

**BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

APPLICATION NO. 19169

**APPLICATION OF
311 K STREET LLC**

**317 K STREET, N.W.
LOTS 20, 21, 804, 805,
824, 825 AND 829 IN
SQUARE 526**

ANC 6E07

PREHEARING STATEMENT OF THE APPLICANT

I. NATURE OF THE RELIEF SOUGHT

This Prehearing Statement in Support of an Application for Area Variances is brought by 311 K Street LLC, (“Applicant”) requesting BZA approval of area variance relief pursuant to Section 3103.2 from the parking requirements (§ 2101.1) and rear yard (§ 774.1) of the Zoning Regulations, for the property known as 317 K Street, N.W. (Lots 20, 21, 804, 805, 824, 825 and 829 in Square 526)(the “Property”) to allow the construction of an approximately 200-room hotel and approximately 30 residential units with approximately 2,040 s.f. hotel bar/public space (the “Project”) in the DD/C-2-C Zone District and located in Housing Priority Area A.

Subsequent to submitting the initial application, after discussions with representatives of the District’s Department of Transportation (“DDOT”) and the Office of Planning (“OP”), the Applicant has revised the proposed plans to locate all vehicular access from 4th Street NW (the “Revised Plans”), instead of dividing vehicular and loading access between separate K Street and 4th Street curb cuts as originally proposed. Copies of the Revised Plans are included herein at

Exhibit “A”.¹ As a result of consolidating vehicular access into one curb cut from 4th Street, the Applicant is now able to provide six additional parking spaces, over what was previously proposed. However, due to the Property’s small lot area and irregular size, the Applicant will not be able to provide the 30-foot truck loading berth or the 100 s.f. truck loading platform on site (collectively “Truck Loading”), as required for the hotel use pursuant to 11 DCMR Section 2201.1.

Accordingly, as the Applicant advised ANC 6E, OP and DDOT, the Applicant amends its application to also request variance relief from the Truck Loading requirements of Section 2201.1. The Applicant filed a revised Self-Certification form in the record at BZA Exhibit No. 25 and referenced the updated areas of relief on the sign posting. The affidavit of posting is included at BZA Exhibit No. 26.

On January 5, 2016, the ANC 6E voted 5-1-1 to recommend approval of the variance relief necessary for the Project (parking (§ 2101.1); rear yard (§ 774.1) and loading (§ 2201.1)) at a duly noticed public meeting with a quorum present. A copy of the ANC’s resolution of approval is included in the record at BZA Exhibit No. 26.

For the reasons stated below, the Project meets the burden of proof for area variance relief because the Property is unusual and affected by an exceptional situation, strict application of the Zoning Regulations would result in practical difficulty to the Applicant, and the requested relief will not result in a substantial detriment to the public good nor substantially impair the intent, purpose and integrity of the Zone Plan.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (“BZA” or “Board”) has jurisdiction to grant the variance relief requested pursuant to 11 DCMR § 3103.2 of the Zoning Regulations.

III. EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

¹ The Revised Plans also update the building’s proposed façade design to include a well-defined 2-story base that helps to ground the building and provides a favorable scale for pedestrian experience, while a glazed two floor top gives the building a soaring quality.

Exhibit A:	Revised Plans
Exhibit B:	Letters of Intent with nearby parking facilities
Exhibit C:	Draft Traffic Study
Exhibit D:	Truck Turning Radius Diagram

IV. BACKGROUND

The Property consists of approximately 10,767 square feet of land area and is located in Northwest Washington, D.C. at the intersection of 4th and K Streets, N.W, in the Mount Vernon Triangle neighborhood. The Property's Baist Map is included in the Record at BZA Exhibit No. 11. The Property is classified within the DD/C-2-C Zone District and located in Housing Priority Area A. The Zoning Map is included in the record at BZA Exhibit No. 10.

The Property is currently improved with three, one- to three-story commercial buildings that combined, are approximately 5495 s.f. in size. The Property is not in a historic district.

Directly across 4th Street from the Property is a high-rise residential apartment building. The properties along the block of 4th Street from K to L Streets are either under review for development or under construction. The owner of the property directly to the north, at 1035 4th Street, has submitted a building permit application for an approximately 223-unit residential building. A curb cut just north of the Property's rear lot line has been approved by DDOT's Public Space Committee to access that building. Just north of that property, the Ellisdale project at 1031 4th Street NW was approved for 124 residential units and approximately 5,890 s.f. of retail pursuant to BZA Case No. 18749. The Ellisdale project also includes approval of a 30-foot, on-street truck loading space and is currently under construction.

Across K Street from the Property are surface parking lots. The Property is approximately one block from the I-395 underpass, and it is located on the eastern boundary of the Mount Vernon Triangle, which is growing rapidly. The Property is easily walkable and accessible to the east end of Downtown, and within walking distance of the Washington Convention Center, Chinatown, the Verizon Center and other notable areas within Washington D.C. that are often visited by business and pleasure travelers.

In addition to being well-located for pedestrian access, the Property is well serviced by a number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is located approximately 1/3 of a mile from three Metrorail Lines (Yellow/Green at Mt. Vernon Square/Convention Center, and Gallery Place/Chinatown on Metrorail's Red Line are equidistant from the Property). Moreover, Metrobus routes X2, D4, P6, 80, 70, X2, and the Circulator all stop within two tenths of a mile (.2 miles) from the Property. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. Capital Bikeshare stations are located at 5th and L Street NW (1 block away, 17 docks), 5th & Massachusetts Ave N.W. (2 blocks away, 18 docks), and at 3rd & H Streets, N.W. (1 block away, 14 docks). Walkscore.com labels the property as a "Walker's Paradise" with a WalkScore of 94/100, a "Rider's Paradise" with a TransitScore of 100/100, and "very bikeable."

V. THE PROPOSED DEVELOPMENT

The Project proposes a 14-story, mixed-use building containing hotel and apartment uses. As shown on the Revised Plan included at **Exhibit "A"**, the hotel use will occupy floors 2-11 of the building and contain approximately 200 rooms and approximately 2,040 gross square feet of hotel public space/bar. The proposed apartment house use will occupy floors 12-14 and contain approximately 30 units. As permitted in the DD/C-2-C/ HPA Zone District, the proposed building will be constructed to a maximum of approximately 130 feet in height and 11.0 FAR.

The ground floor of the Project will contain separate lobby spaces and entrances for both the hotel and residential uses, as well as accessory hotel lounge and bar, the hotel's back of house space and a central elevator core that serves both the hotel and residential uses. Above the ground floor, the building will have an elongated "L" shaped-configuration with hotel rooms and apartment units double-loaded off of two corridors that intersect at the central, elevator core. A compliant, courtyard to the rear of the Property will be visible from the rear-facing units, assuring that light and air are accessible to all units. The roof level of the building will contain an approximately 10' mechanical penthouse/elevator overrun, and no habitable uses are proposed for the roof.

As to parking, the Project proposes two levels of below-grade parking containing 48 spaces, 22 bike spaces and one, 20-foot deep service/delivery loading space.

Height/FAR

The proposed 130-foot height is permitted pursuant to Section 1701.7 that allows properties, such as the subject Property, to be built to the maximum height permitted in the Height Act, which is 130-feet based on the width of K Street.

In terms of FAR, because the Property is located in the DD/ HPA district, the maximum FAR is 11.0 FAR pursuant to Sections 1706 – 1708. Specifically, this maximum FAR can be accomplished through a combination of non-residential FAR (up to 3.5 FAR pursuant to §§ 1706.4 (a-b)); off-site Combined Lot Development for residential uses (up to 3.5 FAR pursuant to § 1706.4(b)); financial contribution to affordable housing (up to 1.0 FAR pursuant to §1706.4(d)); bonus FAR for either financial contribution or the purchasing of TDRs (up to 0.5 FAR pursuant to § 1706.7(a)(1-2)) and no cap on the residential FAR to meet 130-foot height limit (pursuant to §1706.7(b)(1-2)).

In this case, the Applicant requests flexibility in how the maximum could be achieved. One potential option for achieving the maximum FAR could be:

Non-residential: 3.5 FAR

Off-site CLD residential: 3.5 FAR

Financial Contribution to Affordable Housing: 1.0 FAR

Bonus financial contribution to affordable housing or TDRs: 0.5 FAR

On-site residential: 2.5 FAR

Although the Applicant has not determined the exact combination of CLDs/TDRs/Financial Contribution at this time, based on the Applicant's knowledge of the CLD/ TDR market, the Applicant understands that there is ample supply of CLDs/ TDRs for purchase. Accordingly, the Applicant will have no difficulty satisfying the off-site requirements necessary to obtain the maximum FAR on this Property.

Further, if, for some reason, in the future, there are insufficient CLDs and/or TDRs, which is unlikely, and the Applicant cannot meet this requirement, then the size and density of the Project will be reduced, directly reducing the amount of variance relief required from what is currently proposed.

Lot Occupancy

As to lot occupancy, 100% lot occupancy is permitted for the hotel floors, including the ground floor pursuant to 11 DCMR §772.1. Because the Project is not required to comply with inclusionary zoning, the maximum lot occupancy for the residential floor is 80% under 11 DCMR §772.1. The Project satisfies these requirements because the ground floor lot occupancy is approximately 82%, the typical hotel floor lot occupancy is 78%, and the typical residential floor lot occupancy is 77%.

Rear Yard

The minimum rear yard requirement for developments within the C-2-C District is 15 feet pursuant to Section 774.1. However, the Applicant is unable to provide a rear yard as a result of the exceptional conditions that affect the Property, as well as the need to provide all loading and access from 4th Street. The Applicant, has, therefore, requested a variance from this requirement.

A question was raised as to whether the conforming court could be used to satisfy the rear yard requirement. Based on the below analysis of the Zoning Regulations, a conforming court cannot satisfy the rear yard requirements for the Property, which is zoned C-2-C/DD/HPA. Accordingly, a 15-foot rear yard is required pursuant to Section 774.1, and the requested variance is necessary.

Pursuant to Section 774.9(c), for properties in the C-3-B, C-3-C, C-4 and C-5 (PAD) zone districts, there is a provision that states, “In the case of a corner lot [located in those zones], a court complying with the width requirements for a closed court as specified in § 776 may be provided in lieu of a rear yard. For the purpose of this section, the required court shall be provided above a horizontal plane beginning not more than twenty feet (20 ft.) above the curb

grade opposite the center of the front of the building, and the width of the court shall be computed for the entire height of court.”

However, that provision does not apply to the Property’s zone, C-2-C. Further, there is no provision in Chapter 17 that would allow property in the C-2-C zone to satisfy the rear yard requirements with a conforming court.

Therefore, based on the above, even though the Project is a corner lot that proposes a conforming, closed court, because the Property is located in the C-2-C zone, the 15-foot rear yard requirement applies here, and variance relief from the rear yard requirement is required. The Applicant believes that the proposed court area to the rear will effectively ensure access to light and air along the rear lot line, and the lack of rear yard will have no impact.

Parking

Pursuant to Chapter 21 of the Zoning Regulations, the Applicant is required to provide a total of eight parking spaces for the proposed apartment house use (30 units / one parking space per four units = 7.5, which rounds up to 8 spaces), 100 parking spaces for the hotel rooms (200 rooms / one parking space per 2 rooms), and 14 parking spaces for the hotel bar/lounge area (2,040 s.f. / one parking space for each 150 s.f. of the largest function space). Therefore, the overall minimum parking requirement for the Project is 122 parking spaces.

As discussed herein, as a result of multiple exceptional conditions that affect the Property, the Applicant is only able to construct two levels of below-grade parking, providing a total of 48 parking spaces. Therefore, the Applicant has requested a variance from the minimum parking requirements of Section 2101.1.

Of the 48 spaces provided, it is anticipated that at least eight of the parking spaces will be dedicated full time to the exclusive use of the apartment house users, in satisfaction of the residential parking requirement. The remaining 40 parking spaces will be used for the hotel patrons.

The parking will be managed by valet operators. Accordingly, the Project proposes two valet parking spaces near the hotel entrance. The Applicant has already obtained letters of intent from the operators of four nearby parking facilities to satisfy projected, surplus parking needs. Copies of those letters are attached as **Exhibit “B”** and indicate that there is nearby availability for at least 85 parking spaces, and U Street Parking, which manages the parking operations at 15K

Street NW has stipulated that “there are more than enough available parking spaces which can accommodate your request”. Accordingly, it is clear that valet parking spaces can be located for the 74 vehicles required by zoning that are not able to be provided on the Property.

Loading

Section 2201.1 requires one, 20-foot service/delivery loading space on site, which the Project provides on the first, below-grade level of parking.

This Section also requires one, 30-foot truck loading berth and a 100-foot truck platform for the Project. (11 DCMR§ 2201.1). However, as discussed above, following discussions with DDOT, the Applicant revised the plans to have all vehicles access the Property from one, single, 4th Street curb cut. Due to the consolidation of access points, the Project cannot provide the Truck Loading spaces required by Section 2201.1, and the Applicant has requested a variance from that provision. No additional 30-foot loading berth or 100 s.f. loading platform are required for the hotel’s function space, which is less than the 10,000 s.f. minimum to trigger the loading requirement or the apartment house use, which, proposes fewer units than would trigger the need to provide loading spaces.

Instead, of providing on-site Truck Loading Spaces, the Applicant will work with DDOT to locate space for truck loading on 4th Street, either in the proposed valet parking spaces or in the recently approved 30-foot loading area for the Ellisdale project near the intersection of 4th and L Streets NW. As discussed in the draft Traffic Report, attached here at **Exhibit “C”** (the “Traffic Report”), based on the proposed uses, the Project’s traffic consultants project a maximum of three, 30-foot trucks will visit the site per day. Accordingly, due to the minimal number of trips, it is anticipated that on-street loading can be accommodated in the valet parking spaces though the implementation of a loading management agreement. Key elements of the draft loading management agreement are:

- Vendors and on-site tenants will be required to coordinate and schedule deliveries and a loading coordinator will be on duty during delivery hours.
- Trucks accessing the on-street loading space will be limited to a maximum of 30 feet in length.
- All tenants will be required to schedule any loading operation conducted using a truck greater than 20 feet in length.

- Deliveries will be scheduled such that the on-street loading space's capacity is not exceeded and so as not to conflict with potential valet operations. In the event that an unscheduled delivery vehicle arrives while the loading space is full, that driver will be directed to return at a later time when the loading space will be available so as to not impede traffic along 4th Street.
- Tenants will also be prohibited from delivering directly from K Street and instead use the loading space proposed on 4th Street.
- Trucks using the loading space will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT's Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route System.
- The loading space operation will be limited to daytime hours of operation, with signage indicating these hours posted prominently at the loading space with notification also given to tenants. The loading space will be coordinated with valet operations so as to determine the most optimal times for loading.

Proposed Traffic Demand Management Measures

As discussed more fully in the Traffic Report included at **Exhibit "C"**, the Project proposes the following Traffic Demand Management ("TDM") measures to reduce the number of vehicular trips to and from the site, thereby limiting the number of cars that require on-site parking.

- Transportation Management Coordinator (TMC) - The TDM plan will be implemented and managed by a selected coordinator at the Project, who will be charged with the preparation and distribution of TDM information and promotional brochures to residents, hotel guests, visitors, and employees.
- TransitScreen – A TransitScreen will be installed in the hotel and residential lobbies to provide residents, hotel guests, visitors, and employees available transportation choices and provide real-time transportation updates.
- Marketing Program - The TMC will establish a TDM marketing program that provides detailed transportation information and promotes walking, cycling, and transit.

- With respect to hotel guests, the TDM marketing program will include a multi-level approach, as follows:
 - Prospective guests will be informed about parking and alternate modes of transportation as part of the pre-reservation and reservation process, through check-in.
 - Detailed transportation and parking information will be prominently displayed on:
 - The hotel and restaurant websites
 - Online Travel Agency (OTA) websites
 - Other on-line booking and informational website the hotel or restaurant partners with (including rating review websites)
 - Email booking confirmations
 - Email booking reminders
 - Verbally via reservationists
 - Printed brochure available for distribution
 - Hotel confirmations will contain notice to guests that limited parking is available on-site and that the hotel encourages and emphasizes alternative modes.
- Hotel Guest Transportation Incentives: The TMC will coordinate, daily Capital Bikeshare passes to hotel guests as a part of Capital Bikeshare's Bulk Membership program for hotels.
- Resident Transportation Incentives: The Applicant will offer the first occupant of each residential unit with a one-time, one-year carsharing membership and application fee, a \$100 Smartrip card, or a one-time, one-year Capital Bikeshare membership to help alleviate the reliance on personal vehicles.
- Bicycle Amenities: The Project provides 22 bike spaces on site, a rate that exceeds current requirements and will be provided consistent with the rates proposed in the Zoning Regulations Review (ZRR).
- Ride-matching/Ridesharing Program: Employees who wish to carpool will be provided detailed carpooling information as part of the TDM marketing

program and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOG).

VI. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

As stated above, area variance relief is required from the requirements regarding parking (§2101.1), 30-foot truck loading and 100-foot loading platform (§2201.1) and rear yard (§774.1). 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 affected by exceptional 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 in the initial application submission, as supplemented below, and at the public hearing, all three prongs of the area variance test are met in this Application.

VII. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

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 applies not only to the land, but also to the existence and configuration of a building on the land. *See Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294

(D.C. 1974). Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

In this case, the Property is unusual and affected by the following exceptional situations and conditions that individually and collectively make it practically difficult to comply with the Zoning Regulations: (1) the Property is irregularly shaped; (2) the Property is small in size and located on a corner lot; (3) lack of rear alley access; (4) the Property fronts on K Street NW, with its wide, pedestrian-friendly sidewalk area limiting curb cuts; and (5) the Property is located in an area with a high water table, restricting that ability to construct more than two levels of underground parking.

1. Irregularly Shaped Property

The Property is an assemblage of seven (7) lots. Four (4) of those lots, Lots 21, 20, 824 and 825, jut out 20 feet beyond the rear lot lines of the rest of the Property (the “Dogleg Lots”). As a result, the Property forms a wide L shape that presents design and efficiency challenges.

2. Small Property Size and Corner Location

As previously noted, the Property is a corner lot that fronts along K and 4th Streets NW, and has a lot area of only approximately 10,767 square feet, which is small considering the intended mix of uses. Further, the Applicant is unable to assemble more land due to the other, pending and/or approved developments planned on 4th and K Streets discussed above, as well as the proximity to the highway.

3. Lack of rear alley access.

The Property has no rear alley. Rather, it is a landlocked parcel that must obtain vehicular access through DDOT approval of curb cuts from the public rights of way. DDOT has informed the Applicant that it will not support a curb cut from K Street. Accordingly, all access to the Property must be from one, curb cut off of 4th Street.

4. Significance of K Street

The Property's K Street frontage contributes to its exceptional situation because K Street is flanked by a broad, approximately 50-foot public, sidewalk area that is attractive to pedestrians and provides a significant viewshed for the City. Accordingly, due to the pedestrian-nature of the wide sidewalk, DDOT has stated that it would not support a curb cut from K Street. Therefore, all access to the Project and valet parking spaces must be consolidated on 4th Street.

5. High water table

The Property has a high water table that restricts excavation to two levels of below grade parking. A Geotech Report prepared for the Property documents that groundwater was found at a depth of 20 feet. Accordingly, the high water table is an exceptional condition on the Property that limits the depth of below-grade excavation.

B. Strict Application Would Result in a Practical Difficulty to the Owner.

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. Of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972)(noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). Therefore, to demonstrate “practical difficulty”, the Applicant must show that strict compliance with the regulations is burdensome, not impossible.

Due to the Property's exceptional conditions discussed above, the strict application of the minimum parking, Truck Loading Space and rear yard requirements of Sections 2101.1, 2201.1, and 774.1 would result in practical difficulties for the Applicant.

1. Parking (§ 2101.1)

Based on the proposed building program, the Applicant is required to provide a total of 122 parking spaces pursuant to § 2101.1 (hotel parking requirement based on 200 rooms and 2,040 public space/bar: 1 space per 2 rooms, plus 1 space for each 150 SF of floor area for largest function room = 114; + Residential requirement based on 30 units: 1 for each 4 dwelling space = 8 spaces).

However, as a result of the small size of the Property, the unusual, elongated “L” shape that creates an area in the northeast corner of the site that is too wide and shallow for the efficient parking of multiple cars, and the high water table that limits excavation to two, below-grade levels, the Applicant can only provide two levels of below grade parking containing 48 parking spaces.

The Property’s small lot area and odd shape make it very difficult to efficiently accommodate the necessary ramping, central core elevator lobby, trash room, staircases, bike room and other required below grade mechanical and operational spaces. Indeed, these areas account for approximately 3,950 s.f. of Garage Level 1 and 2,856 s.f. of Garage Level 2, resulting in approximately 32% of the total, available below-grade parking area that cannot be used for parking spaces.

Further, due to the small lot size and high water table that limits the depth of possible excavation to approximately 20 feet (allowing for two levels of underground parking), the maximum number of parking spaces that can be provided is 48 because of the square footage that must be allocated to each parking space and as well as the parking garage circulation area.

As noted above, the garage will be attended by valet operators during some portion of the day, and the Applicant anticipates dedicating at least eight parking spaces to exclusive, residential use, in full satisfaction of the apartment house use parking requirements. The remaining 40 spaces will be used for hotel patrons. Additional hotel parking will be serviced by the valet operators, and the Applicant is in the process of identifying off-site parking spaces in nearby parking facilities for valet use. The letters of intent with nearby parking facilities included at **Exhibit “B”** demonstrate that a sufficient number of parking spaces is available in the nearby parking garages to accommodate the Project’s parking needs. Therefore, the Applicant will be more than able to accommodate the Project’s anticipated parking demands through the provision of valet parking and the reservations of off-site parking locations. Also, as discussed above, the Project will have a robust TDM plan that should reduce the number of vehicles visiting and parking on the site.

Also, because the Property does not have a rear alley, there is no area within the property lines to allow for sufficient, on-site queuing and circulation area. Therefore, the Applicant cannot propose a parking elevator, which requires a property to have a rear alley to allow for the necessary vehicular circulation and queuing associated with that type of parking technology. Accordingly, the Applicant must access the below-grade parking garage through a ramping system, which, as stated above, due to the Property's unique and exceptional conditions, requires the allocation of up to 32% of the below-grade area for ramping and access, effectively limiting the amount of area that can be used for parking spaces.

Requiring more than 48 spaces would be unnecessarily burdensome because of the extreme challenge of additional parking below grade due to the high water table and other Property-related conditions identified above.² Accordingly, any additional parking spaces would need to be located above-ground – either in surface parking lots or above-grade structured parking. Requiring surface lots would substantially shrink the building's footprint and the various floorplates. Above-grade structured parking would result in reducing the amount of gross square footage that could be devoted to hotel and residential uses, because multiple stories of the proposed building would have to be devoted to above-grade parking structure. Such would be a practical difficulty, severely limiting the ability to redevelop this Property as a higher-density mixed-use development, as is permitted by matter of right.

2. Truck Loading Spaces (§ 2201.1).

Section 2201.1 of the Zoning Regulations requires that a hotel with between 30 to 200 rooms include the following loading facilities: one service/delivery space at 20 feet, one loading berth at 30 feet and one loading platform at 100 square feet. Pursuant to Section 2201.1, no additional loading is required for the proposed apartment house or hotel function rooms because the proposed square footages allocated to both uses are below the threshold to trigger additional loading spaces.

² Also, it should be noted that under the ZRR, no parking is required for the Project because it is located in the DD. Even if it were not located in the DD, under the ZRR, a maximum of 30 spaces would be required for the proposed uses because of the proximity to metro and other transit.

The Applicant proposes to provide the one, 20-foot service/delivery space in the garage. However, it will not be able to provide the 30-foot truck loading berth or 100-foot platform on the Property. Instead, in consultation with DDOT, the Applicant proposes to manage the minimal number of anticipated truck trips to the Property in the proposed, two, valet parking spaces through the adoption of a loading management agreement discussed above and included in the Traffic Report at **Exhibit “C”**. Further, the Applicant notes that an approximately 30-foot loading zone is proposed to be located in front of the Ellisdale project further north on 4th Street. This loading space will be publicly accessible, and it could be used to accommodate the Project’s limited truck loading needs, if necessary.

DDOT's Design and Engineering Manual requires front-in, front-out loading, and discourages back-in only loading maneuvers. As shown on the truck turning diagram included here at **Exhibit “D”**, given the Property’s size, unique shape and configuration, and the inability to obtain curb cut access from K Street, the Property is not equipped to provide front-in front-out loading platform or the 30-foot loading berth required by the Zoning Regulations. Further, the truck turning diagram illustrates that there is insufficient turning radius for a 30-foot truck to maneuver on the site.

If the Applicant provided the required loading facilities plus an area devoted to maneuvering space for trucks, the building's ground floor would be significantly restrained, and the Applicant would lose substantial portions of the back of house area that is necessary to support the hotel uses on the Property. Further, given that there is access only from 4th Street and that the parking garage ramp is located on the northern-most portion of the Property, if the Applicant were required to have a separate loading access, it would double the size of the curb cut area, which is not supported by DDOT due to the potential negative impacts on the 4th Street pedestrian network as well as the proximity to the approved curb cut for the project directly to the north. Such a requirement would result in a curb cut layout that would impact the building’s efficiency and layout, thereby making development unduly burdensome for the Applicant. Based on these practical difficulties, and the fact that the Applicant anticipates a minimal number of truck trips per day as discussed above, DDOT has indicated that it would not object to providing off-site loading as proposed above and managed through a loading management agreement.

3. Rear Yard (§ 774.1)

As discussed above, pursuant to 11 DCMR § 774.1, development on this Property requires a 15-foot rear yard. As designed, the Project provides no rear yard setback, but it does provide a substantially-size, conforming rear court in the north-east quadrant of the Project. The existence of the unique features of the Property referenced above, in particular, its irregular shape and small size, and DDOT's prohibition of a curb cut K Street in order to preserve that street's pedestrian appeal, combine to result in a practical difficulty for the Applicant if the zoning relief is not provided.

First, the Property is shaped irregularly, as the Dogleg Lots jut out 20 feet beyond the rear lot lines of the rest of the Property creating in an elongated "L" shape of the rear lot line. The fact that the property lines do not form a neat square shape, as more commonly seen, makes it almost impossible to create a conforming rear yard without seeking additional zoning relief. This is because if the Applicant were required to provide a rear yard, the rear of the Dogleg Lots would continue to jut out beyond the rear of the other lots, resulting in a non-conforming court. It is unnecessarily burdensome to require compliance with certain zoning regulations only to create non-compliance with other regulations, necessitating additional zoning relief.

Next, the Property's small size and the existence of the substantial sidewalk area along K Street result in practical difficulties. As discussed above, with the small property size and the design needed to accommodate the Dogleg Lots, above the ground floor, the proposed floor plates range in size from 8,338 to 8,407 s.f., which is a small floor plate that only allows for approximately 20 hotel rooms and 10 residential units per floor. This floor plate would need to be even further narrowed if a 15-foot rear yard requirement was mandated, resulting in an approximately 64.7-foot wide building. Such a narrow building would have a patently inefficient floor plan that potentially would not be acceptable to a major hotel chain.

Further, because all vehicular access is consolidated on 4th Street, requiring a rear yard would be unnecessarily burdensome because the ramping and staircases are designed to accommodate the central core, which is located as required to satisfy fire and building code requirements. Accordingly, if a rear yard had to be provided, it is highly likely that the Project could not accommodate the ramping area to support a below grade parking garage, thereby causing the need for additional variance relief.

C. Neither Substantial Detriment to the Public Good nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan.

The requested variances can be granted without causing substantial detriment to the public good and without substantial impairment to the intent, purpose, or integrity of the Zone Plan.

As noted above, the Property is well-served by surrounding transit network, and the requested variance from the minimum parking requirement will not have a substantial impact on the public good. Also, the Project includes substantial TDM measures that should result in reducing the number of vehicles that need to be parked on site. In regards to the hotel use, it is anticipated that most hotel guests will be arriving from out of town and will not have cars. Further, given the modest size of the hotel's function space, it is unlikely that events will generate a large volume of vehicular traffic. Rather, it is more likely that visitors will arrive by public transportation or other alternative ride services such as taxi, Lyft or Uber, especially in light of the Property's close proximity to Union Station. As to the residential uses, it is expected that most residents will choose to live in this location for its access to public transit and surrounding public amenities and nightlife, and, therefore, will not own cars. Those residents who do chose to own a vehicle or desire a parking space will be able to utilize one of the 48 spaces provided. As referenced above, many car and bike sharing spaces are located nearby, providing future residents with ample commuting options other than car ownership. Therefore, the requested parking variance relief will have no detrimental impact.

The requested loading relief will, similarly, have no detrimental impact because the Applicant anticipates a minimal number of truck trips per day, and they can be accommodated in the proposed valet parking spaces through the adoption of a loading management agreement, as set forth in the Traffic Report. Further, as discussed above, a dedicated loading space for the Ellisdale project has been approved on 4th Street. Therefore, if necessary, truck deliveries to the Property could use that loading space.

With respect to the requested rear yard relief, the Project proposes a conforming rear court that will ensure access to light and air along the rear lot line.

VI. COMMUNITY OUTREACH

The Applicant presented before the ANC 6E's Development and Zoning Committee on October 29, 2015 and November 23, 2015. On January 5, 2016, the Applicant presented the Project to the full ANC 6E, seeking the same relief requested here – parking (2101.1); truck loading (2201.1) and rear yard (774.1). On that date, the ANC voted 5-1-1 to recommend approval of the subject Application. A copy of the ANC's resolution of approval is included in the record at BZA Exhibit No. 26.

VII. WITNESSES

The following witnesses will appear on behalf of the Applicant:

1. Habte Sequar, on behalf of the Applicant
2. Sean Pichon, PGN Architects – Project Architect
3. Erwin Andres, Gorove Slade – Project Traffic Consultant
4. Any other witness needed.

VIII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted,

GRIFFIN, MURPHY,
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