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

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Application of DC Department of General Services  
BZA Application No. \_\_\_\_\_

1700 Rhode Island Avenue, N.E.  
ANC-5B

**Statement of the Applicant**

This statement is submitted on behalf of the District of Columbia Department of General Services (the “Applicant”), the owner of the property located at 1700 Rhode Island Avenue, N.E., (Lot 0800, Square 4134) (the “ subject property”) in support of its application for a special exception pursuant to Subtitle U, § 513.1(b)(6) to operate an emergency shelter for more than twenty-five persons and for variance relief, pursuant to 11 DCMR Subtitle X § 1000.1 and 1002.1, from the requirements regarding height (Subtitle G, § 403.1), floor-area-ratio (“FAR”) (Subtitle G, § 402.1), lot occupancy (Subtitle G, § 404.1), rear yard (Subtitle G, § 405.5(a)(1) and (2)), open court minimum width (Subtitle G, § 202.1), parking (Subtitle C, § 701.5), off-street loading and delivery space requirement (Subtitle C, § 801) in the MU-4 Zone District.

The Board has jurisdiction over this request for special exception and variance relief pursuant to D.C. Official Code §§ 6-641.07(g)(2) and (3).

**Site Description**

The subject property is a 12,336 square foot, trapezoidal-shaped lot at the northeast corner of Rhode Island Avenue and 17<sup>th</sup> Street, N.E. owned by the District of Columbia Government. The site is zoned for moderate density, mixed use development, MU-4. On the east, the site is bordered by a 15-foot public alley and on the north by a four-story multi-family structure under construction. Across 17<sup>th</sup> Street, N.E. and to the north, the subject property is

bounded by the R-1-B Zone District of detached homes on moderately-sized lots. The topography of the site is unremarkable.

The subject property is presently improved with a three-story, purpose-built police station (*circa* 1922) and a 150-foot tall communications antenna and concrete utility building supporting the antenna functions. The total improvements on the site occupy approximately 3,506 square feet of land area. The decommissioned and vacant police station has two components: a three-story main building and a one-story addition at the rear whose original purpose appears to have been for vehicle storage and maintenance. Though not a historical landmark and not located within a historic district, the decommissioned police station, one of only two of similar vintage within the District of Columbia, occupies a prominent position along Rhode Island Avenue, N.E. with a distinctive profile and a brick facade, and has attributes which the Historic Preservation Office of the D.C. Office of Planning (“HPO”) would like to see maintained. As a consequence, the Applicant’s architect has worked through several variations with the HPO staff to reconfigure the Applicant’s initial approach to the development of an emergency shelter on the subject property in order to preserve the most significant portion of the police station building and to maintain the viewshed from Rhode Island Avenue, N.E. The outcome of this interaction with HPO staff has had a major impact on the site plan which will be discussed more fully in connection with the discussion of the required variance relief.

The subject property is located within Advisory Neighborhood Commission Single Member District 5B03.

### **Surrounding Area Description**

The subject property lies midway along a corridor of MU-4 zoning that runs from 13<sup>th</sup> Street, N.E. to 24<sup>th</sup> Street, N.E. along both sides of Rhode Island Avenue, N.E. The properties to

the north and east of the subject property in the MU-4 corridor are automobile-related retail commercial uses, such as tire sales and used car sales. To the immediate west of the subject property are several detached single family homes typical of the R-1-B Zone District and on the other side of that block is St. Paul's Baptist Church. A newly constructed multi-family building is in process on the land immediately north of the subject property; it is configured around an open court, the wings of which are built on the property line and thus turn blank walls to the subject property.

The subject property is serviced by three Metrobus routes ( 82, 83, and 86) running along Rhode Island Avenue, NE and by five other Metrobus routes which are within six blocks of the subject property (H6, B8, B9, T14 and E2). The Rhode Island Metrorail Station is one mile to the south of the subject property.

### **Project Description**

In 2015, the District of Columbia Council (the "DC Council") mandated new standards for the replacement emergency family shelter units anticipated by the planned closure of the D.C. General facility.<sup>1</sup> The law established architectural design guidelines for emergency housing for families in need (the "shelter guidelines"). A central principle was the dispersal of emergency shelters throughout the eight wards of the City in smaller facilities that would present a residential feel and be more conducive to the delivery of essential supportive services. Among other standards, the shelter guidelines stipulated that the new emergency shelters, to be constructed on District-owned land, contain no more than fifty (50) housing units per building and no more than ten (10) units of 300-400 square feet on each residential floor. Accordingly, the Applicant intends to construct a new facility as an addition to and incorporating the existing decommissioned police station. The demand for this type of program is extremely high, but

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<sup>1</sup> D.C. Act 21-251, To Amend the Homeless Services Reform Act of 2005.

given site constraints and the configuration of the existing structure, the Applicant was able to achieve 46 housing units, which are necessary to achieve the law's goal of a minimum of 280 replacement units for the D.C. General Family Shelter.

The Applicant intends to construct a new facility comprising 44,091 square feet of gross floor area. The interior spaces and layout have been developed consistent with the shelter guidelines. In addition to the housing units, the facility will include study, common and laundry spaces on each floor. On the ground floor there will be a reception/security area, a multi-purpose room that will double as a dining room and large group meeting facility, offices for the staff members and an assessment/intake function, and computer room. The lower level basement will contain staff lockers, storage and mechanical room. The Applicant expects that the facility will have a staff of ten (10) to twenty-five (25) personnel, depending on the time of day, and there will be a minimum number of staff on-site at all times. As it is anticipated that the majority of the persons served at the facility will be children, the facility provides two outdoor play areas for children as well as an outdoor seating area for adults.

Of primary importance for the shelter will be maintaining safety and security throughout the building, and the Project's design has been driven by that priority. Each floor will have a monitor's station with a direct line of sight to each room entry and to all common areas. There will be five floors for family housing and each resident will have keys affording limited access to the floor only on which their family resides.

#### **Special Exception Relief – Specific Standards for Emergency Shelters**

The application for a 46-housing unit emergency family shelter to be located in the MU-4 Zone District requires special exception approval from the Board pursuant to Subtitle U, §§ 513.1(b)(1)-(6).

The standards for emergency shelters and the Applicant's responses are set forth below:

- (1) There shall be no other property containing an emergency shelter for seven (7) or more persons in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property;*

There are no such facilities within the square or within such distance of the subject property.

- (2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees and visitors to the facility;*

The Applicant is requesting a variance from the parking requirements for an emergency shelter, as more fully discussed below.

- (3) The proposed facility shall meet applicable code and licensing requirements;*

The proposed facility will meet all applicable code and licensing requirements.

- (4) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;*

Based upon the traffic study performed by Gorove/Slade, the Applicant anticipates no adverse traffic effects on the immediate neighborhood. Functionally, the proposed facility is like a multifamily apartment building, of which there are several in the immediate neighborhood. There is no reason to believe that noise emanating from the facility or the facility operations will impact the neighborhood adversely.

- (5) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;*

There are no other emergency shelters within the square or within such distance of the subject property.

- (6) The Board of Zoning Adjustment may approve an emergency shelter for more than twenty-five (25) persons, not including resident supervisors or staff and their families,*

*only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.*

The legislative intent of the DC Council and the shelter guidelines affirm the importance attached to the completion of replacement shelter units to the Homeward DC project goals. By putting forward the subject property and tasking the architects with locating up to fifty (50) housing units there evidence the District's conclusion that the no smaller facility would advance the policy goals of the District.

### **Special Exception Relief – General Standards**

Obtaining special exception relief also requires a finding by the Board that the general standards for special exception relief at Subtitle X, § 901.2 have been satisfied:

The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c) Will meet such special conditions as may be specified in this title.

### **Basis for Variance Relief**

The nature of the variances requested are all area variances.<sup>2</sup> In pertinent part, Subtitle X, § 1002.1 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.

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<sup>2</sup> 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).

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.<sup>3</sup> 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. It is clear that, like the circumstances of unusual shape or topography, "existing structures on the land are part of the property and may be exceptional conditions for variance purposes". Draude v. D.C. Board of Zoning Adjustment, 527 A.2d 1242, 1255 (D.C. App. 1987) citing Clerics of Saint Viator, Inc. v. D.C. Board of Zoning Adjustment, 320 A.2d 291, 293-94 (D.C. App. 1974). 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.

#### **Exceptional Situation or Condition**

There are two aspects of the subject property that the Applicant deems exceptional conditions. The first is the existence of the decommissioned police station and the communications antenna and ancillary building, both of which are to be retained. In working with HPO to preserve the historical qualities of the police station, the Applicant's architect has had to design the new construction to take into account the police station. The Applicant is

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<sup>3</sup> 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).

further informed that the communications antenna is still operational and would require adding over \$1 million to the project budget to re-locate it offsite. The second aspect of the site is its shape, which interacts with the first aspect forcing the bulk of any new construction further to the rear of the subject property than if the subject property was unimproved. These cumulative factors have converged to compel the particular architectural solution arrived at by the Applicant which necessitate the variances requested.

“Moreover, we have held that the need to expand an existing building may constitute the kind of exceptional condition of the property that justifies a variance.” Draude v. D.C. Board of Zoning Adjustment, 527 A.2d 1242, 1255 (1987).

As a public service organization, the Applicant, is not, like other applicants before the Board, required to make a showing that no other economic use can be made of the proposed site. When a public service organization applies for an area variance based upon the need for adequate facilities to fulfill its organizational purpose, it must show that: (1) the design it wants to build is an institutional necessity, and not merely the most desirable of various options, and (2) how the design requires the specific variances sought. Draude, 527 A.2d, at 1256. The Board may chose to apply a more flexible standard when applying the variance test in the instance of a public service use of property, such as in this application. See Nat’l Black Child Dev. Inst. v. District of Columbia Bd. of Zoning Adjustment, 483 A.2d 687, 690 (D.C. 1984) (citing Monaco v. District of Columbia Bd. of Zoning Adjustment, 407 A.2d 1091, 1096 (D.C. 1979)).

The Applicant will offer expert testimony at the public hearing on the architectural issues necessitating the variances and will discuss the institutional imperatives which require this particular design.

### **Strict Application of Zoning Regulations Would Result in Practical Difficulty**

In order to work with the subject property to achieve the facility mandated by the DC



Council and to preserve the historical qualities identified by HPO for the existing building, the Applicant finds it necessary to request seven (7) area variances.

The Applicant is unable to meet the below requirements as no other locations for the proposed emergency shelter in Ward 5 were identified during the District site selection process. In order to close the D.C. General Family Shelter, the District undertook a year-long search for feasible sites that were capable of meeting the short-term family housing demand in each ward of the city. The search began with looking at publically-owned properties, both District and Federal. After an exhaustive search, only one viable site could be identified for the proposed emergency center.<sup>4</sup> Moreover, the program is limited in the development process by the proposed legislation authorizing the program's budget. Thus, the strict application of the Zoning Regulations would give rise to a practical difficulty for the Applicant as it would not be able to fully carry out its objective of closing D.C. General Family Shelter and addressing homelessness by establishing a new emergency shelter in Ward 5 of the city.

**1. Height (Subtitle G, § 403.1)**

The height of a building in the MU-4 Zone District is limited to fifty (50) feet. In order to incorporate the existing police station into the design concept, the architect had to work around the atypical floor heights of the historic police station which were higher slab-to-slab than ordinary new construction. As a result the first three floors of the new construction are set higher to meet the floor plates of the historic building which has pushed the overall building higher than would otherwise be the case if the subject property were vacant.<sup>5</sup>

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<sup>4</sup> Sec. 4 of D.C. Act 21-412, the Homeless Shelter Replacement Act of 2016, specifically identified the subject property for up to 50 replacement units for families experiencing homelessness.

<sup>5</sup> For example, the floor to ceiling heights of the first two floors of the existing building are 14 feet and 11 feet, respectively, which adds 4 to 5 feet more in height than would be the case for new construction not tied to the existing building. Moreover, the existing building's base is set at almost three feet above the level of the curb on 17<sup>th</sup> Street, N.E. which further disadvantages the addition in terms of height. Cumulatively, these physical features add 6 to 8 feet to the overall building height.

Second, the shelter guidelines, in seeking a 50-unit facility with no more than 10 units per floor, virtually compel a six-story building since the first floor is taken up by the staff offices and the communal facilities for gathering and dining. The Applicant proposes a seventy (70) foot height for the building to enable the shelter guidelines to be implemented at this site.

**2. Floor Area Ratio (Subtitle G, § 402.1).**

The Floor Area Ratio (“FAR”) in the MU-4 Zone District is limited to 2.5 for residential uses; the Applicant has requested 3.69 FAR. Given the inefficiency of the existing building and the non-utility of the communication antenna building which together amount to approximately 1.0 FAR, it would have been impossible to come anywhere near the DC Council goal of fifty (50) units on the subject property. As proposed in the Applicant’s design, each unit of housing represents about 950 square feet of developed gross floor area. If the subject property was limited to 2.5 FAR, it would allow no more than 32 housing units, which is less than the required number of units for operational economies of scale for a program with a high level of wrap-around services, as well as an inadequate number to reach the minimum total of 280 DC General Family Shelter replacement units. The strict application of FAR limits would, in practical effect, nearly double the number of sites required to develop the required number of replacement emergency family shelter units.

**3. Lot Occupancy (Subtitle G, § 404.1)**

The Applicant is allowed sixty percent (60%) lot occupancy in the MU-4 Zone District and seeks seventy-six percent (76%) lot occupancy. For the same reasons as stated in the section above related to the requested variances for height and FAR, if the Applicant had an unimproved site to work with the lot occupancy limit is more feasible. The existing police station and ancillary structures occupy over 28% of the subject property, yet because of the need to maintain

its architectural integrity as a three-story building, the Applicant cannot maximize the building's potential for FAR given its share of the overall lot occupancy and thereby achieve the capacity goal for housing units in the Ward 5 emergency family shelter.

#### **4. Open Court (Subtitle G, § 202.1)**

In the MU-4 Zone District an open court should have a minimum width equal to 4" per foot of building height. The building height is seventy feet and accordingly the minimum court width should be 23.76 feet. The Applicant's design has an open court on the southern side of the subject property between the existing police station and the new addition. The proposed open court is non-rectangular with its widest dimension of 19.25 feet.<sup>6</sup> The largest circle that can be inscribed within the proposed open court has a diameter of 17' which is what the Applicant has proposed.

HPO requested that the Applicant leave open a viewshed from Rhode Island Avenue, N.E. by retracting the projecting wing of the new construction in order that more of the historic police station could be seen. The practical effect of retracting the building was to reduce the court width. The Applicant could widen the open court only by eliminating the five (5) housing units in the projecting wing forming the open court or by reducing the extent of the projecting wing of the building, thereby making them unusable under the shelter guidelines as they would fall well below the 300-400 square foot minimum requirement for family housing.

#### **5. Rear Yard (Subtitle G, § 405.2)**

The Zoning Regulations require a 15-foot rear yard in the MU-4 Zone District. Where the rear yard abuts an alley, the rear yard can be measured from the centerline of the alley to the rear wall for that portion of the building below a horizontal plane 25 feet above the mean

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<sup>6</sup> The definition of "width of court" in the 2016 Zoning Regulations provides that "in the case of a non-rectangular court, [the width of the court is] the diameter of the largest circle that may be inscribed in a horizontal plane within the court."

finished grade at the rear of the building. In this instance, the applicant can provide only a 7.58 foot rear yard measured from the alley centerline for that portion of the building below the 25-foot plane and no rear yard for the portions of the building above the 25-foot plane.

The communication antenna and the ancillary building already intrude upon the area that would have to be set aside for the rear yard. The Applicant's design calls for building over the ancillary building and from there south along the public alley. To forego this development potential would require the elimination or substantial reduction in the size of the twelve (12) housing units and support facilities on floors 3 through 6.

#### **6. Parking (Subtitle C, § 701.5)**

Table C, § 701.5 provides that for an emergency shelter 0.5 off-street parking space shall be provided for every 1,000 of gross floor area developed on the subject property. Based on the current design the subject property should provide 22 parking spaces.<sup>7</sup> The Applicant's design proposes four (4) off-street parking spaces under the building overhang on the eastern side of the subject property and accessed from the public alley.

The Gorove/Slade traffic study examined, *inter alia*, the demand for site-generated parking and the availability of on-street parking. The study observed that during the peak utilization period of on-street parking that over sixty percent (60%) of the available on-street parking spaces within a 600-800 foot walk of the subject property were not being used.<sup>8</sup> This suggests that there is ample capacity to absorb site-generated traffic without a negative impact on the immediate neighborhood.

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<sup>7</sup> Subtitle C, § 702.1 leaves open the possibility that the parking requirement for the subject property could be reduced by fifty percent (50%) based upon the proximity of certain public transit alternatives (i.e. Metrorail station, streetcar line or Priority Corridor Metrobus Routes), but that still requires 11 parking spaces on site.

<sup>8</sup> Of the 377 available parking spaces, only 134 were occupied at the peak utilization period. At the peak hour of shelter staff usage during the afternoon shift change, the peak demand is 25 parking spaces, as 13 vehicles arrive and 12 vehicles depart.

## **7. Loading/Delivery Space**

Subtitle C, § 901.1 requires one (1) loading berth (12' x 30') and platform (100 sq. ft.) and one (1) delivery space (10' x 20') for an emergency shelter between 30,000 and 100,000 square feet of gross floor area. The Applicant's site plan has no loading berth or platform and provides only a substandard-sized delivery berth at the rear of the building along the public alley. Nonetheless, the Applicant believes that the limited number of daily deliveries at the subject property do not require a dedicated loading berth.<sup>9</sup>

## **Community Contacts**

The Applicant has engaged in frequent discussion with the staffs of the Office of Planning, the Zoning Administrator, the Commission on Fine Arts and the Historic Preservation Office concerning the development of the site plan for the subject property. In addition, over the past four to six months the Applicant has sponsored several community meetings with Advisory Neighborhood Commission 5B and the advisory team of local community stakeholders to present and refine plans for the subject property. The Applicant is committed to the continuing dialogue with the local community through the BZA process.

## **Conclusion**

Based upon the foregoing discussion and exhibits attached to the application, the Applicant requests approval of the proposed site plan for an emergency family shelter for more

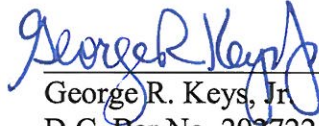
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<sup>9</sup> Gorove/Slade estimates 6.2 daily deliveries, of which three (3) are passenger pick-ups and drop-offs that are more likely to occur at the front of the shelter on 17<sup>th</sup> Street, N.E. The remaining daily deliveries, two of which are food deliveries with known arrival times, can be accommodated with access from the public alley to the delivery area provided at the rear of the building.

than 25 persons and for approval of the seven requested area variances for height, FAR, lot occupancy, rear yard, open court, off-street parking and loading/delivery space.

Respectfully submitted,

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