APPEAL TO THE BOARD OF ZONING APPEALS FOR A VARIANCE

I. LOCATION of Property 97 Whitney Ave. and 65 Trumbull St. (to be consolidated)

   north east side between Whitney Avenue and Bradley Street
   south west

   north east corner of Whitney Avenue and Trumbull Street
   south west

Zoning District 97 Whitney Avenue RO and RM-2 and 65 Trumbull - RO
St. St.

II. Name of OWNER Flagg Building, LLC Address e/o Olympia Properties, LLC, 142 Temple Street, New Haven, CT 06510
    Date of Purchase 7/18/03 – 97 Whitney Avenue.

    Name of OWNER Sixty-Five Trumbull, LLC Address e/o Olympia Properties, LLC, 142 Temple Street, New Haven, CT 06510
    Date of Purchase 4/24/06 – 65-65 Trumbull Street

    Name of present proposed or tenant Prepare your own address
    Proposed purchaser Agitudo Acquisition, LLC

Name and signature See pp. 1 and 18 of Purchase and Sale Agreement (Attached behind Tab 1)
of APPELLANT)

Party to be notified Zachary Feldman Attorney Address 669 River Drive, Suite 402, Elmwood Park, NJ 07407
Agent Telephone No. (201) 275-1787

III. THIS APPEAL relates to:

   [ ] PRINCIPAL BUILDING (S) AND ITS
   [ ] ACCESSORY BUILDING (S)
   [ ] LAND
   [ ] USE
   [ ] NO. OF DWELLING UNITS
   [ ] FLOOR AREA
   [ ] YARDS
   [ ] SIZE OF COURTS
   [ ] LOT
   [ ] AVERAGE LOT WIDTH
   [ ] BUILDING COVERAGE
   [ ] BUILDING HEIGHT
   [X] USABLE OPEN SPACE
   [ ] DISTANCE BETWEEN BUILDINGS
   [ ] AMOUNT OF PARKING OR LOADING
   [ ] LOCATION OF PARKING OR LOADING
   [ ] SIGNS
   [ ] Lot area per dwelling unit

IV. SECTION (S) of zoning ordinance appealed from:

   65 (a.) 250 square feet/dwelling unit required for a planned development unit; 65(d); reduction of lot area per dwelling unit cannot exceed 33% for a planned development unit.

IV. PRECISE VARIANCE (S) sought:

    To permit - 75 square feet per dwelling unit when 250 square feet per dwelling unit is required for a planned development unit; to permit a reduction of the lot area per dwelling unit of 89% when a maximum reduction of 33% is permitted for a planned development unit.

II. LOT Dimensions (width x depth): 140' x 90' (Frontage on Whitney and Trumbull) 230' deep from Whitney Avenue and 215' deep from Trumbull Street (consolidated lot) LOT Area: .79 acres

    List all EXISTING BUILDING (S) AND USE (S) on this lot; giving symbol for legal basis of each. (PR- permitted as right; PS-permitted by special exception; PV-previous variance; NCU-nonconforming use existing at effective date of ordinance or amendment; CAL-previous certificate of approval of location — motor vehicle uses):

    (1) 97 Whitney Ave. - offices (R), amusement
    (2) 65 Trumbull St. professional offices (R)

VII. Describe in detail the DIFFICULTY or UNREASONABLE HARDSHIP asserted to be in the way of carrying out strict letter of the zoning ordinance: See Variance Narrative attached hereto behind Tab 2.
VIII. What circumstances concerning this property are PECULIAR to it and not applicable to the area as a whole? EXPLAIN.

See Variance Narrative.

IX. Would the requested variance be subject to appropriate CONDITIONS and SAFEGUARDS? EXPLAIN.

See Variance Narrative.

X. Would the requested variance be in HARMONY with the general purpose and intent of the Ordinance? EXPLAIN.

See Variance Narrative.

XI. If the requested variance is a USE variance, answer each of the following:

1. Do the zoning regulations allow NO REASONABLE USE of the property in question for reasons PECULIAR to the property and not applicable to the area as a whole? EXPLAIN.

2. Is the use proposed the MINIMUM variance necessary in order to allow a reasonable use of the property? EXPLAIN.

3. Will the use impair the essential CHARACTER of the area or the OBJECTIVES of the COMPREHENSIVE PLAN of the City? EXPLAIN.

4. If any attempts have been made to SELL the property for use in accordance with the purposes for which it is zoned, supply the following information:
   a) period (s) in which placed on market and agent (s) used in each period:
   b) period (s) listed with Real Estate Board:
   c) period (s) advertised in newspaper (attach copy of one or more such ads, if any):
   d) other sales efforts during each period:
   e) asking price during each period:
XII.

State of New Jersey
County of New Jersey

Personally appeared, Zachary Feldman
Authorized Agent for Aptitude Acquisition, LLC Owner, who made oath
that the statements herein were true and correct before me.

[Signature]
Notary Public

XIV.  [ ] Hearing Fee to be paid upon filing of this Appeal — see Fee Listing
[ ] Bulk Variance
[ ] Use Variance
[ ] I Use and Bulk Variance

[ ] Required plans filed with Appeal as follows:

(a) **10 copies of a scaled PLOT PLAN**, with a North arrow, showing the lot in question and the following if applicable:
   1. existing buildings,
   2. proposed construction and use of outdoor areas,
   3. existing and proposed curb cuts, driveways, and parking and loading facilities,
   4. existing and proposed fences, walls, landscaping and signs,
   5. such other information as may be required to define clearly the nature and need of the appeal..

(b) **10 copies of scaled FLOOR PLANS and ELEVATIONS:**
   for each floor and each side of proposed construction, including use of all floor areas.

BELOW THIS LINE FOR BOARD USE ONLY

XV.  Communication with regard to this Appeal received from:

[ ] City Plan Dept
[ ] Dept of Traffic & Parking
[ ] LCI - Livable City Initiative
[ ] Health Dept.
[ ] Police Dept.
[ ] Fire Dept.
[ ] Bureau of Engineering

XVI. Previous Board of Zoning Appeals cases at this location (file number, year, proposed construction and/or, Board
decision, and court decision where applicable).
NEW HAVEN BOARD OF ZONING APPEALS

NOTICE is hereby given that State Law requires the Board of Zoning (BZA) to hold a public hearing to review your application and/or appeal. The BZA will make its decision based upon testimony at the public hearing and the documents you submit with your application.

TO BE CONSIDERED COMPLETE, your application MUST include the documents and required information listed below.

If you fail to submit the REQUIRED DOCUMENTS AND INFORMATION to describe the zoning relief requested, YOUR APPLICATION AND/OR APPEAL MAY BE DENIED.

REQUIRED MATERIALS

1. **SIGNED AND NOTARIZED ORIGINAL APPLICATION/APPEAL FORM**
   Answer all questions completely and include a clear, detailed description of your zoning relief proposal.
   
   SUBMITTED
   YES NO

2. **SCALED SITE PLAN**
   Ten (10) copies of Scaled Plans representing the zoning relief sought
   (A MINIMUM SCALE OF 1 INCH = 20 FEET IS STRONGLY RECOMMENDED)
   SCALED SITE PLAN with North arrow showing the lot in question and
   if applicable:
   - Existing buildings;
   - Proposed construction and use of indoor and outdoor areas;
   - Existing and proposed curb cuts, driveways, parking and loading facilities;
   - Existing and proposed fences, walls, landscaping and signs;
   If you are seeking yard variances within five (5) feet of a property line or a lot split
   a Class A-2 Survey may be required.
   
   SUBMITTED
   YES NO

3. **FLOOR PLANS AND ELEVATIONS**
   Ten (10) copies of the following if applicable
   SCALED FLOOR PLAN of each floor including use of all floor area.
   SCALED ELEVATIONS for each side, if new construction is proposed.
   A MINIMUM SCALE OF 1/8 INCH = 1 FOOT IS STRONGLY
   RECOMMENDED
   For any change in zoning use classification under the state building code (BOCA),
   or for any construction costing more than $25,000, an Architect or Engineer
   must prepare your plans on a Class A-2 Survey base.
   
   SUBMITTED
   YES NO

4. **OTHER INFORMATION**, as necessary to clearly define the nature of the zoning relief or Special Exception N/A
   sought such as:
   - Days and hours of operation
   - Number of Employees
   - Provisions for Employee Parking
   - Signs

   NOTE: Required Materials are to be submitted as follows:
   a.) The Original Application form and b.) ALL copies of plans and other
   materials sorted, folded and stapled in sets (ten total).

   SUBMITTED
   YES NO

ONCE FILED, FILING FEES(S) FOR YOUR APPLICATION/APPEAL ARE NOT REFUNDABLE

I HAVE READ THIS NOTICE AND UNDERSTAND THAT MY APPLICATION AND/OR
APPEAL MAY BE DENIED IF THE MATERIALS REQUIRED TO BE SUBMITTED ARE NOT COMPLETE.

BY: [Signature of Applicant]

Date: February 16, 2022

Telephone Number: (203) 275-1781
PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is made as of this 2nd day of September, 2021 by and between FLAGG BUILDING, LLC, a Connecticut limited liability company, with an office c/o Olympia Properties, LLC, 142 Temple Street, New Haven, Connecticut, 06510, (the "Seller"), and APTITUDE ACQUISITION, LLC, a Delaware limited liability company, having an office address of 669 River Drive, Suite 402, Elmwood Park, NJ 07407 ("Purchaser") for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

PROPERTY; PURCHASE PRICE; DEPOSIT

1.1 Property. Subject to the terms of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all that certain piece or parcel of land, with all improvements thereon and appurtenances thereto, located at 97 Whitney Avenue and 63 Trumbull Street, New Haven, Connecticut, (the "Property") as further defined below:

(a) (i) the Property, being the land described in Schedule A attached hereto, together with the buildings and improvements and fixtures located on such properties (the "Improvements"), including but not limited to the building located on such Property (the "Buildings"), and all and singular the rights, benefits, privileges, easements, tenements, hereditaments, and appurtenances thereon or in anywise appertaining to the above-described real property, any air rights and/or development rights appurtenant to the Property, all of the right, title and interest of Seller in and to any award made or to be made in lieu thereof and in and to any unpaid award for damage to the Property by reason of change of grade of any street, and all right, title, and interest of Seller in and to all strips and gores and any land lying within any street or roadway or alley, open or proposed, adjoining the real property described above or any vacated or hereafter vacated street or alley adjoining said real property (collectively, the "Real Property").

(b) All right, title and interest of Seller in and to all tangible personal property now or hereafter used in connection with the operation, ownership, maintenance, management, occupancy or improvement of the Real Property including without limitation: any and all furniture, equipment, machinery, art work, furnishings, office equipment and supplies and, whether stored on or offsite, all tools, supplies and construction and finish materials not incorporated in the Improvements and held for repair and replacements, and other tangible personal property, if any, owned by Seller presently located on the Real Property (the "Personal Property"). The term "Personal Property" also shall include any and all deposits, bonds or other security deposited or delivered by Seller with or to any and all governmental bodies, utility companies or other third parties in connection with the operation, ownership, maintenance, management, occupancy or improvement of the Real Property.

(c) All right, title and interest of Seller in and to all intangible personal property now or hereafter used in connection with the operation, ownership, maintenance, management or occupancy of the Real Property, including without limitation any and all of the following items (the "Intangible Personal Property"): (i) applications, approvals, licenses and permits (to the extent assignable), (ii) all trademarks, service marks and trade names associated with the Real Property, including without limitation the name of each Building, (iii) if still in effect, guaranties,
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

SELLER:

FLAGG BUILDING, LLC

By: [Signature]

Name: Dennis P. Nicotra
Title: Manager of Olympia Properties, LLC
Manager of Flagg Building, LLC

9/13/2021

Date executed by Seller: September __, 2021

APITUDE ACQUISITION, LLC

By: [Signature]

Name: [Name]
Title: [Title]

Date executed by Purchaser: September __, 2021

AGREED and ACCEPTED:

ESCROW AGENT:

KENNINGTON VANGUARD NATIONAL LAND SERVICES LLC

By: [Signature]

Name: Laura Carsten
Title: Underwriter
TAB 2
Narrative for Variances to Reduce the Amount of Open Space Required in a Planned Development Unit and to Increase the Percentage by Which the Lot Area Per Dwelling Can Be Reduced

The Applicant, Aptitude Acquisitions, LLC ("Aptitude" of the "Applicant"), is applying for a planned development unit designation (a "PDU") under Section 65 of the Zoning Ordinance for a 150 unit multi-family building (the "Marshall" or the "Building") to be constructed on properties known as 97 Whitney Avenue and 63-65 Trumbull Street (collectively the "Site"). The Applicant is also seeking two variances in connection with its PDU application, which are a reduction in the amount of open space required and an increase in the percentage by which the lot area per dwelling unit in a PDU can be reduced.

Open Space Variance

Section 65(a)(4) provides that a planned development must be so arranged as to provide a minimum of 250 square feet of usable open space per dwelling unit. The proposed project will provide 75 square feet per dwelling unit or a total 2,400 square feet. Open space will be located in the landscaped plaza area in the 17' front yard, in the rear yard where trees will be planted and in the landscaped plaza areas along the entrance to the parking garage on Trumbull Street. In addition, there will be a 4,267 sf roof deck which will offer a panoramic view of the City and most likely will include a lounge area, outdoor gaming area, grilling stations, and a fire pit.

The hardship requiring the reduction in the required open space is due to the small size of the Site, .79 acres, and the Site's irregular shape, both of which do not provide sufficient space to provide 250 sf of open space per dwelling unit. These circumstances are peculiar to this property and are not applicable to the area as a whole. The requested variance will be subject to appropriate safeguards, which are that the Applicant will appropriately maintain the open spaces and landscaping. The requested variance is in harmony with the general purpose and intent of the Zoning Ordinance. The variance promotes a dense multi-family residence on Whitney Avenue which is a goal of the New Haven Comprehensive Plan of Development – Vision 2025, as stated in the Applicant’s application for a planned development unit. Further, the underlying RM-2 District does not require any open space for a multi-family dwelling building. The underlying RO district only requires that 100 sf per unit of open space be provided for an apartment building, which square footage is closer to the amount that the Applicant proposes to provide (75 sf/unit) than the 250 sf/unit requirement of Section 65(a)(4). Additionally, the residents of the Building will have ample opportunity to enjoy open space due to the location of a public park across Whitney Avenue from the Site, the proximity of the Site to the entrance to the Farmington Canal Greenway on Hillhouse Avenue near Trumbull Street, and the fact that the New Haven Green can be easily reached by walking or cycling. It is also noted that the Board of Zoning Appeals recently approved a variance of the 250 sf open space requirement for a planned development unit for a multi-family project under somewhat similar circumstances for 20-34 Fair Street.
Variance to Permit a Reduction in the Lot Area Per Dwelling Unit in Excess of 33%

Section 65(d)(1) of the Zoning Ordinance provides that when the proposed modifications of the Zoning Ordinance concern the bulk and placement of structures, a planned development application may be filed with the Board of Zoning Appeals. This section states that in such instances, the reduction of a lot area per dwelling unit requirement cannot exceed 33%.

In this case, the Site is located in two zoning districts. The majority of the Site is situated in the RO District, which does not have a minimum lot area per dwelling unit requirement. All of the 63-65 Trumbull Street property is in the RO District, and the majority of the 97 Whitney Avenue property (120' from Whitney Avenue) is also in the RO District. Only a small portion of the Site, .25 acres located in the northeastern portion of the Site, is in the RM-2 District. In the RM-2 District, there must be a minimum of 2,000 sf of lot area per dwelling unit. Section 14(a)(1)c. When this requirement is applied to the Site and to the 150 units proposed for the development, the result is that the lot area provided per dwelling unit is 89% less than the lot area required per dwelling unit in the RM-2 District. (See Table of Proposed Zoning Modifications attached as Exhibit 1).

The hardship in this case results from applying the 33% cap on the reduction of the lot area per dwelling unit requirement to the whole Site, when only a small portion of the Site is located in a zoning district that has a minimum lot area requirement. The consequence of the application of the RM-2 lot area/dwelling unit requirement to the whole Site is that the relief being requested appears to be greater than is actually the case. This hardship is peculiar to the Site and its dual zoning designations and is not applicable to the area as a whole. The requested variance is subject to appropriate conditions and safeguards as the development on the Site will be subject to Site Plan Review under Section 64 of the Zoning Ordinance and review of the Detailed Plans for the project under Section 65 of the Zoning Ordinance by the City Plan Commission so that the building will be required to be appropriately sized for the Site.

The variance is also in harmony with the general purpose and intent of the Ordinance. As stated above, the majority of the Site is in the RO District, which has no lot area per dwelling unit requirement. Also, as stated above, Vision 2025 urges the development of high-density residential development on Whitney Avenue. If the Applicant were restricted to a 33% reduction in the lot area per dwelling unit requirement (2,000 sf per dwelling unit), a high-density residential development would not be possible on the Site.

Accordingly, for the foregoing reasons, the Applicant requests that the Board of Zoning Appeals grant its request for a variance permitting it to obtain a modification of the lot area per dwelling unit in excess of 33%.
EXHIBIT 1
Proposed PDU Designation for

97 Whitney Avenue & 65 Trumbull Street

Existing Lots:

97 Whitney Avenue - “L” shaped, ±0.69 Acre Lot with 140.6-feet of frontage on Whitney Avenue and 41.7-feet of frontage on Trumbull Street. The parcel is located within two zoning districts with the areas located within ±120-feet of the road frontage being within the Residence Office (RO) District, and the northeastern most ±0.25 acres being within the High-Middle Density (RM-2) District.

65 Trumbull Street - Rectangular, ±0.13 Acre Lot with 50.04-feet of frontage on Trumbull Street. The Parcel is located entirely within the RO District. The property abuts 97 Whitney Avenue along it’s northern and eastern boundaries.

Residential uses within the RO District are governed by the Special High Density (RH-1) District Standards.
### Table of Proposed Zoning Modifications

Based on Planned Developments (Section 65), RM-2 (Section 14) & RO (Section 17) District Requirements

(Section 17 Incorporates the Requirements of Section 15 (RH-1 District) for Residential Uses)

<table>
<thead>
<tr>
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<th>Zoning Ordinance</th>
<th>Required</th>
<th>Modification Requested</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Usable Open Space</td>
<td>250 SF per Dwelling Unit</td>
<td>Modification to 75 SF per Dwelling Unit Requested (70% Reduction)</td>
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<td>Section 65.a.4</td>
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<tr>
<td>2</td>
<td>Minimum Lot Area per Dwelling Unit</td>
<td>2,000 SF per Dwelling Unit</td>
<td>Modification to 225 SF per Dwelling Unit Requested (89% Reduction)</td>
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<td>Section 14(a)(1)c</td>
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<tr>
<td>3</td>
<td>Maximum Building Coverage</td>
<td>Maximum of 30% of Lot Area</td>
<td>Modification to 75% of Lot Area (±35,898 SF) Requested</td>
</tr>
<tr>
<td></td>
<td>Section 14(a)(1)d</td>
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</tbody>
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| 4 | Maximum Building Height                       | 4 Stories or 45’ 1-foot of Side & Rear Setback required for each 2-feet of Building Height | Modification to 7 Stories & 80’ Requested  
±80’ Proposed Building Height would require Side & Rear Setbacks of 40’  
Modification to Side Yard Setback to 1’ is Requested  
Modification to Rear Yard Setback to 12’ is Requested |
|   | Section 15(a)(1)c                             | No Direct Limit 1-foot of Side & Rear Setback required for each 2-feet of Building Height |                                                                  |
| 5 | Minimum Front Yard                             | The greater of 25’ or 1-foot from the center line of the street for every 2-feet of Building Height | Modification to 17’ Requested  
(Consistent with existing Building)  
Front Wall of Proposed Building is ±55’ from the center line of Whitney Avenue |
<p>|   | Section 15(a)(1)e                             | One side at least 8’ and the other at least 10’ | Modification to 1’ is Requested |
| 6 | Minimum Side Yard                              | 10’                                   |                                                                  |
|   | Section 15(a)(1)c                             |                                       |                                                                  |</p>
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<tbody>
<tr>
<td>7</td>
<td>Minimum Rear Yard Section 14(a)(1)f Section 15(a)(1)e</td>
<td>25’</td>
<td>Modification to 12’ (52% Reduction) Requested</td>
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<td>8</td>
<td>Maximum Gross Floor Area Section 15(a)(1)f</td>
<td>0.5 Times the Lot Area May be increased by 0.1 for every percent of Building Coverage under 25 to a maximum of 1.7 Times the Lot Area (≤13% Lot Coverage)</td>
<td>Modification to a Floor Area Ratio of 3.6 Requested</td>
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PAY TO THE ORDER OF  City of New Haven

Three Hundred Fifty and 00/100 DOLLARS

City of New Haven

SIGNATURE BANK
1-3357320

2/16/2022

$350.00

APITUDE ACQUISITION LLC
City of New Haven

2/16/2022

350.00

Signature....1532

APITUDE ACQUISITION LLC
City of New Haven

2/16/2022

350.00

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