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GEORGE R. KEYS, JR.*

*Also Admitted in Maryland

OF COUNSEL:

HAROLD E. JORDAN

September 5, 2012

HAND-DELIVERED

Lloyd Jordan, Chairman
D.C. Board of Zoning Adjustment
441 4th Street, N.W. - Room 210 South
Washington, D.C. 20001

Re: BZA Application No. 18109 - The Strand Theater, 5127-5131 Nannie Helen Burroughs Avenue, N.E. (Square 5196, Lots 801 and 805)

Dear Mr. Jordan:

This firm acts on behalf of the District of Columbia and Washington Metropolitan Community Development Corporation (collectively, the "Applicant") in connection with the special exception and variance application approved by the D.C. Board of Zoning Adjustment (the "Board") in Application No. 18109 by Summary Order, issued on October 14, 2010. By the terms of § 3130.1, the Applicant must file for a building permit on or before October 14, 2012.

Pursuant to § 3130.6 of the Zoning Regulations, the Applicant hereby requests an extension of the two (2) year time period for filing a building permit application set forth in § 3130.1. The standards applicable to relief under § 3130.6(a)-(c) are set forth below, together with the relevant circumstances of this application.

- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond

The only party to the instant proceeding other than the Applicant was Advisory Neighborhood Commission 7C ("ANC-7C"). A copy of this extension request was mailed today by first class mail, postage prepaid to: Chairperson, Advisory Neighborhood Commission 7C, 4651 Nannie Helen Burroughs Avenue, N.E., Washington, D.C. 20019 and e-mailed to anc7c@verizon.net. A courtesy copy was also sent via e-mail to ANC 7C Commissioner Patricia Malloy, SMD-7C-01 at 7C01@anc.dc.gov.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18109

EXHIBIT NO. 33

Board of Zoning Adjustment
District of Columbia
CASE NO. 18109
EXHIBIT NO. 33

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- (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application

There has been no change in the factual circumstances of the instant application which would undercut the Board's reasoning. The rationale for the variance and special exception relief granted rested entirely on the historic designation of The Strand Theater and the desire of the District of Columbia Government and the community stakeholders for the redevelopment of this important corner location in the Deanwood neighborhood. That commitment to the Deanwood Neighborhood is unchanged and has recently been reaffirmed by the District of Columbia (as will be discussed below).

- (c) The applicant demonstrates that there is good cause for such extension with substantial evidence of one or more of the following criteria:

- (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control

As the Applicant testified at the public hearing on October 5, 2010, the critical, initial objective for the redevelopment effort was to find a retail tenant for the ground floor of the project.¹ At the time of the public hearing, the Applicant had a broker working for the prior twenty-four (24) months trying to identify a lead retail tenant.² In the recent economic climate, the Applicant discovered that lenders were reluctant to finance a commercial project on a speculative basis without a credit-worthy tenant for the principal retail space.

Indeed, Senthil Sankaran, the Director of Development of the Office of the Deputy Mayor for Planning and Economic Development ("DMPED"), in his testimony before the Council of the District of Columbia (the "Council") on September 13, 2011, seeking to extend the authority of DMPED to dispose of the Strand Theater property, pointed out the revised underwriting constraints which the Applicant has experienced. A copy of his testimony before the Council is attached hereto. The Council acted favorably on the extension request.

The Applicant is confident that the Strand Theater project will move forward in the quite very future, provided that an extension is granted. After diligent effort, the Applicant has identified a national chain retail tenant and entered into a Letter of Intent that commits the parties to move toward the negotiation of a long-term lease for all of the retail space in the Strand

¹Public Hearing Transcript of October 5, 2010, pp. 90, 113.

²Id, at p. 89.

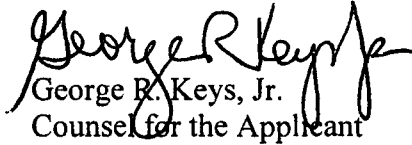
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Lloyd Jordan, Chairman
D.C. Board of Zoning Adjustment
September 5, 2012
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Theater project (the "LOI"). The LOI calls for the delivery of the retail space in the first quarter of 2014. On the basis of the LOI, a local lender is beginning the underwriting process that will lead to a commitment to provide construction and permanent financing. Finally, a potential tax credit investor has recently provided the Applicant with a term sheet for making a Federal Historic Rehabilitation Tax Credit equity investment in the Strand Theater project. With all of these elements falling into place in the coming months, the Applicant will be able to proceed with the development of construction drawings for the retail space that meets the specifications of the LOI; however, it is certain that the Applicant cannot submit a building permit application prior to October 14, 2012.

For all of the foregoing reasons, the Applicant requests approval of the two-year extension request.

Respectfully submitted,


George R. Keys, Jr.
Counsel for the Applicant

Attachments: (1) BZA Public Hearing Transcript, October 5, 2010 (two pages)
(2) Testimony of Senthil Sankaran before Public Roundtable on Strand Theater Disposition Extension Approval Resolution of 2011, D.C. Resolution PR 19-360, September 13, 2011

cc: Advisory Neighborhood Commission 7C
D.C. Office of Planning

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Board of Zoning Adjustment
441 4th Street, N.W.
Washington, D.C. 20001

SPECIAL PUBLIC MEETING AND PUBLIC HEARING
October 5, 2010
9:30 a.m. through 4:58 p.m.

Second Floor Hearing Room, Suite 220 South
Washington, D.C. 20001

Board Members

Meridith Moldenhauer - Chairperson
Nicole C. Sorg - Board Member
Jeffery L. Hinkle - NCPC
Michael G. Turnbull - Architect
Anthony J. Hood - Chairman Zoning Commission
Clifford Moy - Secretary
Beverley Bailey - Office of Zoning
Mary Nagelhout - Office of the Attorney General
John Nyarku - Office of Zoning

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C o n t e n t s

1.	Case 18098	.4
2.	Case 18031	.9
3.	Case 18112	.22
4.	Case 18110	25
5.	Case 18111	37
6.	Case 18109	75
7.	Case 18108	.127
8.	Adjournment	248

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1 deemed at that time to be historic but we feel
2 that creating one large structure, one larger
3 structure that has all the character of the
4 historic site makes all the sense in the world.
5 So when the District put out the solicitation we
6 responded, we set up a plan where we're going to
7 attempt to have ground floor retail at this site
8 and have second floor CD incubator office space
9 for small and local disadvantage businesses out
10 in the Ward 7 Corridor. So that's basically what
11 the development site is going to look like.

12 MR. KEYS: Have you identified any
13 perspective tenants?

14 MR. WILLIAMS: We've been working with
15 two retail brokers over the past 24-months and we
16 have had some interest as far as having a retail,
17 couple of restaurateurs have looked at the site
18 we're confident that if we are able to move the
19 project forward we'll be able to find a great end
20 user but we have been in discussions with a
21 couple restaurants.

22 MR. KEYS: But at this time you don't

1 have a particular user in mind?

2 MR. WILLIAMS: We don't, no, no sir.

3 MR. KEYS: Would the space be utilized by
4 a single retail user for example or might there
5 be multiple?

6 MR. WILLIAMS: Well the great thing about
7 the development site is that it has the option to
8 either have multiple retail users or one single
9 tenant. Obviously in this economic environment
10 to find one single ground floor tenant would be
11 ideal but if we are, or if we do find the right
12 types of multiple users that could be beneficial
13 to the area that has just been starved of retail,
14 that area is just really starved of retail and it
15 has overwhelming demand for such retail
16 activities.

17 MR. KEYS: Have you as fee developer had
18 interaction with the community regarding this
19 project?

20 MR. WILLIAMS: Oh yes, yes we have.

21 MR. KEYS: Could you describe that for
22 the Board?

1 structure would have been impossible without this
2 further connection and we think that satisfies
3 the variant standard that we encounter a
4 practical difficulty that arises from this. This
5 speaks generally to both the special exceptions
6 standard and the variant standard. This type of
7 development is entirely anticipated by the
8 comprehensive plan and is consistent with what C-
9 1 calls for in terms of uses, really its
10 neighborhood serving retail and low density
11 office use. I think Mr. Williams identified
12 possible users as incubator offices for small
13 businesses it could also be medical it could be
14 dental offices in the second floor space. We're
15 hoping that we can attract a tenant that's going
16 to be a, a retail tenant on the ground floor
17 that's going to be a visually exciting and useful
18 addition serving the Deanwood Community.
19 Deanwood and the comprehensive plan and I think
20 I've identified the sections of the com plan and
21 the elements for Deanwood specifically recognize
22 the need to restore underutilized, poorly



Office of the Deputy Mayor for Planning and Economic Development

Public Roundtable on:

Eastern Avenue Property Disposition Extension Approval Resolution of 2011
D.C. Resolution PR19-359

Strand Theater Disposition Extension Approval Resolution of 2011
D.C. Resolution PR19-360

Minnesota Benning Phase 2 Redevelopment Disposition Approval Extension Resolution of 2011
D.C. Resolution PR19-361

**Testimony of
Senthil Sankaran
Director of Development
Office of the Deputy Mayor for Planning and Economic Development**

Before the
Council of the District of Columbia

Committee of the Whole
Kwame Brown, Chairman

Tuesday, September 13, 2011

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

STRAND THEATER

- *PR19-360 – Strand Theater Disposition Extension Approval Resolution of 2011*

Next, I would like to testify on behalf of PR19-360, the proposed disposition extension of the Strand Theater. The Strand Theater is an 8,282 square foot vacant two-story brick building with a street address of 5131 Nannie Helen Burroughs Avenue NE in the Deanwood community. Built in 1928, the Strand served as a community movie house that seated approximately 600 people but had been vacant for over 30 years by the time the District purchased it in 2004.

In November of 2006, after considerable community involvement, the Lincoln Heights & Richardson Dwellings New Communities Initiative Revitalization Plan was completed and identified the corner of Nannie Helen Burroughs and Division Avenues as a primary location for improved convenience retail and revitalization. Using said plan as a guide, a solicitation for the redevelopment of the Strand Theater was developed and the project was awarded to the Washington Metropolitan CDC in May of 2008.

At the time of the Disposition Resolution, DMPED and the Developer anticipated that the project predevelopment phase would be completed within the statutorily allotted two year period. Prior, and subsequent, to Council approval of the disposition on October 6, 2009, the Developer has been diligently seeking financing for the project. However, as the Developer has sought to redevelop the site, lenders' underwriting standards have tightened in terms of equity requirements and minimum debt service coverage ratios.

Confronting such changes, the financing package for the Strand Theater redevelopment plan changed with a slight reduction of the project's scale and the extension is necessary to allow adequate time for the promotion of the revised, slightly scaled down project to prospective lenders, investors, and retailers.

The Strand Theater project is just one of the projects in the larger Lincoln Heights & Richardson Dwelling New Community project. Recent neighborhood investments include the newly rebuilt H.D. Woodson Senior High School and the revitalized Marvin Gaye Park.

There have also been great strides in moving the Strand Theater project forward. The BZA unanimously approved a zoning variance on October 5, 2010 to allow for an increase in the gross floor area of the site. And as further evidence of support for the project, the Strand redevelopment has been awarded grant funding from the Neighborhood Investment Fund and Great Streets. Schematic drawings have been completed and Historic Tax Credits have been

pursued. This project, once completed, will serve to further the revitalization of the Nannie Helen Burroughs corridor.

MINNESOTA BENNING PHASE 2

- *PR19-361 – Minnesota Benning Phase 2 Redevelopment Disposition Approval Extension Resolution of 2011*

Finally, I would like to testify on behalf of PR19-361, the proposed disposition extension for the Minnesota Benning Phase 2 Redevelopment (“Minnesota Benning Project”), a the District-owned property bounded by Minnesota Avenue to the East and Benning Road to the South. The Property consists of approximately 211,151 square feet of land area. The Property has remained vacant and has contributed to blight along the Great Street Minnesota Avenue. DMPED issued a competitive solicitation for offers in 2008 for the redevelopment of the Property.

DMPED found this to be an excellent mixed use development opportunity considering the site is located along the Minnesota Avenue Corridor, is adjacent to the new DOES headquarters, has direct access to the Metro, and has a zoning status that encourages mixed use development.

Council authorized the disposition of the Minnesota Benning Phase 2 Property on October 6, 2009 to DB Residential Partners (the “Developer”), a Certified Business Enterprise in the District of Columbia. The strength of DB Residential Partners’ proposal rests primarily within 90% of the 376 units will be maintained at affordable housing rents levels of 60% AMI or below. Also, a total of approximately 23,500 square feet of retail will be delivered of which 5,000 square feet of retail space will be dedicated to sit down restaurants, 4,000 square feet for local/small businesses and 500 square feet for flexible space for small community meetings.

At the time of the Disposition Resolution the credit markets had already begun their steep decline leaving the Developer, DB Residential Partners (“DBRP”), with the inability to obtain tax credit financing. As the credit markets continue to rebound, DBRP has reported progress to DMPED. The Department of Housing Finance Agency (DCHFA) Board approved the bonding for the project on June 28, 2010. Compounding to the delay of the project was the arduous alley closing process that has been ongoing. The alley closing process started in 2009 and DBRP is expecting a Council Hearing in September 2011.