



February 14, 2018

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Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20010

**Re: BZA Case No. 19705
Applicant's Prehearing Statement**

Chairperson Hill and Honorable Members of the Board:

On behalf of Applicant Madison Investments, LLC, please find enclosed the Prehearing Statement for the above-referenced case. The application is scheduled to be heard before the Board of Zoning Adjustment on March 7, 2018.

Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

BY: Meridith H. Moldenhauer

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2018, a copy of the foregoing Prehearing Statement was served, via electronic mail, on the following:

District of Columbia Office of Planning
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Washington, DC 20024
Matthew.Jesick@dc.gov

District Department of Transportation
55 M Street, SE, Suite 400
Washington, DC 20003
Patrick.Reed@dc.gov

Advisory Neighborhood Commission 1B
c/o James A. Turner, Chairperson
1B09@anc.dc.gov

Advisory Neighborhood Commission 1B
c/o Jon Squicciarini, SMD Commissioner
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Meridith H. Moldenhauer

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

**APPLICATION OF
MADISON INVESTMENTS, LLC**

**BZA CASE NO. 19705
HEARING DATE: MARCH 7, 2018**

APPLICANT'S PREHEARING STATEMENT

I. INTRODUCTION AND NATURE OF RELIEF SOUGHT

This Prehearing Statement is submitted on behalf of Applicant Madison Investments, LLC (the "Applicant"), regarding the properties in Square 203 at Lots 96, 809, 10, 805, and 001 (collectively, the "Property") in support of this application for special exception relief, pursuant to 11 DCMR Subtitle X § 901.2 and Subtitle K § 813.1, from the requirements for penthouse height and setback (Subtitle K § 803.3(a-b)) and lot occupancy¹ (Subtitle K § 804.1) in order to construct a mixed-use development in the ART-3 Zone District (the "Project").

For the reasons set forth in the initial application (BZA Ex. No. 8), and as supplemented here and at the public hearing, the Applicant has satisfied the burden for special exception relief.

II. UPDATED ARCHITECTURAL PLANS

Since the filing of the initial application, the Applicant has updated the architectural plans for the Project. A copy of the updated architectural plans are attached at **Tab A**. Most notably, the Applicant has re-designed the proposed penthouse level, which will decrease the amount of relief needed from the penthouse height and setback requirements of Subtitle K § 803.3. The Applicant has removed the mechanical equipment from the second penthouse level and incorporated the mechanical equipment into the first penthouse level. See **Tab A**, pgs. 41-42, 55-57. The first penthouse level now has a mix of habitable space and mechanical equipment. There will be two, small elevator overruns that rise above the first penthouse level. See **Tab A**, pgs. 41-42.

¹ Lot occupancy relief is requested for the Project's second story.

Importantly, as a result of the revised design, the total building height to the top of the first penthouse level is now 85'11^{1/8}", and the building height to the top of the elevator overruns is 91'2". Accordingly, the Applicant only requests 2'5^{1/8}" of relief from the height limit of Subtitle K § 803.3 for a majority of the penthouse level.² See **Tab A**, pgs. 56-60. The two elevator overruns will extend another 5'3" over the first penthouse level; however, as noted above, the elevator overruns cover a relatively small percentage of the penthouse. As it pertains to the revised Project design, it should be noted that a majority of the elevator overruns are within the "45 degree plane" required under Subtitle K § 803.3(b). See **Tab A**, pgs. 55, 58-59.

III. FACTORS DRIVING PENTHOUSE DESIGN

The Applicant has demonstrated compliance with the general special exception standard as well as the specific conditions for the ARTS zones. Nonetheless, the Applicant wishes to elaborate on some of the factors that are driving the Project design and the request for relief from the penthouse height restrictions.

As outlined in the initial application, the Project will thoughtfully incorporate four historic facades, including retaining and preserving the entire historic garage at the center of the Property. The floor plate of the Project must meet the level of those existing facades. As such, the third story of the Project must begin at elevation 142'2" in order to properly preserve historic structures at the property.

Further, the first penthouse level will have a floor-to-ceiling height of 12' as a result of incorporating the mechanical equipment into the first penthouse level. The Applicant has attached a diagram of the proposed mechanical equipment that must be incorporated into the first penthouse level, which is attached at **Tab B**, pg. 1. The new proposed design also must

² Whereas, the Applicant's original proposed design would exceed the height limit by 8'6" for much of the area of the penthouse.

incorporate elevator overruns for the building's two elevator shafts. Due to the configuration of a standard elevator overrun, the elevator exceeds the first penthouse level by 5'3", which creates a second penthouse level. See **Tab B**, pg. 4. Pursuant to Subtitle K § 803.5, only two penthouse levels are permissible in the ARTS-3 zone. If the Applicant were to decrease the height of the penthouse habitable space on the first level, there would be a third penthouse story, which is not permissible. Therefore, in order to incorporate the mechanical equipment into penthouse level one and the elevator overrun as penthouse level two, the Applicant cannot decrease the height of the penthouse habitable space.

The Applicant proposes a floor-to-ceiling height of 9'8" on the residential floors of the Project. As reflected in the revised plans, this floor-to-ceiling height provides a clearance of 7'8" in the residential units. See **Tab B**, pgs. 2-3. Even without the elevator overruns, if the Project was to meet the 83'6" penthouse height limit, the floor-to-ceiling height on the residential floors would have to be reduced by 5 feet. Yet, as depicted, this would result in a floor-to-ceiling clearance of 7'3" in the residential units, which is not standard practice for dwelling space. See **Tab B**, pg. 3. Residential units with a 7'3" clearance would also necessitate non-standard and cost-prohibitive doors; as such, this reduction in the building height is not reasonable and special exception relief is appropriate.

IV. SOLAR STUDIES

The Applicant's architectural team has assembled solar studies to demonstrate the minimal effect of the requested relief on light and air available to neighboring property owners. A copy of the solar studies are attached at **Tab A**, pgs. 62-67. The solar studies provide a comparison between a by-right building envelope at the Property and the proposed Project

design.³ See **Tab A**, pgs. 62-67. As illustrated, when compared to a by-right structure, the requested relief will have a negligible effect in terms of light and air. See **Tab A**, pgs. 62-67. At noon and 3:00 p.m. the proposed design will have no impact on light and air for neighboring properties throughout the calendar year. See **Tab A**, pgs. 62-67. The shadow projected at 3:00 p.m. will fall along 14th Street and W Street. See **Tab A**, pgs. 62-67. On June 21st at 9:00 a.m. a by-right structure would project a shadow on the neighboring building at 1418 W Street NW. At that same time, the proposed Project will also create a shadow on 1418 W Street NW, though the shadow will be slightly higher up that building's northernmost wall. See **Tab A**, pgs. 62-63. Although, it should be noted that on March 21st and September 21st at 9:00 a.m., a by-right structure would actually project a larger shadow on 1418 W Street NW in comparison to the proposed Project.

Accordingly, the solar studies reiterate that granting the requested relief will not tend to adversely affect the use of neighboring property.

V. **THE PROJECT WILL SUBSTANTIALLY ADVANCE THE PURPOSE OF THE ARTS ZONES**

As detailed in the initial application, the Project and its features will substantially advance the purposes of the ARTS zones in conformance with Subtitle K § 813.1. In addition to the arts/entertainment space, the Project will encourage arts uses through the proposed office/retail space along the Property's western alley, which is ideal for arts and creative-use tenants. As such, the Applicant intends to find arts and creative-based tenants for that space.

³ When evaluating the effect of an addition on neighboring property, the D.C. Court of Appeals has approved the Board's use of comparing the proposed structure to a by-right structure. See *Draude v. D.C. Bd. of Zoning Adjustment*, 527 A.2d 1242, 1253 (DC 1987). In *Draude*, the Court found that the comparison of a proposed project to a matter-of-right project was a reasonable standard when seeking to determine whether an addition to a property was "objectionable." See *id.* The Board has followed this direction when evaluating solar studies in other cases. See BZA Case No. 16536 (order reflects Board consideration of shadow study comparison between proposed project and matter-of-right project); see also BZA Case Nos. 18886, 19230.

The Applicant also intends to incorporate artwork throughout the Project. In particular, the Applicant will explore the concept of creative spaces and possible art installations along the sidewalk of the Project, which would require public space review and approval from the District's Department of Transportation. Likewise, the Applicant is exploring a partnership with "NumberF"⁴ to install visual art screens in the main residential lobby and other areas of the Project, with the goal of offering viewpoints from the retail space and streetscape.

Furthermore, the ARTS purpose will be achieved through a number of the Project's architectural elements, including a pedestrian-friendly design that encourages 18-hour activity around the Property. *See* Subtitle K § 800.1(c),(i). The Project's first level will feature 15-foot ceilings with display windows along 14th Street, and the access ramp to underground parking has been located to avoid effecting pedestrian flow. These Project design features encourage pedestrian engagement. The entirety of the first level along 14th Street will be dedicated to retail uses that will provide an array of resources for the community and the public.⁵ As detailed in the initial application, the Project will also enliven the western alley, creating an inviting environment with retail storefronts and office space. Through the retail and office spaces, the Project will promote business and job opportunities, which is another goal of the ARTS zones. *See* Subtitle K § 800.1(f).

The purpose of the ARTS zones also calls for expanding the area's housing supply in a variety of price ranges. *See* Subtitle K § 800.1(e). To that end, the Project will introduce approximately 242 units into the neighborhood housing supply. The Project will also meet the Inclusionary Zoning requirements of Subtitle C § 1000, including setting aside 10% of the

⁴ NumberF is a company that specializes in video art screens, and allows for subscription-based streaming of video art. More information on NumberF can be found at www.numberf.com. The Applicant intends to incorporate this concept or something similar in nature.

⁵ The first level will have the residential lobby on W Street and an office lobby along the alley.

Project's residential gross floor area for households earning equal to or less than 60% Median Family Income.

Finally, the Applicant detailed its historic preservation efforts in the initial application, which align with the intent of the ARTS zones to promote adaptive reuse of historic buildings and an "attractive" combination of new and old buildings. *See* Subtitle K § 800.1(h). The Project design will incorporate and preserve the existing contributing historic buildings and facades, including the central garage building. Additionally, the historic buildings that are being maintained will be interwoven with the new construction to create a visually-appealing development. The Applicant continues to work with the Historic Preservation Office and will be presenting its application to the Historic Preservation Review Board on March 22, 2018.

VI. COMMUNITY OUTREACH

The Applicant has conducted significant community outreach and obtained 24 letters of support for the Project. The letters of support are attached at **Tab C**. On January 16, 2018, the Applicant presented the Project to ANC 1B's Zoning, Planning and Development ("ZPD") Subcommittee. In response to comment from the ZPD Subcommittee, the Applicant worked to revise the proposed architectural plans, and requested that the ZPD Subcommittee vote on the Project at its next meeting in February.

On January 31, 2018, the Applicant held a community meeting at the John Wesley AME Zion Church on 14th Street NW. At the meeting, the Applicant presented the Project plans and took comments and questions from community members. On February 7, 2018, the Applicant held a meeting with tenants and owners at "Union Row," which is located directly across 14th Street from the Property. In addition to "Union Row" owners/tenants, the Meridian Hill Neighborhood Association as well as owners and tenants from the "Lumen" condominium were invited to the meeting. Similar to the January 31st meeting, the Applicant presented the proposed

plans and took questions from the community. The Applicant is also coordinating with owners/tenants from the “Hamilton” condominium at 1418 W Street NW. The Applicant intends to hold a meeting with that community as well.

Finally, the Applicant will be going back to the ANC 1B ZPD Subcommittee at its next regularly scheduled meeting on February 20th; the Applicant will also present to the Meridian Hill Neighborhood Association on that same night. On March 1, 2018, the Applicant will present to the full ANC 1B.

VII. APPLICANT’S PROPOSED CONDITIONS OF APPROVAL

Given the size and complexity of the Project, which encompasses an entire city block, the Applicant requests flexibility to make minor modifications to certain elements of the Project. Additionally, as detailed in the record, the Applicant continues to work with the Historic Preservation Office (“HPO”) and will present to the Historic Preservation Review Board (“HPRB”). As such, the Applicant continues to implement HPO’s recommendations, which may include minor modifications to the internal floor layout and design elements of the Project. Accordingly, the Applicant proposes the following conditions of approval for the Project:

- The Applicant may make minor modifications to the design elements of the approved plans, including the exterior façade, based on any recommendations during review and approval of the Applicant’s Project by the Historic Preservation Office or Historic Preservation Review Board.
- The Applicant is permitted flexibility to reach the maximum floor-area-ratio in the ARTS-3 Zone of 5.3.
- The Applicant may vary the specific allotment of gross floor area for each use up to 10% of the approved gross floor area.

-The Applicant may vary the number of dwelling units by +/- 5 dwelling units from the proposed 242 units.

-The Applicant may vary the vehicular parking spaces by +/- 5 spaces from the proposed 65-70 spaces.

VIII. APPLICANT'S EXPERT WITNESSES

-Matthew Bell, AIA, Project Architect from Perkins Eastman.

IX. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings as well as the reasons discussed at the Board's hearing, the Applicant submits that the application meets the requirements for special exception relief in order to construct a mixed-use development in the ARTS-3 zone. Accordingly, the Applicant respectfully requests that the Board approve the application on March 7, 2018.

Respectfully submitted,
COZEN O'CONNOR



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