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D. Application for R-5-A Review

The owner of the subject property is Frost-Labulé LLC, which has contracted to sell the subject property to Neighborhood Development Company (“NDC” or the “Applicant”) and has authorized NDC to pursue this application for zoning relief. Pursuant to Section 353.1, the Applicant requests that the Board of Zoning Adjustment (“BZA”) conduct an R-5-A Review of the subject property as a precondition to the construction of an apartment building in the R-5-A Zoning District containing a total of forty-one (41) apartment units. In order to develop and use the subject property for its intended use as rental apartment housing for low-income residents, the Applicant also requires two area variances: (1) from the parking requirements of § 2101.1 to provide less than one parking space per dwelling unit; and (2) from the Floor Area Ratio (FAR) limit to permit more density on the site.

1. Site Description

The subject property is a triangle of land zoned R-5-A, containing 27,201 square feet of land area, and roughly bounded by Bowen Road, Howard Road, and Sheridan Road, S.E. in the Washington Highlands neighborhood of Southeast Washington, D.C. The subject property has its shortest side parallel to Bowen Road, S.E. and its apex terminates in the interior of Square 5869. The subject property has no public or private alley access and except for the 211-foot frontage on Bowen Road, S.E., the site is bounded by a single-family house lot and unimproved land owned by the District of Columbia on the east, by the Howard Apartments on the north and west. The subject property is unimproved with the only evident structure being a foundation wall of a demolished building. The subject property has been vacant for many years.

The subject property displays a severe and complex topography. The 2600-block of Bowen Road, S.E. rises steeply from its intersection with Sheridan Road, S.E. and the subject property is approximately 300 feet uphill from this intersection. The change in grade across the Bowen Road frontage of the property is almost 18 feet, at an 8.5% gradient. As one moves along the east boundary line of the subject property, the grade inclines upward in two separate slopes to an elevation 24 feet above Bowen Road. The land along western property line is more nearly level, however the rear of the adjacent property, the Howard Hill Apartments, is situated at a significantly higher elevation than the subject property, so that a 75-foot long retaining wall contains the grade change. The plane of the subject property as oriented from Bowen Road is significantly tipped upward to the west and to the north, lacking any appreciable expanse of level ground.

2. Description of the Surrounding Area

The area surrounding the subject property presents a variety of residential structures and uses: an even mixture of small clusters single-family row houses and low-rise multifamily projects typical of R-5-A zoning. As previously mentioned, the Howard Hill Apartments, a 44-unit rental apartment project in four low-rise building is an immediate neighbor and has been recently renovated. Across Bowen Road, S.E., there is the Oxford Manor Apartments, a three-story apartment building approximately forty-feet in height. To the north and east of Square 5869 there is significant area of vacant land, the site of a demolished public housing project which the District has redeveloped as a Hope VI development site known as Sheridan Station. The subject property is a short walk from the major intersection of Martin Luther King, Jr. Avenue, S.E. and Howard Road, S.E. and within one-half mile of the Anacostia Metrorail station at 1101 Howard Road, S.E.

The neighborhood is beginning to exhibit signs of revitalization and the development of the subject property will make a significant contribution, visually and economically, to the neighborhood.

3. Project Description

The Applicant intends to construct a 41-unit rental apartment facility entirely set aside for low-income residents. Within the constraints imposed by the shape, topography and orientation of the subject property, the Applicant's architects have designed a building which achieves the Applicant's program objectives. The building will of necessity take on a V-shape in response to the site geometry and topography. The angles orientation of the building affords residents views of open ground to the east and north and creates an open court in the interior of the site which can serve as a landscaped courtyard visible to residents from the open, exterior corridor which will run along the upper floors at the rear of the building. The building will have three stories and a partially-buried parking garage for twenty (20) vehicles.

To provide visual variety from within and from without the apartment units along Bowen Street, S.E. will be angled to the street frontage rather than oriented in parallel or perpendicularly, as usually is the case. The notched facade provides interest and breaks up the linearity of the typical R-5-A building product. Each street-facing unit will have a balcony and the rhythm along the street will be reminiscent of that of adjoining townhouses.

The building will contain thirty-six (36) 1-bedroom and five (5) 2-bedroom apartment units. In addition to the lobby, circulation and utility functions common in similar residential buildings, the ground floor will include a small lounge and a management office.

This project has the support and endorsement of the District of Columbia Government in the form of Conditional Commitment from the D.C. Department of Housing and Community

Development (“DHCD”) for construction loan funding and an allocation of Low Income Housing Tax Credits (“LIHTC”).

4. Zoning History of the Subject Property

The subject property was previously approved by order dated January 17, 2007 in Application No. 17550 for the development of a senior housing facility. Frost-Labule LLC, the original applicant, was unable to secure financing the construct the project and the effectiveness of the order expired. The instant application reflects a building plan substantially similar to the one presented in Application No. 17550 with slight differences in the number of parking spaces provided and the amount of additional FAR.

5. Development Characteristics

Subject Property Site Area	27,201 sq. ft. (per survey)
Allowable FAR	.90 (24,480.90 sq. ft.)
IZ Bonus Density (20%)	.18 (4,896.18 sq ft.)
Allowable FAR + Bonus Density	1.08 (29,377.08 sq. ft.)
Proposed Building Gross Floor Area	34,083 sq. ft.
Proposed FAR	1.25
Allowable Lot Occupancy	40%
Proposed Lot Occupancy	39.8%
Allowable Building Height	40 feet
Proposed Building Height	30’8”
Required Off-Street Parking Spaces	1 per dwelling unit (41 spaces)
Proposed Off-Street Parking Spaces	.4878 per unit (20 spaces)

6. Basis for Special Exception Relief – R-5-A Review

With respect to the scope of R-5-A review in this instance, the availability of special exception relief is dependent upon the Applicant's satisfaction of the general standards of § 3104.1 of the Zoning Regulations. From an examination of the site plan it is evident that the proposed building on the subject property is fully consistent with the intent and purpose of the zone scheme for the Ward 8 area and the policies and objectives of the Comprehensive Plan.

The proposed building will not have any adverse impact on adjoining property. While the severe grade change across the subject property surely poses design challenges that have resulted in a building containing more FAR than allowed in the R-5-A Zone District, it also tends to isolate the proposed building, situated as it is beneath the Howard Hill Apartments to the north-northeast which are almost one hundred feet distant from the common property line. Further, by using the lowest point of the subject property for the parking garage entrance and setting back the bulk of the proposed building to provide for an open driveway entrance, the Applicant's design maintains a 40-foot separation from the nearest single family dwelling to the west.

Without going into greater detail in the application, the Applicant's proposed site plan meets the applicable standards set forth in § 3104.1. The Applicant intends to submit additional information pertinent to R-5-A review as a supplemental filing and will offer testimony from the Applicant and the Applicant's architect at the public hearing.

7. Consistency with the Zoning Scheme

A further and general requirement of the special exception standard of review, applicable under § 353.1 of the Zoning Regulations, expressed in § 3108.1, is that in the judgment of the Board:

. . . the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to adversely affect the use of neighboring property.

The subject property is zoned R-5-A and the proposed use is a matter-of-right within that zoning district and the site plan can be implemented within the development parameters applicable to R-5-A developments, except as specifically noted herein. The District of Columbia Generalized Policy Map (December 2012) prepared by the D.C. Office of Planning in order to illustrate the policies of the Comprehensive Plan process identified the Barry Farm-Hillsdale Highlands neighborhood a Neighborhood Enhancement Area with “low-to-moderate density” residential as the predominant land use. The “low-to-moderate density” classification envisions a mix of row houses and garden apartments.

The Comprehensive Plan elements for Ward 8 are set forth in Chapter 19 of 10-A DCMR *Comprehensive Plan* encourages the development of workforce housing and infill development on vacant lots with an emphasis on low-to-moderate housing. 10-A DCMR § A-1813.

The proposed development easily harmonizes with the goals of the Comprehensive Plan. The Applicant is replacing vacant land with rental housing targeted at the workforce. The design of the proposed development is an advance in design over the flat-front garden apartment style which has typified too much of Ward 8 multifamily development. By creating a gabled roofline, the rhythm and color alteration of townhouse style façade, the Applicant presents an interesting, new housing type for the Barry Farm-Hillsdale community. The fact that the D.C. Department of housing and Community Development will assist the proposed development with LIHTC

financing also ensures that the new housing produced will remain as a long-term commitment to workforce housing for low income persons in Ward 8.

8. Basis for Variance Relief

The nature of the variances requested --- the amount of off-street parking provided and the overall density of the development --- are both area variances.¹ In pertinent part, § 3107.2 of the Zoning Regulations states that the Board has the power:

Where, by reason of . . . [an] exceptional situation or conditions on a specific piece of property, the strict application of any regulation adopted under D.C. Code sections 5-5413 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 is threefold: (1) whether some condition of the subject property is exceptional or unique; (2) the condition creates a practical difficulty under the Zoning 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.² The manner in which the Applicant's circumstances and the circumstances of the subject property satisfy these three distinct elements for variance relief are discussed below.

i. Exceptional Situation or Condition

The unique condition inherent in the land which necessitates the variance portion of this application lies in the severe topography of the site, the unusual orientation of the site to the street, the uncommon shape of the subject property and the lack of alley access. These

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

² Roumel v. D.C. Board of Zoning Adjustment, 417 A.2d 405, 408 (D.C. 1980); Capitol Hill Restoration Society v. D.C. Board of Zoning Adjustment, 398 A.2d 13, 15 (D.C. 1979).

cumulative factors have converged to compel the particular architectural solution arrived at by the Applicant.

ii. Practical Difficulty

A. Parking Variance

The Applicant is providing twenty (20) parking spaces in the below-grade garage. With the rising slope of the subject property as one proceeds from the low point on Bowen Street to the northeast, the site plan takes advantage of the grade change by being able to burrow (partially) the parking into the site without having to undertake substantial and expensive excavation. To attain the parking requirement of one parking space per dwelling unit, the Applicant would have to double the proposed parking, which means either excavating a full second level or undertaking a substantial regarding of the subject property to permit the northern expansion of the existing parking level. Both solution incur disproportionate expense compared to the possible public benefit and to some extent such engineering approaches may be self-limiting as the site narrows as one moves north.

An additional factor bearing on the requested parking variance is the proximity of Metrobus and Metrorail transportation. The Anacostia Metrorail Station is a short distance from the subject property and the area is services by several Metrobus routes (94, A, W8 and U2 buses). Moreover, low income households are less likely than other segments of the population to have automobiles and the actual need for off-street parking is much lower than would be true for a market-rate building.

B. Increase in Site FAR

The triangular shape of the site and the fact that there is street frontage only from one side means that the width of the site shrinks as you move into the site away from Bowen Road,

S.E. This condition mandates that the building be primarily massed along Bowen Road, S.E. which must also afford both pedestrian and vehicular access. The confluence of these factors means that open space can only be provided at the rear of the subject property. To sacrifice the available open space to surface parking spaces would compromise the quality of the outdoor recreational space. The placement of the garage entry and the pedestrian entry are dictated by the unique configuration of the subject property.

By superimposing the building's programmatic requirements over the various site constraints a site plan emerges that is less efficient than would be typical for a rectilinear site with public alley access and no topographic challenges. The juncture of the two wings of the building at an odd angle, which is driven by the triangular shape of the site, results in a very inefficient floor plan and circulation.

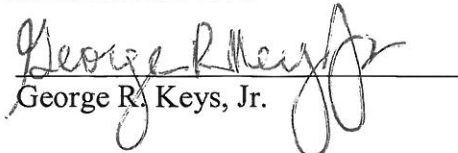
In conclusion, the building's layout and massing are dictated by the unique site shape, its challenging topography, its limited street frontage, lack of public alley access and practical requirements.

9. Conclusion

Based upon the foregoing discussion and attached exhibits, the Applicant requests approval of the proposed site plan for a new residential development in the R-5-A zoning district and for approval of the two variances for off-street parking and increased density.

Respectfully submitted,

JORDAN & KEYS PLLC

By: 
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