

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

**APPLICATION OF  
9 Tree LLC**

**ANC 2B**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the Applicant, 9 Tree LLC (the “Applicant”), the owner of the property located at 1722 Swann Street NW (Square 0152, Lot 0091) (the “Property”) in support of its application for special exception relief pursuant to 11 DCMR Subtitle X § 901.2 for relief from the court (Subtitle F § 202.1) and maximum lot occupancy requirements (Subtitle F § 304.1) under Subtitle F § 5201.2.

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 of the Zoning Regulations.

**III. BACKGROUND**

**A. The Property and the Surrounding Neighborhood**

The Property is comprised of one vacant lot, Lot 0091, which has an area of 1,830 sq. ft.. The Property is located in the RA-2 zone district. A copy of the zoning map is attached at **Exhibit A** and a copy of the survey plat is attached at **Exhibit B**.

The Property is located in the Dupont Circle Historic District, east of 18<sup>th</sup> Street NW and northwest of New Hampshire Avenue NW. It is bordered on all sides by moderate-density residential buildings. The adjacent house to the west at 1724 Swann Street was built in 1895 and has a wraparound porch and unusual twenty-eight foot setback that is unique on this row of Swann Street. All of the other houses on this block share the same front street plane. The Property and

1724 Swann Street once formed one double lot, which was subdivided sometime after 1927. According to Sanborn maps, there was a rear alley building built on the Property, but there is no record of any house ever occupying the Property. The majority of the south side of this row of Swann Street is comprised of three-story bayfront rowhouses and two-story porch-front rowhouses.

In 2017, the prior owner of the Property presented a project for development to the Historic Preservation Review Board (“HPRB”), Case Number 17-072. That proposal was for a three-story plus basement loft penthouse infill rowhouse for four condominium units. Although the proposal won the support of the HPRB and ANC 2B, the prior owners chose not to pursue construction and sold the property to the Applicant in 2021.

### **B. Traffic Conditions and Mass Transit**

The Property has very good mass transit options. The Dupont Circle Metro Station, serving the Red line, is less than one-half mile from the Property. Metrobus lines 42, 43, L2, and S2 are within walking distance from the Property on Connecticut Avenue NW and 16<sup>th</sup> Street NW. Additionally, the U Street/African-American Civil War Memorial/Cardozo Metro Station serving the Green and Yellow lines is approximately two-thirds of a mile from the Property. Walkscore.com indicates that the area is a “Walker’s Paradise” with “Good Transit” and is a “Biker’s Paradise.”

### **C. The Project**

As shown on the enclosed architectural plans at **Exhibit C** (the “Plans”), the Applicant proposes a three-story plus basement loft penthouse infill rowhouse with three residential units (the “Project”). The proposed gross floor area is 3,294 square feet across the three main floors at 1.8 FAR. There is an additional 1,116 square feet of cellar space and 230 square feet of fourth

floor penthouse, well below the permitted .4 FAR (723 square feet) of penthouse space that is exempt from gross floor area calculations.

Zoning relief is requested to allow for 63% lot occupancy, slightly above the maximum permitted of 60% in the RA-2 zone. This relief is necessary because the existing party walls of the neighboring building at 1720 Swann Street encroach onto the Property more than one-half of the wall's thickness, or about 70 square feet. In addition, we request relief from the court requirements. The resulting stepped building appearance is a direct request that has been made by Historic Preservation Office staff. The Project will otherwise comply with the development requirements for the RA-2 zone, as illustrated on enclosed Form 135.

As illustrated below, the Applicant meets the standards for special exception relief for an additional mechanical penthouse pursuant to Subtitle F § 5201.2 and Subtitle X, Chapter 9.

#### **IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW**

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements

of the regulation.” *First Baptist Church of Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

**V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF**

**A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps**

The relief request will be in harmony with the purpose and intent of the Zoning Regulations and related maps. The purposes of the RA-2 zone are, among other things, to permit urban residential development and compatible institutional and semi-public buildings. Multiple dwellings are permitted as a matter of right.

The Project’s requests for special exception relief to allow 63% lot occupancy will be equal to or less than other buildings on this row of Swann Street and the surrounding area. As previously stated, the need for the lot occupancy relief is a result of the existing encroachment by the building at 1720 Swann Street. The court relief requested will allow for more light and air for the adjacent building at 1724 Swann Street, which is set back much further from the street. It will also serve as a nice transition between that building and the Property, which will otherwise have a setback even with other buildings on the row. Finally, the court relief will be consistent with the initial feedback the Applicant has received during discussions with Historic Preservation Office staff.

For these reasons, the relief is harmonious with the general purpose and intent of the Zoning Regulations and maps.

**B. The Proposed Relief will not tend to Adversely Affect the Use of Neighboring Property**

Except for the relief requested for lot occupancy and court relief, the Project meets the RA-

2 zone development standards and is consistent with and within the zone's design standards for the lot. The use of neighboring properties includes predominately single and multiple family housing that will not be adversely affected by the Project. To the contrary, the requested relief will further stabilize the neighborhood by adding an attractive new residential building fully compatible with its neighboring buildings.

Therefore the special exception relief requests do not adversely affect the use of the neighboring property.

### **C. The Project Satisfies the Special Conditions of Subtitle F § 5201.4**

Subject to the considerations set forth below, Subtitle F § 5201.2 permits exceptions to the lot occupancy and court requirements of Subtitle F § 304.1 and §202.1. As demonstrated below, the requested relief satisfies these considerations.

*(a) The light and air available to neighboring properties shall not be unduly compromised;*

In this case, the requested court relief is actually intended to enhance the availability of light and air to the neighboring property at 1724 Swann and mirror the existing pattern along the street.

*(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

The height and setbacks of proposed building will be harmonious with neighboring buildings and will not therefore compromise the privacy and use of neighboring properties.

*(c) The proposed addition or accessory structure, together with the original building, or the new building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the street and alley frontage; and*

The setbacks and massing of the proposed new building will be consistent with surrounding properties so will not visually intrude upon the character, scale, and pattern of houses on this row of Swann Street.

*(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition, new building, or accessory structure to adjacent buildings and views from public ways.*

These representations are provided on the enclosed architectural plans.

Accordingly, as shown above, the requested relief satisfies the considerations of Subtitle F § 5201.4.

**VI. COMMUNITY OUTREACH**

Pursuant to Advisory Neighborhood Commission (“ANC”) 2B’s procedures and guidelines, the Applicant will contact ANC 2B when the application is filed and request that the Applicant present to ANC 2B at the next available public meeting.

**VI. CONCLUSION**

For the reasons stated above, the Project meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board grant the application.

Respectfully Submitted,

COZEN O’CONNOR



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