

Statement in Support of Mar Vista Management LLC, as Trustee of the Forty-Five Cedar Street Worcester Realty Trust, for Application to Worcester Zoning Board of Appeals for Special Permits and Variances for Multifamily Project at 45 Cedar Street, Worcester, Massachusetts

I. Background.

Following the closing of Becker College in 2021, Hampton Properties LLC and its affiliate, Haims Investment Group, Inc., acquired multiple former campus properties including the existing tract of land known and numbered as 45 Cedar Street, Worcester, Massachusetts,¹ which contains approximately 8,555 SF of land (the “Property”) and is occupied by an existing approximately three story building with a gross floor area of approximately 6,940 SF (the “Building”), an existing garage with driveway along Cedar Street and an existing parking area along Fruit Street. Mar Vista Management LLC, as Trustee of the Forty-Five Cedar Street Worcester Realty Trust (the “Applicant”), subsequently acquired the Property from Hampton Properties LLC. The Building is a historic building known as the Edwin A. Kelley House and was previously referred to as the Salter Secretarial School.

The Property is located primarily within the Business, Office (“BO-1.0”) zoning district² with a small portion of the Property located within the Residence, Limited (“RL-7”) zoning district³ and no overlay districts.

The Applicant is seeking the grant of certain special permits and variances from the Worcester Zoning Board of Appeals (the “Board”) ⁴ as more particularly described herein in connection with: (i) the renovation of interior portions of the Building to install 7 dwelling units (3 two bedroom units and 4 three bedroom units) and related common areas; (ii) exterior renovations including the replacement of windows and portions of the roof; (iii) the reconfiguration of existing parking area along Fruit Street by striping 2 parking spaces, removal of asphalt and the loaming and seeding of a portion of the exterior side yard along Fruit Street; (iv) the installation of new utilities and fire suppression system; (v) demolition of the existing garage to provide sufficient area for the installation of covered bicycle parking and garage receptacles; and (vi) the installation of conduit for 1 EV ready parking space for the proposed multifamily use within the driveway along Cedar Street (collectively, the “Project”).

¹ 45 Cedar Street has a parcel identification of 02-046-0055A.

² The Building is located exclusively within the BO-1.0 zoning district with the exception of the existing garage which will be demolished as part of the Project.

³ The existing driveway off of Cedar Street and the westerly boundary of the Property are located in the RL-7 zoning district.

⁴ The Board is the permit granting authority for any special permits pursuant to Article II, Section 6.A.2 of the City of Worcester Zoning Ordinance (the “Zoning Ordinance”), except those expressly assigned to the Worcester Planning Board, and the permit granting authority for any variances pursuant to Article II, Section 6.A.3 of the Zoning Ordinance and M.G.L. c. 40A, §10.

In addition to the parking off of Fruit Street and Cedar Street, the Applicant will be leasing 4 off-street parking spaces from Hampton Properties LLC within 1,000 feet of the Property, pursuant to a lease with a term of at least five years, which will comply with the long-term parking lease agreement requirements set forth in Note 2(a) of Table 4.4 of Article IV, Section 7 of the Zoning Ordinance.

In addition to the above relief, the Project previously received building demolition delay waivers and a certificate of appropriateness from the Worcester Historical Commission related to the demolition of the existing garage and exterior renovations.

II. Requirement for Special Permits and Variances.

The Applicant is seeking the grant of special permits from the Board for: (i) extension, alteration, or change of a privileged, nonconforming structure; (ii) the extension, alteration, or change of a privileged, nonconforming use; (iii) multifamily dwelling, low-rise use in the RL-7 zoning district; (iv) modification of parking/loading requirements; and (v) modification of landscaping requirements for parking/loading. In addition, the Applicant is seeking the grant of variances from the Board to provide relief from the minimum frontage and off-street parking requirements.

Article XVI, Section 4.D of the Zoning Ordinance provides that privileged nonconforming structures may be extended, altered, or changed upon the grant of a special permit by the Board. The Building is pre-existing nonconforming with respect to the minimum front yard setback requirement (20 feet required⁵ and 9.4 feet existing/proposed) and minimum rear yard setback requirement (10 feet required and less than 10 feet existing/proposed) and the Project contemplates alterations to the Building, therefore a special permit for such alteration is required from the Board.

The Property also contains a privileged nonconforming parking space which requires backing directly onto Cedar Street, which is prohibited for multifamily uses under Article IV, Section 7.A.3 of the Zoning Ordinance. Given that the parking space was used by Becker College and such parking use was established as part of the educational use and protected by the M.G.L. c. 40A, §3, known as the Dover Amendment, the parking space is a privileged, non-conforming use. The Applicant intends change the principal use served by the parking space

⁵ Article IV, Section 4, Note 4 to Table 4.2 provides that “[o]n a lot where the frontage is on one (1) side of the street between two (2) intersecting streets and is part in a Residence District and part in a Business or Manufacturing District, the front yard depth in the Business or Manufacturing District for a distance of one hundred (100) feet from the district boundary shall not be less than the front yard depth specified for the Residence District.” The Property is split zoned BO-1 and RL-7 and therefore is subject to minimum front yard setback requirement of 20 feet required for multifamily dwelling, low-rise uses which was the previous minimum front yard setback requirement for “other non-residential” uses when the Property was operated by Becker College.

from the previous educational use to a multifamily dwelling, low-rise use. Article XVI, Section 4.C of the Zoning Ordinance provides that privileged nonconforming uses may be extended, altered, or changed upon the grant of special permit by the Board. Therefore, the change of use served by the parking space will require a special permit for extension, alteration, or change of privileged, nonconforming use.

While the Building is located exclusively in the BO-1 zoning district, the existing parking space off of Cedar Street is located in both the BO-1 zoning district and the RL-7 zoning district. Article IV, Section 2, Table 4.1 provides that multifamily dwelling, low-rise uses are permitted by special permit by the Board. Given that the existing parking space is partially located in the RL-7 zoning district and will serve a multifamily dwelling, low-rise use, the continued use of the parking space off of Cedar Street will require a special permit for a multifamily dwelling, low-rise use.

Article IV, Section 7 of the Zoning Ordinance sets forth the parking and loading requirements, including dimensional, design and landscaping requirements. The Project will require a special permit for modification of parking dimensional and layout requirements related to the two curb-cuts (80 feet of frontage is required per curb cut, where only 118 feet is provided), the non-conforming drive aisle (19 feet where 20 feet is required), non-conforming curb cut on Fruit Street (18 feet where 20 feet is required) and parking within 25 feet of the front boundary (parking space off of Cedar Street abuts the front boundary). The Applicant will also require a special permit to provide relief from landscaping design requirements. Specifically, Article V, Section 5.C requires a 5foot wide landscape buffer from parking areas and the Project will not be able to comply due to the location of the Building and the existing and proposed parking areas.

Article IV, Table 4.4 of the Zoning Ordinance provides that multifamily dwelling units require 2 spaces per dwelling unit. Based on the above uses and the off-street parking requirements, the Project will require 14 off-street parking spaces for the Project. As provided above, the Applicant will be installing 3 parking spaces on the Property and leasing an additional 4 parking spaces in close proximity to the Property. Accordingly, the Project will require 7 spaces of relief through a variance from the Board.

Article IV, Table 4.2 of the Zoning Ordinance sets forth the frontage requirement for residential uses in the BO-1.0 district as 40 feet per dwelling unit, not to exceed 200 feet. The Project will provide 7 dwelling units and, therefore, 200 feet of frontage is required for the Project. The Property has approximately 118 feet of frontage along Cedar Street and will therefore require a variance of approximately 82 feet of relief from the Board.

III. Reasons for Approval of Special Permits.

The Project satisfies the special permit criteria as set forth in Article II, Section 6.A.2, Article XVI, Section 4.C and Article XVI, Section 4.D of the Zoning Ordinance for the reasons stated herein:

1. Social, economic or community needs that are served by the proposal; the extension, alteration or change itself complies with the current requirements of the Zoning Ordinance.

The Applicant’s proposed alterations to the Building will serve social, economic and community needs. The Building has remained vacant since the closing of Becker College. The proposed use will allow a historic building to be renovated and restored to productive use. The Project will provide additional housing to support the City’s critical housing stock, which will promote the economic vitality of the neighborhood and the City.

The Project is in conformance with the purposes and intent of the Zoning Ordinance, as it will encourage the most appropriate use of the land in a manner that protects architectural and aesthetic qualities of the community and protects against the uses of land which are incompatible with nearby uses, undue intensity of noise and danger and congestion in travel and transportation. There are no proposed changes to the parking space off of Cedar Street, except the installation of conduit for future EV charging, which will promote more environmentally friendly means of transportation.

2. Traffic flow and safety, including access, parking and loading areas; in residential districts, the use as extended altered or changed shall meet the off-street parking requirements of this Ordinance.

The proposed on site parking and leased parking will be in close proximity to the Building and will adequately serve the Project’s use. The occupants within the Building will have access to parking at the Property in the new parking area located along Fruit Street, the residential driveway off Cedar Street and the leased parking owned by Hampton Properties LLC and Haims Investment Group, Inc. Article IV, Section 7, Table 4.4 of the Zoning Ordinance requires 2 parking spaces per dwelling unit which would generally require a total of 14 parking spaces for the Project. The Building was previously used for educational and administrative uses. While off-street parking for educational institutions is evaluated on a campus wide basis, Article IV, Section 7, Table 4.4 of the Zoning Ordinance provides that educational institutions are generally required to provide 10 parking spaces per classroom. If Becker College only had one classroom in the Building, the minimum off-street parking requirement would be comparable to the Project’s proposed use. It is likely that there were more than one classroom

and additional administrative offices in the Building which would have required more off-street parking than what is required for the Project. Given that students and/or employees were entering the Property on a regular basis throughout the day, the Applicant's proposed use will likely be less intensive than Becker College's former use. Further, the Applicant will be adding 2 parking spaces, not inclusive of the 4 leased parking spaces, which will result in improved parking conditions on the Property. The proposed use will not result in significant increases in traffic, cause congestion, hazard or a substantial change to the neighborhood character. No loading spaces are required for the Project. The Applicant is applying for a variance to provide relief from the remainder of the minimum off-street parking requirements. The grant of the requested relief will allow for a parking ratio of one space per dwelling unit, which is consistent with other multifamily low-rise uses approved in the City.

The Property is located within one-quarter mile of WRTA bus routes #31 (Elm Street), #3 (Highland Street) and #2 (Pleasant Street) which provides alternative options for transportation. Furthermore, the Applicant is proposing covered bicycle parking along Cedar Street which will provide 1 bicycle parking space per unit. Based on the number of parking spaces available surrounding the Property, on site bicycle parking and the close proximity to nearby alternative modes of transportation, the proposed parking will adequately serve the Property and all occupants of the Building.

3. Adequacy of utilities and other public services.

Adequate, existing facilities are available for the Building with respect to sewerage, water, gas, electricity and other utilities.

4. Neighborhood character and social structure; buildings, noise, glare, lighting and signs; the structure or use, as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.

The closing of Becker College caused much uncertainty regarding the future of a large portion of the Elm Park neighborhood and surrounding areas. The former Becker College campus and the other buildings in the neighborhood are primarily residential, offices and institutional uses. The Project will not be detrimental to adjoining premises, but, rather, complement the existing mix of residential and educational/institutional uses in the area. The Project's multifamily residential use will ensure that the character of the neighborhood will be maintained.

The Building was constructed as a Queen Anne architectural style residential/office structure in approximately 1887. The Building is known as the Edwin A. Kelley House, formerly

referred to as the Salter Secretarial School, within the historic area known as the Lincoln Estate – Elm Park Area and the Elm Park Local Historic District. The Project will allow this historic building to be preserved and returned to a residential use.

The footprint of the Building will not be expanded, and the proposed use will have no greater impact on, adversely affect or be detrimental to adjoining premises or zones or the neighborhood. There are no anticipated increases in noise, glare or lighting related to the Project. Based on the foregoing, the proposed use and improvements to the Property in connection therewith will fit into the present character of the neighborhood, and granting this relief will promote an appropriate use of the Property.

5. Impacts on the natural environment.

The Property is outside of the Floodplain and Water Resources Protection Overlay Districts and ecologically sensitive areas, and there are no wetland resource areas on the Property. The Project will result in the reestablishment of the exterior side yard area along Fruit Street which will improve the natural condition at the Property.

6. Potential fiscal impact, including city services needed, tax base, and employment.

Hampton Properties LLC’s acquisition of the Property from Becker College returned the Property to the tax roll and the proposed renovations will likely increase the assessed value of the Property. The Project will improve the economic vitality of the neighborhood and surrounding area by creating new residential units whose residents will patronize restaurants and retail stores in the area.

IV. Reasons for Approval of Variances.

The Project satisfies the variance criteria as set forth in Article II, Section 6.A.3 of the Zoning Ordinance for the reasons stated herein:

1. Describe how a literal enforcement of the provision of the City of Worcester Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

The Applicant would suffer substantial hardship if literal enforcement of the minimum frontage and off-street accessory parking requirements of the Zoning Ordinance were to be enforced. Compliance with the minimum frontage requirement would require the Project to be reduced to only 2 dwelling units or the acquisition of the neighboring property to the west, both of which would make the Project financially infeasible. Similarly, compliance with the off-street

parking requirements would require the Applicant to reduce the number of units to 3 dwelling units, lease additional parking spaces or purchase additional land within 1,000 feet of the Property for parking purposes. The Applicant is not able to lease any additional parking spaces beyond 4 parking spaces due to property owners' needs to serve WPI's students who live in the area. The creation of 7 dwelling units is critical to the intent of the Project and any reduction in the number of units to comply with the minimum parking requirements would make the Project no longer financially viable for the Applicant. Acquisition of land within the 1,000 feet of the Property would each constitute a substantial cost which would also render the Project no longer feasible.

2. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located.

There exist circumstances relating to the shape of the lot that especially affect the Property, but do not affect generally properties in the BO-1 and RL-7 zoning district. Unlike other neighboring properties in the districts, the Building comprises a majority of the lot which limits the amount of area available for off-street parking. The Property is a corner lot and is surrounded in close proximity to other structures making the acquisition of additional land to comply with the frontage requirement impractical.

3. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the City of Worcester Zoning Ordinance.

The requested variance may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance. The existing frontage and proposed off-street parking is similar to other properties in the neighborhood (i.e. limited onsite parking with additional off-street parking off-site). The proposed use will be in a business office/residential district and will be compatible and in harmony with the neighborhood's character and abutting properties as described above. The Project will improve the aesthetic appeal, design and quality of the Property. The Project will promote economic vitality to the neighborhood and the City through the creation of new housing units. The Project is in conformance with the purposes and intent of the Zoning Ordinance, as it will encourage the most appropriate use of the land in a manner that protects architectural and aesthetic qualities of the community and protects against the uses of land which are incompatible with nearby uses, undue intensity of noise and danger and congestion in travel and transportation.

4. **Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship.**

The variances for the minimum frontage and minimum off-street accessory parking requirements as requested herein is no greater than the minimum necessary to provide relief from the statutory hardship.