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D. Application for Special Exception Relief

Keystar Spring Place LLC and Anabel Pestana (the "Applicants"), the fee owners of two lots within Square 3185 and fronting on Spring Place N.W. and Bull Place, N.W., respectively (Lots 0822 and 0052, Square 3185)(the "subject property") hereby make application to the District of Columbia Board of Zoning Adjustment (the "Board") for two (2) variances pursuant to § 3103.2 of the District of Columbia Zoning Regulations, 11 DCMR (February 2003) (the "Zoning Regulations"): (i) to reduce the off-street parking requirements of § 2101.1 to permit the construction of a 87-unit rental apartment building; and (ii) to eliminate the required loading berth and service/delivery space and the required width of the required loading platform to ten feet (10') under Section 2201.1.

1. Statement of Existing and Proposed Use

The two lots comprising the subject property are currently being used for automotive repair, storage yards and parking. The Applicant intends to construct a 87-unit rental apartment building, which will contain approximately thirty-six (36) affordable units, a number in excess of the requirements of the inclusionary zoning regulations at Chapter 26 of the Zoning Regulations. In addition, Keystar Spring Place LLC owns land in Square 3186, immediately to the southeast of the subject property across Bull Place, N.W., which it intends to develop in conjunction with the subject property with a sixty-four (64) unit rental apartment building which will include approximately twenty-seven (27) affordable units (the "Square 3186 Project"). The Square 3186 Project is the subject of a variance application filed simultaneously with the instant application. It is the intention of the Applicant that both rental apartment buildings will have common ownership and management, effectively constituting a single residential development, albeit divided by a public right-of-way, Bull Place, N.W.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18505
EXHIBIT NO. 4

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2. Site Description

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The subject property is roughly trapezoidal in shape and bounded by Spring Place, N.W. to the west, Bull Place, N.W. to the southeast, Lot 821, a narrow strip of land owned by Washington Area Metropolitan Transit Authority to the northeast that parallels the Baltimore & Ohio Railroad and Metrorail rights-of-way (the "Rail Rights-of-Way") and the rear yards of four residential lots facing Chestnut Street. Square 3185 is split-zoned with the subject property being zoned C-2-A and the residential lots on Chestnut Street being zoned R-1-B. The largest structure on the subject property, -- a one-story garage that spans the whole width of Lot 0822 -- sits directly on the property line abutting the rear yards of the houses facing Chestnut Street, N.W.

The subject property comprises 26,718 square feet of land in total. The Applicant has agreed to a request from the District Department of Transportation to cede to the District of Columbia a four-foot (4') wide strip of land the full length of the subject property abutting Spring Place, N.W. for the purposes of continuing a public bike path, the Metropolitan Branch Trail, that will run through the Takoma neighborhood. This donation of land will reduce the size of the subject property to 26,198 square feet. Topographically, the subject property slopes downward from the highest elevation in the northern most corner of the subject property at the property line at the rear of the residential lots (286.64 feet) to a low point at the intersection of Bull Place, N.W. and Spring Place, N.W. (274.89 feet). The Rail-Right-of-Way is actually atop a steep berm running along the northeastern edge of the subject property.

3. Surrounding Area Description

The subject property is located within the Takoma Park neighborhood in the middle of a compact C-2-A Zoning District and located approximately five hundred feet (500') from the

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entrance to the Takoma Park Metrorail Station. The subject property is roughly in the middle of the Takoma Park Historic District which is bisected by the Rail Rights-of-Way. The Takoma Park Historic District preserves, in part, a low density, detached residential community of Victorian, Arts and Crafts and Colonial Revival-style residences. The residences along Chestnut Street, N.W., northwest of the subject property are typical of the historic district.

Bull Place, N.W. is a narrow, dead-end public right-of-way separating Square 3186 and Square 3185 that runs from Spring Place, N.W. about two hundred feet (200') to the Rail Right-of-Way. The northern portion of Square 3186 across Bull Place, N.W. is a vacant lot in the C-2-A zone district. Across Spring Place, N.W. is the Landis Building, a three-story commercial office building, and the rear parking and service entrance of the Gables at Takoma, a 150-unit, four-story apartment building facing Blair Road, N.W. Exhibit 6 appended hereto provides an aerial view of the surrounding area with the subject property highlighted in the middle.

4. Project Description

The building will have five-stories and eighty-seven (87) studio, 1- and 2-bedroom apartment units. The building conforms to the shape of the subject property, adopting the form of two projecting wings with the bulk of the building aligned along Bull Place, N.W. The central landscaped court opens toward the rear of the residential lots along Chestnut Street, N.W. and will accommodate five (5) parking spaces. The portion of the building nearest the Rails Right-of-Way will be elevated on posts to allow at-grade parking space and vehicle circulation beneath the building. The subject property will be graded down to the level of Spring Place, N.W. which is fifteen feet (15') lower than the rear yards of the houses on Chestnut Street, N.W., which will have the effect of diminishing the bulk of the building as seen from the houses. The proposed

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building is also pulled away from the property line delimiting the R-1-B zone district by a greater distance than required for a side yard in C-2-A, which allows for the retention of several large caliper oak trees and the introduction of screening landscaping. The berm at the northern edge of the subject property forms the rear yard along the Rail Rights-of-Way.

Bull Place, N.W., a twenty-five foot (25') wide public right-of-way provides the only practical means of access to the subject property for moving trucks and other service vehicles, given the shape of the site. The space available for the loading berth, dock and platform is constrained by the shape of the subject property and the contours of the berm at the rear of the subject property. With the narrowness and dead-end nature of Bull Place, N.W. and the limitations of the subject property's shape, a large moving truck could not maneuver in and out with safety. The Applicant has concluded that a 30-foot truck could maneuver to a loading berth at the rear of the property, alongside a delivery space of the required length. However, the geometry of the rear of the building and the proximity of the retaining wall defining the Rail Rights-of-Way afford room for a 200 sq. ft. loading platform (as required by § 2201.1 of the Zoning Regulations) but only if the width is ten feet (10') instead of twelve feet (12').

The Applicants submitted the project (including the Square 3186 Project) for concept review by the D.C. Historic Preservation Review Board ("HPRB") in December 15, 2011, and again on November 1, 2012, at which latter time HPRB accepted the design proffered by the Applicant. In between the two appearances before HPRB, the Applicant made significant changes in materials, color scheme and other exterior design elements to satisfy HPRB and HPO staff that the overall project would not be incompatible with the Historic District. A copy of the HPRB staff report is attached as Exhibit 11.

5. Rationale for Zoning Relief

The Applicant met with the Zoning Administrator for a Preliminary Design Review Meeting on November 14, 2011 to discuss the proposed construction and the application of the Zoning Regulations and the Height of Buildings Act of 1910, § 6-601.05, D.C. Code (2001 ed.) to the situation of the project. The Zoning Administrator confirmed the amount of parking relief necessary and identified the width of Spring Place, N.W. (25 feet) as the constraining and controlling factor of the height of the proposed apartment building, taking precedence over the zoning limit of 50'. Assuming the dedication of the four-foot wide strip of land to the District for the bike path increases the effective width of Spring Place, N.W. to twenty-nine feet, then the Height Act limits the height of adjacent buildings to the abutting street width plus twenty feet (20'). In this instance, the height limit is forty-nine feet (49').

6. Application of Facts to Variance Standards

The nature of the variances requested --- the reduction of the off-street parking requirements and the width of the loading platform --- are area variances.¹ In pertinent part, § 3103.2 of the Zoning Regulations states that the Board has the power:

Where, by reason of . . . [an] exceptional situation or condition on a specific piece of property, the strict application of any regulation adopted under D.C. Code sections 5-413 to 5-432 would result in peculiar and exceptional practical difficulties to . . . the owner of the property, to authorize . . . a variance from the strict application so as to relieve the . . . hardship; Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. (emphasis added)

The test for an area variance then is threefold: (1) whether some condition of the subject property is exceptional or unique; (2) creating a practical difficulty under the Zoning

¹Ass'n for Preservation of 1700 Block of N Street v. D.C. Board of Zoning Adjustment, 384 A.2d 674, 676 (D.C. 1978).

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Regulations; and (3) relief from which would not occasion substantial detriment to the public good or impair the intent, purpose, and integrity of the zone plan. Roumel v. D.C. Board of Zoning Adjustment, 417 A.2d 405, 408 (1980); Capitol Hill Restoration Society, Inc. v. D.C. Board of Zoning Adjustment, 398 A.2d 13, 15 (1979). The manner in which the Applicant's circumstances and the circumstances of the subject property satisfy these three distinct elements for area variance relief are discussed below.

a. Exceptional Situation or Condition

The unique condition inherent in the subject property which necessitates the variance portion of this application derives from the fact that the subject property has a varied topography, that limits the extent of the land area that can be used for parking purposes. In particular, the Rail Rights-of-Way impose restrictions on any excavation on the subject property within the "zone of influence" providing subjacent support to the Rail Rights-of-Way. In addition, the subject property is located within the Takoma Park Historic District. Out of respect for the qualities that define the historic district and at the insistence of the HPRB and the HPO staff, the Applicants have adopted setbacks on the upper floors of the building facing Spring Street, N.W. and the residences on Chestnut Street and have created a side yard larger than required by the Zoning Regulations at § 775.5.² This set of factors has resulted in a building that is under the FAR and lot occupancy limits in the C-2-A zone district. Finally, the historic light industrial uses of the subject property and the results of the Phase I Environmental Assessment discourage extensive excavation on the subject property that would allow for below grade parking.

² There is no required side yard in C-2-A, but if provided, it must be a minimum of 6 feet or 2" per foot of building height. In this instance, the proposed building is 49 feet in height, therefore, the required side yard is 8'2". The site plan provides for a side yard not less than fifteen feet (15').

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b. Practical Difficulty

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The inherent conditions affecting the subject property with a larger than required side yard and set backs of upper floors force the mass of the proposed building closer to Bull Place, N.W., which leaves limited room to accommodate the forty-four (44) spaces which would otherwise be needed in order to comply with the requirements of § 2101.1 of the Zoning Regulations. It is the Applicants' belief that the proximity of the Metrorail Station, the neighborhood commercial corridors on Carroll Street and Blair Road, N.W. and the Metropolitan Branch Trail will substantially reduce the car ownership levels for probable residents on the subject property and the necessity for on-site parking. The anticipated changes to the Zoning Regulations which would decrease parking requirements, especially for "smart growth" projects such as this one, also support the argument for variance relief. In order to accommodate the loading berth and service/delivery space, the Applicants would have to sacrifice additional FAR and scale the building back to provide for such requirements. Under § 2201.1 of the Zoning Regulations any apartment house over 50 units must provide one loading berth, one service/delivery space and one loading platform.³ Section 2203.4 permits buildings to share such facilities when the buildings are separated by an alley. It is the contention of the Applicants that Bull Place, N.W. is functionally an alley as it is a dead-end right-of-way only twenty-five feet (25') wide and two hundred feet (200') long, servicing only the two proposed buildings. As designed the loading berth and service/delivery space at the rear of the Square 3186 Project is quite near the loading platform at the rear of the proposed building on the subject property separated only by the width of Bull Place, N.W. The common loading facilities abut directly against the retaining wall

³ The two buildings together comprise 151 units; if they were combined into a single building, no more loading facilities would be required than for a single building.

supporting the berm for the Rail Rights-of-Way, thus there is no possible interference with any other traffic within Bull Place, N.W.

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c. Compatibility with the Zoning Scheme

The final prerequisite for variance relief is to demonstrate that the requested relief can be granted without adverse impact on the intent, purpose and integrity of the zone plan. The subject property, prior to 1979, was zoned C-M-1 and the land uses in the vicinity were characterized by low density light industrial uses. In changing the zoning in portions of the Takoma Park neighborhood from C-M-1 to C-2-A classifications, the Zoning Commission consciously sought to protect and stabilize existing low density residential areas by promoting a mixture of commercial and residential uses allowable under the C-2-A designation. See ZC Order No. 268 in Case No 78-24 (March 8, 1979). The District of Columbia Comprehensive Plan (2006) - Future Land Use Map designates the subject property as a mixed use area of moderate residential and low density commercial. Similarly, the Generalized Land Use Policies Map identifies the Takoma area surrounding the subject property as a Neighborhood Enhancement Area, which encourages new residential development that “fits in” and “responds to existing character, natural features and existing/planned infrastructure capacity.”

In 2002, the District of Columbia completed the Takoma Central District Plan (“TCDP”) with the active participation of community stakeholders. Elements of the Plan urged the removal and redevelopment of vacant lots and industrial areas which could quite possibly have negative impacts on existing residential communities. TCDP, at p. 12. The Plan envisioned new housing on both sides of the Takoma Metrorail Station to respond to strong market demand for housing, to facilitate transit ridership and to promote the traditional residential character of the neighborhood. Indeed, the subject property is identified as Opportunity Site F and appropriate

for longer-term housing development. TCDP, at p. 37. Specifically, the Preferred Land Use Concept (Fig. G) and the Illustrative Redevelopment Scenario (Fig. Q) both show 2-4 story garden apartments as the desired outcomes for the subject property in a configuration very similar to what is being proposed in the instant application. TCDP, at pp. 34 and 62.

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E. Community Contacts

The Applicant has acted to ensure that the local community is informed of the construction of the new apartment buildings and the need for parking relief. The Applicant and its architects have met with Advisory Neighborhood Commissions 4B and other community organizations on several occasions in connection with the review of the project by the HPRB and have presented the site plans and elevations.

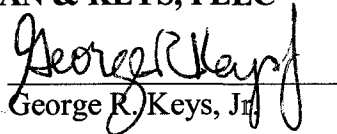
F. Conclusion

Based upon the foregoing discussion, the Applicant requests that the Board grant: (i) a variance from the parking requirements by reducing the number of required parking spaces to a total of twenty-eight (28) in connection with the construction and operation of the 87-unit rental apartment building and (ii) to eliminate the required loading berth and service/delivery space and to reduce the size of the required loading platform to a 10-foot width.

Respectfully submitted,

JORDAN & KEYS, PLLC

By:


George R. Keys, Jr.