

October 11, 2018

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Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20010

**RE: BZA Application for Coloma River Capital
Lots 822 and 817, Square 3389 – Application for Special Exception Relief**

Chairperson Hill and Honorable Members of the Board:

Please accept for filing the enclosed application of Coloma River Capital (the “Applicant”). The Applicant requests special exception relief under the rear yard requirements of Subtitle G § 405.2, the closed court requirements of Subtitle G § 202.1, and the parking requirements of Subtitle C § 701.5 to convert existing buildings into a 46-unit, four-story apartment building with ground floor retail, cellar level and conforming penthouse.

The application package includes the following materials:

1. Application Form;
2. Fee Calculator Form;
3. Statement of the Applicant;
4. D.C. Zoning Map;
5. Architectural Plans & Elevations;
6. Authorization Letter(s);
7. Form 135 – Zoning Self-Certification;
8. Statement of Existing and Intended Use;
9. Certification of Proficiency;
10. List of Names and Mailing Addresses of Owners within 200 Feet;
11. Surveyor’s Plat(s);
12. Subdivision Plat;
13. Statement of Community Outreach;
14. Summary of Witness Testimony;
15. Photographs of the Property; and
16. Certificate of Service for the Office of Planning and ANC.

We believe that the application is complete and acceptable for filing, and request that the Board schedule a public hearing for the application as soon as possible. If you have any questions, please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

COZEN O'CONNOR

A handwritten signature in blue ink, appearing to read 'MM', with a horizontal line extending to the right.

By: Meredith Moldenhauer

Certificate of Service

I hereby certify that on this 11th day of October, 2018, a copy of this Application with attachments was served, via email, as follows:

District of Columbia Office of Planning
1100 4th Street SW, Suite E650
Washington, DC 20024
planning@dc.gov

District Department of Transportation
55 M Street SE, Suite 400
Washington, DC 20003
Anna.chamberlin@dc.gov

Advisory Neighborhood Commission 4B
c/o Andre R. Carley, Chairperson
4B01@anc.dc.gov

Advisory Neighborhood Commission 4B08
c/o Barbara Rogers, SMD Commissioner
4B08@anc.dc.gov



Meridith H. Moldenhauer

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

**APPLICATION OF
COLOMA RIVER CAPITAL**

ANC 4B

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of the Applicant, Coloma River Capital (the “Applicant”), the authorized agent for the owners of the properties located at 71 Kennedy Street NW & 5505 1st Street NW (Square 3389, Lots 822 and 817) (collectively the “Property”) in support of its application for special exception relief pursuant to 11 DCMR Subtitle X § 901.2, for parking relief under Subtitle C § 701.5, closed court relief under Subtitle G § 202.1, and rear yard relief under Subtitle G § 405.2. The Property is located in the MU-4 Zone District. A copy of the zoning map is attached at **Exhibit A**.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 of the Zoning Regulations.

III. BACKGROUND

A. The Property and the Surrounding Neighborhood

The Property is comprised of two contiguous lots (Lots 822 and 817) on Square 3389. A copy of a Subdivision plat from 1911 is attached at **Exhibit B**. The Property contains 13,225 square feet of land area and is currently improved with two commercial buildings and one residential building.

The Property is located in the Manor Park neighborhood. It is a corner lot bounded by Kennedy Street NW to the south, 1st Street NW to the west, a multi-story residential building on

Lot 820 to the north, and a 15-foot wide, unimproved public alley to the east with a multi-story residential building on Lot 131 beyond. The unimproved public alley provides no curb access from Kennedy Street NW. There is no vehicular access to the Property, and consequently it currently does not provide off-street parking. A 15-foot wide building restriction line runs along the entirety of the Kennedy Street NW and 1st Street NW frontages. The Property is not located in a historic district, and none of the existing buildings are landmarked.

B. Traffic Conditions and Mass Transit

The Property has very good mass transit options. The Fort Totten Metro Station is located 0.6 miles from the Property. Metrobus lines K2 and K6 are at the intersection of Longfellow Street NW, New Hampshire Avenue NW, and North Capitol Street, one tenth of a mile from the Property to the east. Also, the E4 line is located at the corner of 2nd Street NW and Missouri Avenue NW 0.2 miles away to the west. Also, there is a Capital Bikeshare station at the corner of 5th Street NW and Kennedy Street NW one half mile from the Property to the west. Walkscore.com indicates that the area is “Very Walkable” with “Excellent Transit” and is “Bikeable.”

C. The Project

The Applicant proposes to raze the existing buildings, combine the two lots into a single record lot, and construct a four-story, 46-unit mixed-use building with approximately 8,500 sq ft. of ground floor commercial use with cellar level and compliant penthouse on the Property (the “Project”). The Project will front upon Kennedy Street NW. To provide adequate loading access to the site, the Applicant proposes to work with the District Department of Transportation (“DDOT”) to grade and pave the existing, unimproved alley in order to establish a curb cut along Kennedy Street NW.¹ See the Architectural Plans (the “Plans”) at **Exhibit C**. The resulting 15-

¹ A permit to grade and improve the alley must be issued by DDOT.

foot wide useable public alley will provide loading access for a 30-foot loading berth as required, as well as a side-loading parallel space as shown on the Plans. Additionally, the Applicant will work with DDOT to establish another curb cut along First Street NW at the northern extent of the Property to provide access to the below-grade parking garage, which will also accommodate the long-term bicycle storage area. The height of the Project will rise to no greater than 50 feet as permitted in the MU-4 Zone.

As further shown on the Plans, the Applicant proposes to create the residential entry along 1st Street NW. A bay would project no more than four feet beyond the building restriction line at the corner of Kennedy Street NW and 1st Street NW on floors two through four, and a second bay will project no more than four feet beyond the building restriction line along Kennedy Street NW on the same floors. Three units are proposed to be located in the cellar, three units on the ground floor level, 12 units on each floor two through four, and four units on the penthouse level for a total of 46 units.

Due to the constrained nature of the Property resulting from two 15-foot building restriction lines along the western and southern frontages, coupled with the corner lot location, a total of nine parking spaces can be provided on-site in the below-grade parking garage. Consequently, zoning relief from Subtitle C § 701.5 is requested, which requires that 21 parking spaces be provided for the proposed uses in the Project.² Also, the same constraints make it difficult to provide a compliant closed court along the northern edge of the building. As designed, the closed court on the first floor measures 27'6½" long and comprises approximately 182 square feet. The closed courts on floors two through four measure 12 feet in width and comprise 96 square feet. The closed courts serve as a light well supplying light to interior units. The closed court on the first floor satisfies the

² Parking requirement is calculated as follows: 46 units – 4 = 42; 42/3 = 14 residential spaces; 8,632 sq ft. – 3,000 = 5,632 x 1.33 / 1000 = 7.49 → 7 commercial spaces; total = 21 spaces.

applicable width requirements but fails to provide the minimum area requirements. The closed courts on floors two through four require relief from both the width and area requirements, and so relief is sought from Subtitle G § 202.1.

Finally, the constraints so noted prevent the Applicant from providing the rear yard setback requirement of 15 feet. Subtitle G § 405.2. The rear yard cannot be fulfilled to the north without dramatically limiting the footprint of the Project, and cannot be provided to the east due to the location of the unimproved alley.

The Applicant meets the standard for special exception relief for parking, closed court, and rear yard as outlined below.

IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the relief 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 regulation.” *First Baptist Church of Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 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.*

V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF

A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps

The Project will be in harmony with the purpose and intent of the Zoning Regulations and related maps. The purposes of the MU-4 Zone are, among other things, to permit moderate-density mixed-use development, housing, and have access to main roadways or rapid transit stops. Subtitle G §§ 400.3(a)-(c).

The Project aligns with these intentions, as the relief will allow the Applicant to construct a four-story mixed-use building located at the intersection of two main roadways, in a neighborhood well serviced by transit, situated in an area with other moderately-scaled buildings, as directed. Perhaps most importantly, the Project will advance the important goal of increasing the housing supply in the District by delivering 46 new dwelling units, including Inclusionary Zoning (“IZ”) units, pursuant to the requirements of Subtitle C § 1001.2. Also, as discussed earlier, the Property has access to several public transportation modes and is located in the reinvigorated Manor Park neighborhood.

For these reasons, the relief is harmonious with the general purpose and intent of the Zoning Regulations and maps.

B. The Proposed Relief will not tend to Adversely Affect the Use of Neighboring Property

The use of neighboring properties consists of a mix of retail, service, educational, religious, and restaurant uses, as well as numerous moderately-scaled apartment buildings in the immediate area. These uses will not tend to be adversely affected by the Project. To the contrary, the Project

will complement the surrounding character of the neighborhood by proposing a well-designed, attractive building that provides both a walkable destination for local residents and much-needed dwelling units. Further, the Project's proposed height and massing are consistent with the zone's protections. The open-air light well – a closed court by rule – will provide fresh air and light to interior units of the Project. The light well area will not be visible to surrounding properties, as it will be located along the northern lot line and abutting the residential building to the north.

The Project's location along a commercial street and close proximity to a variety of uses encourages residents to patronize local businesses by foot and not by automobile. Moreover, convenient public transportation options will give residents excellent alternatives to car ownership and usage, thereby reducing parking impacts in the vicinity. Accordingly, the Project satisfies the requirements of the special exception regulation, and the burden is met.

C. The Project Satisfies the Special Conditions of Subtitle C § 703.2 in Connection with Parking Relief

703.2 The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant's demonstration of at least one (1) of the following:

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

The Property qualifies for special exception relief pursuant to Subtitle C § 703.2 in complying with Subsection (a), as it possesses two physical constraints that prevent the Applicant from providing the required number of parking spaces on-site. First, the Property is subject to a building restriction line along both the western and southern perimeter that limits the building footprint by 3,225 sq ft., or nearly 25% of the lot.

Second, the Property is a corner lot that fronts upon Kennedy Street NW and 1st Street NW, which doubles the impact of the building restriction boundaries. The Property abuts a multi-story apartment building to the north and so Lot 820 cannot be assembled, and land to the east cannot be assembled due to the presence of a public alley. Further, the Applicant does not own any property within 600 feet of the Property that could provide the required parking spaces.

The building restriction lines and corner lot location severely constrain the footprint and design of the Project, thereby resulting in a structure that can only provide a maximum of nine spaces in a below-grade parking garage.

(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;

The Project also qualifies for special exception relief pursuant to Subtitle C § 703.2 in complying with Subsection (b). As noted, the Property is located at the intersection of two main roadways, Kennedy Street NW and 1st Street NW. As such, it possesses very good mass transit options. The Fort Totten Metro Station is located just over one-half mile from the Property. Metrobus lines K2 and K6 are at the intersection of Longfellow Street NW, New Hampshire Avenue NW, and North Capitol Street, only one tenth of a mile from the Property to the east. Also, the E4 line is located at the corner of 2nd Street NW and Missouri Avenue NW 0.2 miles away to the west. Also, there is a Capital Bikeshare station at the corner of 5th Street NW and Kennedy Street NW 0.5 miles from the Property to the west. Bike facilities will be provided on the site for residents, thereby promoting this alternate mode of transportation. There are three Zipcar locations within 0.5 miles of the Property: at the corner of 5th Street NE and Jefferson Street NE, the corner of Kennedy Street NE and 7th Street NE, and at the Aventine Apartments just north of the Fort Totten Metro entrance. Walkscore.com indicates that the area is “Very Walkable” with “Excellent

Transit” and is “Bikeable.”

Therefore, the project satisfies not one, but two of the special exception standards. In short, the physical constraints imposed by the building restriction lines and corner lot location in addition to its proximate access to mass transit, shared vehicle, and bicycle facilities sufficiently offsets the 12 parking spaces for which relief is requested. Based on the above justification, the Property meets the conditions in subsections (a) and (b) to qualify for special exception review, and, as articulated above, meets the general special exception standard.

D. The Project Satisfies the Special Conditions of Subtitle G § 1201.1 in Connection with Rear Yard Relief

1201.1 The Board of Zoning Adjustment may grant relief to the rear yard requirements of this subtitle as a special exception pursuant to Subtitle X, provided:

(a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;

The Project fronts upon Kennedy Street NW and is proposed to abut an existing residential building along the rear property line to the north, as shown in the plans at **Exhibit C**. Consequently, there are no windows in this location and the condition is met.

(b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;

The Project is residential and commercial in nature and no office windows are proposed.

(c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;

The Property provides for a Project that is parallel to adjacent buildings along Kennedy Street NW, and there are no rear-facing windows. Therefore, the condition is met. Regardless, the Project has been carefully designed so as to limit the angle of sight lines between habitable rooms on the Property and neighboring buildings.

(d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and

Parking relief amounting to 12 spaces is requested due to the constraints of the Property, as discussed earlier. As for loading, the commercial component of the Project will comprise approximately 8,632 sq ft., and so one 30-foot loading berth with a 100 sq ft. platform must be provided, per Subtitle C § 901.1. The Project proposes a compliant 30-foot loading berth with 100 sq ft. platform along the east side of the Property. Therefore, the condition is met.

(e) Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.

A copy of the application has been submitted to the Office of Planning and District Department of Transportation for review, and the Housing Authority will be notified of the application pursuant to the public notice requirements of Subtitle Y § 402.1(f). The Property is not located in a historic district, nor is a landmark involved.

VI. COMMUNITY OUTREACH

Pursuant to Advisory Neighborhood Commission (ANC) 4B's procedures and guidelines, the Applicant will contact ANC 4B shortly after the application is filed. The Applicant will present to ANC 4B at the next available public meeting.

VI. CONCLUSION

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

Respectfully Submitted,

COZEN O'CONNOR



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