

## BOARD OF ZONING ADJUSTMENT

### Applicant's Statement in Support of Amended Relief of Vitis Investments LLC

#### 421 T Street, NW (Square 3090, Lots 804, 805, and 807).

#### I. INTRODUCTION AND NATURE OF RELIEF SOUGHT.

This Statement is submitted on behalf of Vitis Investments LLC (the “**Applicant**”), owner of the property located at 421 T Street, NW (Square 3090, Lot 804). The property at 421 T Street, NW improved with a three-story, single-family, detached dwelling (the “**Building**”). Lots 805 and 807 are currently unimproved tax lots.

The Applicant intends to combine Lot 804, 805, and 807 to create a new lot with 7,870 square feet of land area (the “**Subject Property**”). The Subject Property is located in the LeDroit Park Historic District and the RF-1 Zone. The Applicant is proposing to construct a three-story rear addition to the Subject Property (the “**Addition**”). Originally, the Applicant proposed to convert the Building to eleven (11) residential dwelling units and requested variance relief from U § 320.2(d)—the 900 square foot rule. The Applicant is now amending its request and limiting the request to seven (7) residential dwelling units, two (2) of which will be Inclusionary Zoning (“**IZ**”) units (the “**Project**”). The Applicant is no longer requesting relief from the height limitations of E § 303.1 as the height of the Addition will be limited to thirty-two feet and seven inches (32 ft. 7 in.). Accordingly, the only remaining request is for special exception relief pursuant to U § 320.2<sup>1</sup> for a conversion to seven (7) residential dwelling units.

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<sup>1</sup> The Regulations involved in this Application were recently revised in Zoning Commission Case No. 19-21, which was approved as a Final Action on September 14, 2020. The Applicant anticipates the changes will be effective by the time the Board votes on the Application and is therefore addressing this Application as if the revised Section U-320.2 is effective. Should the revised Regulations *not* become effective prior to the Board’s vote, then the argument put forth in the original Applicant’s Statement shall stand as the applicable Burden of Proof Statement.

**II. JURISDICTION OF THE BOARD.**

The Board has jurisdiction to grant the special exception relief requested pursuant to Subtitle U § 320.2 and pursuant to X § 901.2.

**III. BACKGROUND.**

**A. Description of the Subject Property and Surrounding Area.**

The Subject Property includes the property located at 421 T Street, NW, plus the adjacent tax lots to the north (Lots 805 and 807). The Applicant is proposing to combine the lots into one new record lot measuring 7,870 square feet in land area. The Subject Property is located in the RF-1 Zone District and the LeDroit Park Historic District. Abutting the Property to the north is a semi-detached single-family dwelling which fronts on U Street, NW. Abutting the Subject Property to the south is T Street, NW. Abutting the Subject Property to the west is the Howard University Day Care Center. Abutting the Subject Property to the east is a single-family row dwelling and a public alley.

**B. Proposed Project.**

The Applicant is proposing to construct a three-story addition (the “**Addition**”) at the rear of the existing Building. The existing Building is thirty-eight feet and eleven inches (38 ft. 11 in.) in height, but the Addition will be limited to thirty-two feet and seven inches (32 ft. 7 in.) in height. The Applicant is also proposing to convert the Building and Addition to seven (7) residential units, two (2) of which will be set-aside as IZ units. The Applicant is proposing a mix of five 4-BR units, one 2BR unit, and one 5BR unit. The Addition meets all development standards of the RF-1 Zone, including lot occupancy, rear yard, side yard, pervious surface, and parking. The Building’s design is ultimately subject to HPRB review.

**IV. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF.**

**A. Overview.**

Pursuant to Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under Subtitle U § 320.2 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000).

**B. General Special Exception Requirements of Subtitle X § 901.2.**

The granting of a special exception in this case “will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” and “will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ...” (11 DCMR Subtitle X § 901.2).

**1. Granting of relief will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps.**

The granting of relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Zoning Regulations permit the conversion of a single-family dwelling to seven (7) units via special exception, so long as the Applicant provides Inclusionary Zoning Units and meets the 900 square foot rule. Therefore, the proposed use was contemplated by the Zoning Commission and enumerated in the 2016 Zoning Regulations. Accordingly, the

proposed conversion and use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

2. Relief will not tend to affect adversely, the Use of Neighboring Property in accordance with the Zoning Regulations and Zoning Maps.

The requested relief and additional density will not adversely affect the *use* of neighboring properties. The Applicant is proposing seven (7) dwelling units and five (5) parking spaces, and the Building is located less than one-half mile (0.5 mi.) from the metro. The public alley adjacent to the Subject Property widens to twenty-five feet (25 ft.) and can accommodate the extremely minimal increase in vehicle traffic from the additional units. The Applicant is also encouraging alternate forms of transportation by providing ample bicycle parking. Therefore, the additional density is not likely to impact parking or traffic in the area.

The Addition itself is permitted as a matter-of-right as it is meeting all development standards of the RF-1 Zone. The requirements of U § 320.2 were recently revised to exclude criteria related to any additions (i.e. 10-foot rule, architectural elements, design, height), as those provisions were considered redundant. Accordingly, the Addition itself is not subject to review under the new requirements of U § 320.2, only the objective criteria related to the conversion.

**C. Requirements of Subtitle U § 320.2.**

In order to convert the Building to seven (7) residential dwelling units, the Applicant must request relief from U § 320.2. The proposal in this Application satisfies the requirements of 11 DCMR Subtitle U § 320.2(a) through 320.2(c) as follows:

**Section 320.2(a): The building to be converted or expanded is in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion;**

The building to be expanded is in existence on the property and will be in existence on the property at the time the Department of Consumer and Regulatory Affairs accepts as complete the building permit application for the conversion or expansion.

**Section 320.2(b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6; and**

The Applicant is proposing to convert the Building to seven (7) dwelling units and three (2) Inclusionary Zoning ("IZ") units. The fourth (4<sup>th</sup>) dwelling unit and sixth (6<sup>th</sup>) dwelling unit will comply with the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6. To our knowledge, since these Regulations were first adopted in 2015, this is the first time that an Applicant has proposed providing two Inclusionary Zoning units in a U-320.2 conversion project.

**Section 320.2(c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit.**

There is a minimum of nine hundred square feet (900 sq. ft.) of land area per each existing and new dwelling unit. The Applicant is proposing a total of seven (7) residential dwelling units, which requires 6,300 square feet of land area. The Subject Property has 7,870 square feet of land area, or 1,124 square feet of land area for each proposed dwelling unit.

**V. CONCLUSION.**

For the reasons stated above, the Applicant respectfully requests that the Board grant the requested special exception relief.

Respectfully submitted,

*Martin P Sullivan*

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Martin Sullivan

Applicant's Statement- Amended Relief  
421 T Street, NW

Sullivan & Barros, LLP  
Date: October 16, 2020