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VIA IZIS AND HAND DELIVERY

D C Board of Zoning Adjustment
441 4th Street, N W - Suite 210
Washington, DC 20001

Re BZA Case No 18778
1711 Florida Avenue, N W. (Square 2562, Lot 95)

Dear Members of the Board.

On behalf of KJ Florida Avenue Property, LLC, we are submitting herewith one original and one copy of the Applicant's Prehearing Submission in support of the above-referenced application We look forward to the Board's hearing on this matter at its June 17, 2014, public hearing.

Respectfully submitted,

Holland & Knight LLP

By Mary Carolyn Brown

Enclosures

cc Maxine Brown-Roberts, Office of Planning (Via Hand Delivery, w/enclosure)
Billy Simpson, Chair, ANC 1C (Via US Mail, w/ enclosure)
Wilson Reynolds, ANC 1C07 (Via US Mail, w/enclosure)

Board of Zoning Adjustment
District of Columbia
CASE NO.18778
EXHIBIT NO.31

BEFORE THE BOARD
OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPLICATION OF
KJ FLORIDA AVENUE PROPERTY LLC
1711 FLORIDA AVENUE, N.W.

BZA APPLICATION NO. 18778
HEARING DATE: JUNE 17, 2014
ANC 1C07

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

KJ Florida Avenue Property, LLC (the "Applicant"), through undersigned counsel, submits this statement in support of its application to the Board of Zoning Adjustment for the following variance and special exceptions from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3104 1 and 3103 2 (i) a variance from the loading requirements of section 2201 1; (ii) a variance from the compact parking space requirements of section 2115 4, (iii) a special exception from the height requirements of section 1402 1, and (iv) a special exception from the roof structure requirements of sections 770 6 and 411 The relief requested will permit the construction of a new five-story apartment house with approximately 129 units in the RC/C-2-B District at 1711 Florida Avenue, N.W (Square 2562, Lot 95) (the "Site") The proposed development is appropriate for the Site and fully compatible with the surrounding area.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the variance and special exception relief requested herein pursuant to D C. Code § 6-641.07(g) and 11 DCMR §§ 3103 and 3104

III.
BACKGROUND

A. Description of the Site

The Site is located on the northeast corner of the intersection of Champlain Street, N W , and Florida Avenue, N W., and is currently improved with multi-level parking garage built in 1973 The Applicant proposes to demolish the above-grade portions of the existing parking structure but retain and incorporate one below-grade level of the existing structure into the proposed residential building

Square 2562 is bounded by Champlain Street to the west, Kalorama Road to the north, Ontario Road to the east, and Florida Avenue to the south, all in Northwest Washington, D C The square is split-zoned. the south portion, which includes the Site, the Marie H Reed Community Learning Center, a Potomac Electric Power Company building, and a secure storage facility, is zoned RC/C-2-B, the north portion of the Square, which includes residential co-op buildings on Champlain Street and attached row-dwellings on Ontario Street, is zoned RC/R-5-B The Site includes 25,920 square feet of land area, and is bounded by Florida Avenue to the south, Champlain Street to the west, and private property to the north and east

B. Description of Surrounding Area

The Site is located in the heart of Adams Morgan neighborhood, a vibrant, mixed-used area that boasts commercial storefronts, diverse retail and restaurant establishments, as well as several quiet residential streets. Early twentieth century houses and new residential condominium developments are magnets for the steady stream of young families and professionals choosing to live in Adams Morgan's multi-cultural, urban lifestyle *See* Washington, DC, Economic Partnership, "DC Neighborhood Profiles," (2014 ed), 2-3 (available at www.dcep com). The primary crossroads in Adams Morgan is Columbia Road, N W. and

18th Street, N W , which is a short walk from the Site and has become the epicenter for independently owned shops and some of the District's liveliest nightspots. *Id*

Adams Morgan is well served by multiple public transportation amenities. The Site is located equidistant (0 6 miles) from the Dupont Circle Metrorail Station, servicing the Red Line, and the U Street Metrorail Station, servicing the Green and Yellow Lines The Site is well-served by Metrobus as well, with ten bus lines located within 0 3 miles of the Site (90, 92, 93, 96, X3, S2, S4, S7, S9, and 43) In addition, seven permanent car share spaces are located within 0 2 miles of the Site, serviced by Zipcar and Hertz on Demand, and Car2Go[1] vehicles are easily accessed throughout Adams Morgan and the surrounding neighborhoods The Site is well connected to bicycle lanes and routes that connect the Site to locations throughout the District, and five Capital Bikeshare stations are located within 0 3 miles of the Site The Site is located in a highly walkable and desirable neighborhood, with community retail and service establishments, grocery stores, restaurants, parks and recreation centers, and schools within walking distance Based on these attributes, the Site has been deemed a "walker's paradise " *See* www.walkscore com.

C. Existing Zoning

As noted above and as shown on the attached copy of the Zoning Map, the Site is zoned RC/C-2-B See Exhibit A. The C-2-B zoning permits an apartment house as a matter-of-right, with a maximum height of 65 feet and a maximum floor area ratio ("FAR") of 3 5, of which not more than 1 5 FAR may be devoted to non-residential uses Based on the Site's location within the Reed-Cooke Overlay District, the Site may be developed with a building having a maximum height of 50 feet using the Inclusionary Zoning ("IZ") bonus density 11 DCMR § 1402.1

[1] Car2Go features one-way point-to-point rentals anywhere in the District Cars are user-accessed wherever parked via a downloadable smartphone app, and users are charged by the minute with all-inclusive rates that cover gas, insurance, maintenance, and parking in authorized areas

The Reed Cooke Overlay District is intended to protect current housing in the area and provide for the development of new housing, maintain heights and densities at appropriate levels, and encourage small-scale business development that will not adversely affect the residential community 11 DCMR § 1401 2(a) The Reed-Cooke Overlay is also designed to protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts 11 DCMR § 1401.2(c). As described below, the proposed development for the Site will provide new housing at an appropriate height and density, and will protect nearby residents from damaging impacts

D. Project Description

The Applicant proposes to construct a new five-story residential building with approximately 129 units, as shown on the architectural plans and elevations, attached hereto as Exhibit C (the "Plans") The majority of the units will be one-bedroom, with some studios and two-bedroom units The building will contain approximately 105,340 square feet of gross floor area, plus 19,205 square feet of cellar floor area, and will have a maximum building height of 54 feet, 10 inches, to the top of the main parapet The project will include approximately 46 parking spaces, with 11 spaces located on the ground floor and approximately 35 parking spaces in the cellar Apartment houses in the C-2-B District require one space for every three units, generating a requirement for 43 spaces for the 129 units planned in this project 11 DCMR § 2101 1. Parking will be accessed from Florida Avenue on the east side of the building in order to minimize pedestrian/bicycle/vehicle conflicts on Champlain Street. As described more fully below, the proposed residential use for the Site is consistent with the Site's zoning designation and with other uses in the surrounding neighborhood

Based on several discussions and meetings with ANC 1C, the Reed-Cooke Neighborhood Association, and neighbors in Square 150 immediately across Florida Avenue to the south, the Applicant made significant modifications to the project's design and program since its initial submission Foremost, the Applicant reduced the building height from 65 feet (six stories) to 54 feet, 10 inches (five stories), which is eight feet lower than the adjacent storage building In doing so, the Applicant eliminated approximately 4,665 square feet of gross floor area In order to reduce construction time, noise, and traffic congestion, the Applicant incorporated portions of the existing parking structure into the design of the new building, thus eliminating excavation work, dump trucks, and pile driving in the neighborhood. The Applicant also installed a garage door to the below-grade parking at Florida Avenue in order to eliminate potential pedestrian safety issues On Champlain Street, the existing curb cuts will be removed, which will allow the street to be converted to entirely one-way with uninterrupted bicycle lanes and additional on-street parking spaces Loading activities will be contained inside the building so that trucks will not have to reverse onto the street

The Applicant further refined the architectural treatment of the building so that it blends comfortably with the historic neighborhood to the south and responds to specific issues raised by the community For example, in order to enhance the residential row house aesthetic and reinforce Florida Avenue as a residential street, the Applicant placed new English basement units and ground-level front stoops along Florida Avenue The Applicant fully enclosed the interior court so that none of the residential units face the adjacent Pepco substation. The Applicant also further articulated the street facades with cornice features and enhanced the carriage and entry opening along Champlain Street to activate the street, improve the pedestrian experience, and provide direct access into the interior court Overall, the design of the proposed building

responds to community concerns, respects the existing residential character of the neighborhood, and will incorporate new, high-quality architecture at market-rate and affordable prices

IV.
THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELEIF

Variance relief in this case is required from the loading requirements (§ 2201 1) of the Zoning Regulations Under D C Code § 6-641 07(g)(3) and 11 DCMR § 3103 2, the Board is authorized to grant an area variance where it finds that three conditions exist

> (1) the property is unusual because of its size, shape or topography or other extraordinary or exceptional situation or condition,
>
> (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied, and
>
> (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map

See French v District of Columbia Bd. of Zoning Adjustment, 658 A 2d 1023, 1035 (D C. 1995) (*quoting Roumel v District of Columbia Bd of Zoning Adjustment*, 417 A.2d 405, 408 (D C. 1980)), *see also, Capitol Hill Restoration Society, Inc v District of Columbia Bd of Zoning Adjustment*, 534 A 2d 939 (D C 1987) As discussed below, and as will be further explained at the public hearing, all three prongs of the variance test are met in this application

A. The Property is Unusual Because of its Size, Shape, or Topography and is Affected by an Exceptional Situation or Condition

The phrase "exceptional situation or condition" in the above-quoted variance test may arise from a confluence of factors which affect a single property *Gilmartin v D.C Bd. of Zoning Adjustment*, 579 A 2d 1164, 1168 (D C 1990) In this case, the conditions of the Site, its corner location, and its irregular shape and size, combine to create an exceptional situation and condition As indicated in the Plans, the Site has no alley access and is bounded by private

property to the north and east, which together impact access to and development of the Site The Site is surrounded to the south by Florida Avenue, which is a two-way street running southwest to northeast, and to the west by Champlain Street, which is one-way near the Site running south, except for a small portion of the street just north of Florida Avenue which is two-way to allow access from Florida Avenue into the current building's parking garage entrance Both streets are heavily trafficked by all modes of transportation traveling to and within the Adams Morgan neighborhood

Second, the Site's grade slopes down significantly from north to south, affecting development and significantly constraining the ability to locate loading and parking facilities on the west side of the Site from Champlain Street. In addition, the Site has 149 38 feet of frontage on Champlain Street and 180.08 feet of frontage on Florida Avenue However, the Site is not perfectly geometrical, with its south lot line on Florida Avenue extending from multiple angles Finally, the Site is improved with an existing building, the lower portion of which will be retained and incorporated into the new building in order to reduce construction impacts on the neighborhood and accelerate delivery of housing units to the city.

B. <u>Strict Application of the Zoning Regulations Would Result in a Practical Difficulty to the Owner</u>

Strict application of the loading requirements will result in a practical difficulty Section 2201 1 of the Zoning Regulations requires an apartment house with more than 50 units to include the following loading facilities. one loading berth at 55 feet deep, one loading platform at 200 square feet, and one service/delivery space at 20 feet deep In this case, the Applicant seeks relief to provide a 30-foot loading berth instead of the 55-foot berth The Applicant will provide the other required loading facilities As described below, these facilities are adequate to serve the proposed residential uses for the Site

The project cannot accommodate a 55-foot truck with all the necessary clearances for maneuverability given the Site's size, topography change, the portion of the existing building to be retained, and location abutting private property on two sides Because the Site lack's alley access, loading facilities can only be provided off of Champlain Street or Florida Avenue The grade on Champlain Street, however, drops significantly along the Site toward Florida Avenue, and the street is extremely narrow due to on-street parking on both sides and a bike lane that further constrict the width of the travel lane Driveway curb cuts must be located at least 60 feet from an intersection, thereby forcing any driveway to be located at a higher point and floor level along Champlain Street [2] A truck simply could not maneuver into the Site from Champlain Street with adequate clearances to allow effective and efficient use of the ground floor

Florida Avenue is therefore the appropriate location for driveway access to the site Yet given the constraints of the existing building on the site, it is impossible to maneuver a 55-foot truck into the existing building to a below grade loading facility, turn-around and leave the Site "front out" while still providing the required number of vehicle spaces and bike spaces. Providing these facilities would result in a significant portion of the ground floor being devoted to maneuvering space for trucks, and would adversely affect the location of the courtyard, the configuration and location of residential units, and the availability of vehicle parking, making development practically difficult However, a 30-foot truck can access the Site "front-in/front-out" without affecting the required parking spaces for cars and bikes, as shown on the drawings

In addition, strict application of the compact parking space requirements would result in a practical difficulty to the Applicant Section 2115 4 of the Zoning Regulations provides that compact parking spaces shall be in groups of at least five contiguous spaces with access from the

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[2] "No driveway entrance or exit on any roadway shall be closer than 60 ft to a roadway intersection as measured from the driveway edge line to the intersection of the roadway curb lines extended." *Design and Engineering Manual*, D C Department of Transportation, Section 31 2 3 1 (April 2009), at 31-2.

same drive aisle In this case, there is one compact parking space located on the first parking level at the entrance to the garage, and four separate compact parking spaces located on the second garage level, thus requiring the need for relief

Providing all of the compact parking spaces in a contiguous group would result in a practical difficult to the Applicant The Applicant designed the proposed garage configuration to maximize the size and efficiency of the existing garage structure. As shown on the ground floor and basement sheets included in the Plans, the Applicant could not fit a standard parking space at the front entrance to the garage, due to the turning movement necessary for cars entering and existing the garage Similarly, the Applicant must provide four compact spaces in the basement level across the drive aisle from the elevator in order to provide sufficient drive aisle width

3. **The Requested Relief Will Not Result in a Substantial Detriment to the Public Good Nor a Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan**

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 Redevelopment of the Site with a new residential structure will significantly contribute to the vibrancy of the Adams Morgan neighborhood while supporting the city's housing goals for this area

The proposed loading facilities are sufficient to serve the needs of the prospective residents of the Site Given that the residential units are primarily planned to be studios and one-bedrooms, a 30-foot loading berth will adequately accommodate smaller-sized moving trucks that are anticipated to serve residential units of this size. The project is expected to generate very few deliveries to the Site The Applicant will be able to manage and schedule use of the loading berth and provide an organized process for residential move-ins and move-outs and

contemporaneous deliveries Therefore, the loading facilities proposed for the Site will be adequate to accommodate the needs of the development and relief can be granted without substantial detriment to the public or to the Zone Plan

With respect to the compact parking space requirements, the relief requested is completely internal to the existing building. The compact spaces are located in appropriate locations so as to maximize the efficiency and use of the existing parking garage, and vehicles accessing parking spaces will have sufficient maneuverability for both ingress and egress Furthermore, the existence of nearby public transportation services will reduce the impact of the new residential building on the transportation network

V.
THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF

The Applicant seeks special exceptions from the height requirements and the roof structure requirements of the Zoning Regulations, as described herein.

A. Standard for Approving Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested 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 regulations " *First Baptist Church of Washington v District of Columbia Bd of Zoning Adjustment*, 423 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*

B. Description of Height Relief Requested

Pursuant to section 1402 1 of the Zoning Regulations, the maximum building height permitted in the RC/C-2-B District shall not exceed 40 feet, or 50 feet with the bonus density provided by the Inclusionary Zoning regulations of Chapter 26 In this case, the Applicant proposes to construct the building to a maximum height of 54 feet, 10 inches, to the top of the parapet Pursuant to section 1402 1, the Board may grant relief from the requirements of the Reed Cook Overlay District as a special exception, provided that certain criteria are met, as set forth below

1 *Section 1403 1(a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the RC Overlay District*

The proposed building will advance the Reed-Cooke Overlay District's purposes of providing for the development of new housing and protecting adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts 11 DCMR § 1400.2(a) The proposed building will add approximately 129 new residential units to the Adam's Morgan neighborhood without negatively affecting traffic or parking in the area. Replacing the existing 207-space public parking garage will significantly reduce daily vehicular trips to the Site, and the lack of ground floor retail will reduce demand for street parking The building will be designed with quality materials that will improve the aesthetic of the surrounding neighborhood and the street walls along Champlain Street and Florida Avenue.

2 *Section 1403 1(b)· Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition*

The proposed building will have vehicular access and egress from Florida Avenue This location was selected because access from Champlain Street would negatively affect vehicular traffic and pedestrian/bicycle safety along the smaller, one-way, and highly-utilized street

Access from Florida Avenue will minimize conflict between all transportation modes, will function efficiently for drivers, and will not create any dangerous or objectionable traffic conditions.

3 Section 1403 1(c) Adequate off-street parking shall be provided for employees and for trucks and other service vehicles

The proposed development will provide adequate parking for the residents, the few employees that may be hired for the residential building and for service vehicles The project will provide at least one parking space for every three units, consistent with the zoning requirements under Section 2101.1 of the Zoning Regulations, and an additional three spaces are anticipated under the garage as configured The few employees of the building are expected to arrive by public transportation, and service vehicles will be able to park in the service area of the garage

4 Section 1403 1(d) If located within a C-2-B District, the use shall not be within twenty-five feet (25 ft) of a Residence District, unless separated there from by a street or alley

The Site is separated from all residential districts by a street or alley

5 Section 1403 1(e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences

The Site is not located immediately adjacent to other residential buildings and the potential minimal noise generated by a multi-family building will not adversely affect the nearby residences across Florida Avenue The Site is surrounded on two sides by high-traffic streets and on the other two sides by private property The private property to the north is a Pepco facility and the private property to the east is a commercial storage facility. Thus, any noise associated with the new residential building will not adversely affect adjacent or nearby residences

6 Section 1403 1(f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted

The proposed residential building will not permit the outdoor storage of materials or any outdoor processing, fabricating, or repair activities

> *7 Section 1403.1(g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area*

The residential use for the proposed building will not adversely affect adjacent and nearby property and will not be detrimental to the health, safety, and convenience or general welfare of persons living, working, or visiting the area Adams Morgan is a highly mixed-use area, and the corner of Champlain Street and Florida Avenue is particularly active with a mix of residential, commercial, and recreational uses and activities The new residential building will improve the existing neighborhood fabric, will help to support local businesses, and will add new vibrancy, excitement, and high-quality architecture to the Adams Morgan community for residents and visitors to enjoy

C. <u>Description of Roof Structure Relief Requested</u>

Under section 411 11 of the Zoning Regulations, the Board may grant special exception relief from the strict requirements for roof structures where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable " 11 DCMR § 411 11 The Board may approve deviations from the roof structure requirements provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely " *Id*

The Applicant seeks special exception approval pursuant to sections 411 and 770 6 of the Zoning Regulations regarding roof structure set backs in commercial districts Section 411 3 requires that all penthouses and mechanical equipment be placed in one enclosure; section 411 5 requires that enclosing walls from the roof level be of an equal height Section 770 6(b) of the Zoning Regulations requires that every roof structure must be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located In this case, special exception approval is required because, as shown on the Roof Plan sheet included in the Plans (i) there will be multiple roof structures, with the northern roof structure containing a stair tower and the southern roof structure containing a second stair tower, residential amenity space, and mechanical equipment; (ii) the southern roof structure will have walls of unequal heights of 12 feet and 16 feet, and (iii) the southern roof structure will not be set back from the southern court wall at a distance at least equal to its height above the main roof.

Despite these non-conformities with the Zoning Regulations, both roof structures are necessary features of the building, providing mechanical equipment and vertical transportation The structures have to be separated due to the Building Code requirement to provide separate means of egress for buildings, as well as the desire to break up massing on the roof The location and number of the roof structures is driven by the layout and design of the residential units and core functions within the building Moreover, the Applicant is providing the greatest set backs possible given the size and dimensions of the roof and the internal configuration of the proposed building. The roof structures meet the set back requirements from the south and west building facades, which are the two facades that have street frontage, and will not adversely affect the residential neighbors across Florida Avenue The only non-conforming set back is from a court wall, which is internal to the proposed building In addition, the proposed roof structure location

and design will not adversely affect the light and air of adjacent buildings and will not be visible from the surrounding streets, since each element has been located and designed to minimize visibility and the surrounding walls will be of a quality material to integrate the structures into the overall building design Therefore, the roof structures comply with the spirit and intent of the Zoning Regulations and the Applicant meets the test for a special exception under section 411 11 of the Zoning Regulations

VI.
COMMUNITY SUPPORT

The Applicant has worked with the community and has obtained support for the project. On May 21, 2014, Advisory Neighborhood Commission 1C ("ANC 1C") Planning, Zoning, and Transportation Committee voted to recommend approval of the project to the full ANC The Applicant will return to the full ANC 1C meeting on June 4, 2014, the day after this pre-hearing submission must be filed with the Board. The Applicant will update the Board at the hearing on the final vote of ANC 1C on this project

VII.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A.	A portion of the Zoning Map showing the Site
Exhibit B.	Updated Architectural Plans and Elevations for the Project
Exhibit C	Outlines of Testimony
Exhibit D	Resumes of Expert Witnesses

VIII.
WITNESSES

A Graham Tyrrell, KJ Florida Avenue Property, LLC

B Sasha Rosen and/or Tom Lenar, AIA, R2L Architects

C Erwin Andres, Gorove/Slade Associates, expert in transportation engineering

IX.
CONCLUSION

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

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By:

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