low income residential rental units² will be replaced with the proposed three-story low income 89 unit rental Apartment Building. The Applicant is committed to retaining every household who wants to continue living at Meadow Green. The Development Agreement between the Applicant and the Meadow Green Courts Residents Association stipulates that the Applicant will relocate all households affected by the redevelopment to temporary units within Meadow Green. The Applicant will pay all relocation costs to and from the temporary units. Resident rental agreements are not affected by the relocation process. For those few residents who want to move permanently from the community the Applicant will pay their off-site relocation costs.

In addition, the Applicant will enter into a voluntary relocation agreement with each existing household which will describe the overall project and the rights and obligations of the Applicant and the household.

VIII. NEW RESIDENTIAL DEVELOPMENT: THE APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION UNDER SUBTITLE U § 421 OF THE ZONING REGULATIONS

A new residential development shall be reviewed by the BZA in accordance with the standards and requirements in Subtitle U § 421. The Application will be referred to relevant District agencies for comment and recommendation as to whether the Project adequately meets the following:

A. The area schools can accommodate the number of students expected to reside in the Project.

According to the DC Public Schools online Enrollment Boundary Information System, the following public schools are considered “in-boundary schools” for the Apartment Building:

² At this time of this submission 32 of the 52 residential units are occupied, with 6 additional pending applications.

Kimball Elementary School, Sousa Middle School, and Anacostia High School. All DC public students eligible for grades K-12 have a guaranteed right to enroll in their in-boundary school.

The Applicant believes that these schools can easily absorb any new students from the Apartment Building.

B. The public streets, recreation and other services are adequate to accommodate the residents of the Project.

The Property does not currently contain any off-street parking spaces. The Applicant is providing a two-level below grade parking lot consisting of 49 parking spaces (24 parking spaces located on P1 of the parking garage, 25 parking spaces located on P2 of the parking garage). See **Tab C**, Plans pgs. 12 and 13. The public streets surrounding the Project are adequate for additional vehicular traffic that the Project will generate. The Applicant retained Symmetra Design as the transportation consultant. The transportation assessment (“**Transportation Assessment**”) confirms that the proposed Project will not adversely impact transportation or parking conditions. The Applicant has committed to a Transportation Demand Management (“**TDM**”) plan to encourage future use of non-automobile travel options. The Transportation Assessment and the proposed TDM plan has been uploaded into the case record as **Exhibit 25**.

As discussed, this Project is Phase 2 of a multi-phase redevelopment. As part of the master plan for Meadow Green, an innovative/high efficiency central HVAC plant is proposed for a future phase to provide each building with clean, efficient energy servicing the HVAC systems. This system will significantly reduce resident utility costs relative to the norm not only in this Apartment Building, but throughout the entire master plan and the future PUD. Individual buildings, including the Apartment Building, will be designed to utilize these future central systems.

The subject building and all future buildings will also incorporate a high level of sustainable features with a very positive impact on all aspects of the Project; from design elements and materials choices for low impact on the environment and society as a whole; the construction materials and processes to reduce the waste stream, save energy and related elements such as transportation/energy costs; and many other features and choices each with a positive impact on the Project, the City and the environment. The Applicant has already engaged the D.C. Department of Energy and Environment (“**DOEE**”) on innovative strategies to make this Project unique in its approach to energy, sustainability, and environmental impact. In the coming weeks the Applicant will be holding additional meetings to formalize decisions and begin modeling the various potential solutions to ensure the best choices with the greatest impact and benefit to all.

The proposed building will utilize public utilities available at the site, and will connect to the central plant’s distribution piping for HVAC systems after the central plant is constructed and becomes operational. A new tap will be made into the existing 8” water line and the existing 10” sewer line under B Street. Overhead power lines exist on the Project side of the street along 35th Street and B Street. A pad-mounted transformer will be provided for new electrical service (location to be coordinated with PEPCO). Gas is available under both 35th Street and B Street.

In addition to the roof terrace, community room, and the 1,640 sf. usable paved Courtyard Terrace, the Project is located within several blocks of Fort Chaplin Park and Fort Dupont Park. These recreation areas provide substantial outlets for residents of the Project for recreation and community services.

C. **The site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects are appropriate.**

1. **Site Plan, Arrangement of Building and Structures and provisions of light and air**

The Apartment Building fronts on 35th Street and B Street and has been sited so as to give the maximum light and air to the residents. The light and air available to nearby properties should not be unduly impacted. The master planning regarding the redevelopment of Meadow Green, involving the “Remaining Lots” in the subject square as well as the Squares to the north and east (Squares 5413N and 5411), will take into account the new Apartment Building. As for the surrounding buildings in other Squares not under the ownership of Meadow Green, the Apartment Building will be separated by the portion of 34th Street which is 90 ft. wide and B Street which is also 90 ft. wide. In addition, the significant 20 ft. grade change and the existence of several mature trees at the Property have been taken into account when designing the Apartment Building.

2. **Recreation, landscaping, and grading**

The exterior spaces and landscape elements of the Project rely heavily on the 14 existing Heritage Trees³ and numerous other existing trees that currently dominate the site. Eleven (11) Heritage Trees will remain. See **Tab C**, Plans, Landscape Site Plan pg. 7. In addition to a careful preservation of the sites existing vegetative amenities, the proposed landscape plan includes the following ground level improvements: trees, shrubs, and perennial plantings to highlight the main building entry, dense shrubs and perennial plantings across the retaining walls around the base of the building. Entry paving, stairs, and site furniture will be coordinated with

³ Trees that are greater than 100 inches in circumference are considered Heritage Trees and are protected under the Urban Forestry Preservation Act of 2002, as amended. D.C. Official Code § 8-651.01 *et seq.*

the architectural plans and aim to similarly announce the building entry and provide the necessary functional elements. Existing streetscape conditions will be maintained and brought up to current standards where necessary. At the roof level, an extensive green roof (11,700 +/- sf) will be implemented to accommodate stormwater requirements per permitting standards.

IX. NEW RESIDENTIAL DEVELOPMENT: THE APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION UNDER SUBTITLE X § 901

A. The Application is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

The RA-1 zone is provided for areas predominantly developed with low to moderate density development, including low-rise apartments. Subtitle F § 300.2. The Project is in harmony with the general purpose and intent of the Zoning Regulations, as the proposal is for an anticipated use, a low-rise apartment building. In addition, not less than 70% (62 units of the 89 residential units) will be affordable, in excess of what is required by the IZ regulations.

B. The Project will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

The 89 unit Apartment Building will replace seven existing buildings (six three-story apartment buildings and one amenity building). The Project has been thoughtfully designed to ensure the Apartment Building will not adversely affect the neighboring property owners of the greater community and it will be separated from the smaller residential buildings, to the west and south, by 90 ft. wide streets. The attendant impacts on the surrounding neighborhood is anticipated to be minimal

C. The Project will meet such special conditions as may be specified in this title.

The Project meets the special conditions for a new residential development, pursuant to Subtitle U § 421 as discussed above.

X. REMAINING LOTS: THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF UNDER SUBTITLE X § 1002

In order to create a new parcel large enough for the Apartment Building (lot area of 75,811 sf.), with the least impact on the remainder of the Square, the Applicant will pursue a subdivision of the Square to create a new Record Lot to include the entirety of seven of the lots (lots 28, 29, 30, 31, 38, 40, 41) and some of the land from six of the Remaining Lots in the square (lots 32, 33, 34, 36, 37, 39). This subdivision increases the existing non-conformity of six of the Remaining Lots (lots 32, 33, 34, 36, 37, 39). As a result, the Applicant requests area variance relief from FAR, lot occupancy, and rear yard for all six of the Remaining Lots. The requested relief is shown in the table below. See Form 135, Self-Certification, for the full zoning tables for each of the Remaining Lots.

<u>LOT 32</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Area Subtitle F, §201.2		9,516 sf ²	6,066 sf	no
Floor Area Ratio (“FAR”) Subtitle F §302.1	0.9 FAR	1.00 (GFA = 9,555sf)	1.58 (GFA = 9,555sf)	yes
Lot Occupancy Subtitle F §304.1	40%	33.47% (3,185sf footprint)	52.51% (3,185sf footprint)	yes
Rear Yard Subtitle F §305.1	20 ft.	40.26 ft. avg ³ (3,405.08sf/84.58’)	5.39 ft.	yes

<u>LOT 33</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Area Subtitle F, §201.2		8,634 sf ²	6,046 sf	no
Floor Area Ratio (“FAR”) Subtitle F §302.1	0.9 FAR	1.11 (GFA = 9,591sf)	1.59 (GFA = 9,591sf)	yes

<u>LOT 33</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Occupancy Subtitle F §304.1	40%	33.03% (3,197sf footprint)	52.88% (3,197sf footprint)	yes
Rear Yard Subtitle F §305.1	20 ft.	32.51 ft. avg ³ (3,033.81sf/93.33')	4.80 ft avg ³ (448.45sf/93.33')	yes

<u>LOT 34</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Area Subtitle F, §201.2		10,060 sf ²	6,621 sf	no
Floor Area Ratio ("FAR") Subtitle F §302.1	0.9 FAR	0.95 (GFA = 9,606sf) NONCONFORMING	1.45 (GFA = 9,606sf)	yes
Lot Occupancy Subtitle F §304.1	40%	31.83% (3,202sf footprint)	46.38% (3,202sf footprint)	yes
Rear Yard Subtitle F §305.1	20 ft.	37.67 ft. avg ³ (3,346.66sf/88.84')	5.03 (335.45sf/66.67')	yes

<u>LOT 36</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Area Subtitle F, §201.2		9,258 sf ²	6,335 sf	no
Floor Area Ratio ("FAR") Subtitle F §302.1	0.9 FAR	1.04 (GFA = 9,660sf) NONCONFORMING	1.52 (GFA = 9,660sf)	yes
Lot Occupancy Subtitle F §304.1	40%	34.78% (3,220sf footprint)	50.83% (3,220sf footprint)	yes
Rear Yard Subtitle F §305.1	20 ft.	48.81 ft. avg ³ (3,254.06sf/66.67')	4.79 ft avg ³ (319.51sf/66.67')	yes

<u>LOT 37</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Area Subtitle F, §201.2		9,258 sf ²	6,317 sf	no

<u>LOT 37</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Floor Area Ratio (“FAR”) Subtitle F §302.1	0.9 FAR	1.04 (GFA = 9,633sf)	1.52 (GFA = 9,633sf)	yes
Lot Occupancy Subtitle F §304.1	40%	34.68% (3,211sf footprint)	50.83% (3,211sf footprint)	yes
Rear Yard Subtitle F §305.1	20 ft.	48.85 ft. avg ³ (3,248.55sf/66.50’)	4.92 ft avg ³ (327.02sf/66.50’)	yes

<u>LOT 39</u>	RA-1 Requirement	Existing	Result of Subdivision	Relief
Lot Area Subtitle F, §201.2		10,524 sf ²	6,141 sf	no
Floor Area Ratio (“FAR”) Subtitle F §302.1	0.9 FAR	0.91 (GFA = 9,609sf)	1.56 (GFA = 9,609sf)	yes
Lot Occupancy Subtitle F §304.1	40%	30.44% (3,203sf footprint)	52.16% (3,203sf footprint)	yes
Rear Yard Subtitle F §305.1	20 ft.	48.50 ft. avg ³ (4,013.56sf/82.75’)	5.00	yes

FAR: The RA-1 Zone allows a maximum FAR of 0.9. Subtitle F § 302.1. The buildings in this Square were built in the 1940s, prior to the Zoning Regulations. The buildings on the Remaining Lots are currently nonconforming as to FAR (ranging from 0.91 to 1.11). As a result of creating the new Record Lot, the nonconforming FAR of the buildings on the Remaining Lots will be only slightly increased (ranging from 1.45 to 1.59).

LOT OCCUPANCY: Buildings in the RA-1 zone are allowed a 40% lot occupancy pursuant to Subtitle F § 304.1. The buildings on the Remaining Lots are currently below the maximum lot occupancy (ranging from 30.44% to 34.78%). The creation of the Record Lot will result in a lot occupancy range of 46.38% to 52.88%.

REAR YARD: The minimum requirement for a rear yard in the RA-1 zone is 20 ft. pursuant to Subtitle F § 305.1. The Remaining Lots have very large rear yards ranging from an average of 32.51ft. to 48.85 ft. The creation of the Record Lot will reduce the existing rear yards to a range of 8.38 ft. to 9.61 ft. However, the Remaining Lots back up to the center of the Square which contains a significant green space with large canopy trees which will not be disturbed by the proposed Apartment Building.

The Applicant meets the requirements for area variance relief from the FAR, lot occupancy, and rear yard, pursuant to Subtitle X § 1002.1(a), as follows:

- A. **As a result of the attributes of a specific piece of property, the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the owner of the property.**

The Property (square 5413) is divided into 14 record lots (lots 28-41), each containing an apartment buildings built in the 1940s, prior to the effective date of the Zoning Regulations. Except for the four corner lots, ten of the existing record lots are nonconforming as to FAR and irregular in shape. See Form 135 and **Tab C**, Plans. In addition, there is significant 20 ft. grade change on the Property. See **Tab C**, Grading Plan pg. 9.

The Applicant is faced with a peculiar and exceptional practical difficulty due to the necessity to obtain LIHTC funding for this rental Apartment Building in advance of the remainder of the Meadow Green site redevelopment. Maintaining occupancy of existing buildings on the Remaining Lots will minimize the immediate displacement of tenants and allow the phased relocation of those tenants to the new Apartment Building. While the master planning process is underway, and in an effort to take advantage of the upcoming funding deadline, the Applicant is pursuing this proposed BZA Project in advance of applying for the PUD. In order to create a new parcel large enough for the Apartment Building (lot area of 75,811 sf.), with the least impact on the remainder of the Square (taking into account the significant grade change and

number of mature trees), the Applicant will pursue a subdivision of the Square to create a new Record Lot whereby the subdivision will further increase the nonconformity of the Remaining Lots (which will be redeveloped in the near future under the master plan). As a result, the Applicant requests zoning variance relief from FAR, lot occupancy, and rear yard for all six of the Remaining Lots.

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

The Apartment Building has been thoughtfully designed to comply with the Zoning Regulations with relatively minor impacts on light, air and traffic. Accordingly, there will be no detrimental effects on neighboring residential properties.

XI. 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 special exception and variance relief requested.

XII. AGENCY AND COMMUNITY OUTREACH

For the last five years, the existing residents of Meadow Green have been actively involved in planning for the redevelopment of the site. The Applicant has met with DDOT, OP, MPD, the Zoning Administrator, and Ward 7 Councilmember to discuss the Project. The Applicant has reached out to ANC 7F Single Member District Commissioner (“SMD”), who is fully briefed and engaged on the redevelopment of Meadow Green as well as this proposed Project. The Project will be presented at the upcoming February 20, 2018 ANC 7F meeting. In anticipation of

this ANC meeting, the Meadow Green Courts Resident Association sent a letter in support of the Project to the ANC. This letter in support has been has been uploaded into the case record as Exhibit 28.

The Applicant also entered into a Development Agreement with the Meadow Green Courts Residents Association which stipulates that the Applicant will relocate all households affected by the redevelopment to temporary units within Meadow Green. The Applicant will continue to reach out to the existing tenants and the greater community and will submit a statement of the efforts made to contact these groups and the results of these efforts no less than 21days prior to the public hearing.

XIII. WITNESSES EXPECTED TO TESTIFY

Applicant's Representative: Tom Gallagher, E & G Group

Architect's Representative: Scott Matties, Wiencek + Associates

Transportation Consultant's Representative: Nicole A. White, Symmetra Design

The outlines of testimony and resumes have been uploaded into the case record as Exhibits G and H, respectively.

XIV. ATTACHMENTS

- Tab A: Surveyor's Plat.
- Tab B: Annotated Zoning Map.
- Tab C: Architectural Plans, Elevations, Grading Plan, and Landscape Plan.
- Tab D: Photos of the Property.
- Tab E: Proposed Plat.
- Tab F: Timing of Demolition.
- Tab G: Email Correspondence between the Applicant and MPD.


XV. CONCLUSION

For the reasons set forth above, the Applicant is entitled to, and respectfully requests approval of, the grant of special exception and variance relief to allow for the development of the Property.

Respectfully submitted,
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