

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jonathan Kirschenbaum, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: September 6, 2019

SUBJECT: BZA Case 20095 (14 Florida Ave, NW) to permit the subdivision of eight lots into one record lot to construct a new mixed-use building with 24 all affordable dwelling units, neighborhood retail space, and non-profit office space.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following variance relief:

- Loading Requirements, Subtitle C § 901.1, pursuant to Subtitle X § 1000 (1 loading berth minimum required; no loading berth provided).

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- Zoning Boundary Line Crossing a Lot, Subtitle A § 207.2, pursuant to Subtitle X § 901.2 (to extend the use, height, and bulk development standards of the MU-4 zone into the portion of the site zoned RF-1).

The applicant also requested variance relief from Subtitle A § 207.1. OP discussed this relief with the Office of Attorney General (OAG) who confirmed that no relief is necessary from Subtitle A § 207.1 for this case. Accordingly, OP has not provided analysis for this relief as it is not required.

OP has also raised questions with the applicant regarding their calculations for FAR. While OP is very supportive of the provision of new housing units, particularly affordable units and commends the mission of Mi Casa, the applicant should address this issue at or prior to the public hearing. This OP report and recommendation should not be read to address FAR relief that has not been requested.

II. LOCATION AND SITE DESCRIPTION

Address	14 Florida Avenue, NW
Applicant	Mi Casa, Inc.
Legal Description	Square 615, Lots 75, 148, 149, 150, 151, 152, 806, 825
Ward, ANC	5/5E
Zone	RF-1/MU-4
Lot Characteristics	Irregular shaped lot fronting both Q Street, NW and Florida Avenue, NW to the north. The lot is also bounded by a 14.25-foot wide public alley to the east, a 15-foot public alley to the south, and lot with a residential row building to the west.

Existing Development	The subject property is vacant except for lot 158, which has an abandoned two-story row building.
Adjacent Properties	There is a two-story residential row building to the west and a three-story mixed-used building across the 14.25-foot wide public alley to the east.
Surrounding Neighborhood Character	Residential row buildings, ground floor commercial uses, and apartment buildings.
Proposed Development	<p>The applicant proposes to subdivide eight existing lots into one record lot and demolish the existing row building on lot 158. The development site includes 9,569 square feet of lot area in the portion zoned MU-4 and 2,833 square feet of lot area in the portion zoned RF-1.</p> <p>The applicant proposes to construct a four-story plus mezzanine mixed-use building. There would be 24 affordable dwelling units on floors two through four, commercial retail space on the ground floor, and office space on the mezzanine level. Loading would be provided at the corner of the two public alleys in the rear of the property.</p>

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Development Standard	Regulation	Proposed	Relief
Height E § 303.1 & G § 403.1	MU-4: 50 ft. max.	50 ft./4 stories	None required if the zone boundary line extension request is approved
	RF-1: 35 ft. max./3 stories max.		
Lot Width	No requirement	135 ft.	None Required
Lot Area	No requirement	12,402 sq. ft.	None Required
Floor Area Ratio A § 207.2(b) & G § 402.1	RF-1: 2,833 sq. ft. x 0.9 FAR = 2,550 sq. ft. MU-4: 9,569 sq. ft. x 3.0 FAR = 28,707 sq. ft. Combined: 2.52 FAR max. 31,257 sq. ft. floor area max. ¹	3.0 FAR/ 37,206 sq. ft. ²	May be non-conforming
Lot Occupancy E § 304.1 & G § 404.1	MU-4: 75% max. RF-1: 40% max.	75%	None required if the zone boundary line extension request is approved

¹ OP's interpretation of the relevant sections, consistent with how the provision has been generally applied.

² Applicant's interpretation of the relevant sections – to apply the 3.0 FAR available in the MU-4 zone to the entire site, including the RF-1 zoned portion.

Development Standard	Regulation	Proposed	Relief
Rear Yard E § 306.1 & G § 405.2	MU-4: 15 ft. min. RF-1: 20 ft. min	15 ft.	None required if the zone boundary line extension request is approved
Parking C § 701.5	1 per 3 dwelling units in excess of 4 = 7 parking spaces	11 parking spaces ³	None required
	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft. = 5 parking spaces		
	0.5 per 1,000 sq. ft in excess of 3,000 sq. ft. = 0 parking spaces ⁴		
Loading Berth Requirements C § 901.1	Retail space between 5,000 sq. ft. and 20,000 sq. ft. of gross floor area requires 1 loading berth	None	Variance relief: 1 loading berth

IV. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from Subtitle C § 901.1, Loading Berth Requirements.

i. Exceptional Situation Resulting in a Practical Difficulty

The applicant was awarded through a District of Columbia Department of Housing and Community Development (DHCD) solicitation process the right to develop the subject property. The solicitation required the provision of affordable housing and gave preference to projects with a retail component. As part of the award, the applicant agreed to construct a mixed-used building with 24 affordable dwelling units, retail space at the ground floor, and non-profit office space on the mezzanine level. This programmatic need to adhere to DHCD’s requirements presents an exceptional situation that would result in practical difficulty if the applicant were required to fully comply with loading berth requirement.

The applicant states that if the loading berth were to be provided, a substantial amount of floor space would have to be removed from the ground floor retail level and the non-profit office space on the mezzanine level. The applicant states that if the retail and office space were reduced to accommodate a loading berth it would make it difficult for the applicant to obtain financing for the project. This is because the size of the retail and office space as proposed would help finance the construction of the affordable housing units.

ii. No Substantial Detriment to the Public Good

The proposal would not be a detriment to the public good as the building would provide a loading area in the rear yard measuring 12 feet in width by 24 feet in length. This would provide a loading area with direct access to the retail space. According to the applicant, the proposed retail space would be rented by neighborhood serving tenants that would

³ The applicant is permitted to reduce the parking requirement by 50 percent if the site is located within 0.25 miles of a Priority Corridor Network for Metrobus.

⁴ The applicant stated that 3 parking spaces would be required for the office space on page 5 of Exhibit 32B. However, no parking spaces are required because the office space is not in excess of 3,000 sq. ft.

mostly likely have reduced loading needs. The provided loading area should be able to accommodate smaller trucks serving the retail tenants.

iii. No Substantial Harm to the Zoning Regulations

The intent of the loading berth requirement is to ensure that there is adequate loading area on a property and to ensure that use of the public right-of-way is not impaired by loading and unloading activities. In this case, the applicant would provide a loading area in the rear yard, which would be accessed by the public alley on the square. The applicant also states that expected neighborhood serving retail tenants combined with a narrow public alley system on the square would encourage the use of smaller trucks.

b. Special Exception Relief from Subtitle A § 207.2, Zone Boundary Line Crossing a Lot.

If approved by the Board of Zoning Adjustment as a special exception under Subtitle X, the regulations applicable to that portion of a lot located in a lesser restrictive use zone that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone; provided:

- a) *The extension shall be limited to that portion of the lot in the more restrictive use zone but not exceeding thirty-five feet (35 ft.);*

The applicant requests to extend the use, height, and bulk development standards of the less restrictive MU-4 zone 28 feet into the more restrictive RF-1 zone (Exhibit 6).

- b) *In authorizing an extension, the Board of Zoning Adjustment shall require compliance with Subtitle A § 207.1(d);*

The above referenced section reads as follows:

For computation purposes...any portion of the lot located in an RF-1, RF-2, or RF-3 zone shall be deemed to be limited to an FAR of 0.9.

The applicant states that this section does not apply because the MU-4 development standards are being extended over the RF-1 zoned portion of the development site resulting in a proposed FAR of 3.0, calculated on the area of the entire lot, including both the MU-4 and the RF-1 zoned portions of the lot.

While it appears that this provision has not been entirely consistently interpreted or applied over time, this does not appear to be consistent with how of Subtitle A § 207.2(b) has generally been interpreted. OP's reading is that this section does not allow the MU-4 FAR to be applied to the RF-1 portion of the site. Rather, Subtitle A § 207.1(d) specifically assigns an FAR of 0.9 for the RF-1 portion of the lot (since RF-1 does not otherwise have an FAR limit). Typically, a blended FAR is calculated that uses both the RF-1 (0.9) and MU-4 (3.0) FAR standards based on the land area for the portion of the development site located in each respective zone. Using this calculation, the total permitted FAR for the development site would be 2.52 (see above zoning chart for calculation), which may be utilized anywhere on the development site.

OP has raised this issue with both the applicant and with the Zoning Administrator for clarification, and to date has not received a response. The applicant should provide additional clarification prior to the public hearing.

- c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and*

The neighborhood is characterized by a mixture of apartment buildings, residential row buildings, gas stations, and ground floor commercial uses. Directly to the west, on Q Street NW, are two story rowhouses; directly to the east of the development site is a three-story mixed-use building. To the west, across the street from the development site on Florida Avenue, NW, are four and five story apartment buildings mixed in with rowhouses. Further, the proposed building would front on the intersection of where Q Street, NW and Florida Avenue, NE intersect. As a result, the right of way is significantly wide and would be able to accommodate the additional height and bulk proposed for the portion of the development site within the RF-1 zone.

The proposed building would also have bay window projections that would harmonize with the bay windows existing on the residential row buildings on Q Street, NW. The height of the building on the northwestern portion of the development site adjacent to the residential row buildings would be also be set back from the front of the building. Further, the entrance to the commercial retail space would be located furthest away from the residential row buildings and would be located entirely within the MU-4 zone.

- d) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.*

OP does not have any recommendations pursuant to this subsection.

V. COMMENTS OF OTHER DISTRICT AGENCIES

No comments from other district agencies were entered into the record as of the date of this report being filed.

VI. COMMUNITY COMMENTS TO DATE

No comments from the ANC or members of the community had been entered into the record at the time this report was filed.

