

Before the District of Columbia
Board of Zoning Adjustment

Application of Florida Avenue Residential, LLC
710 Florida Avenue, NW
(Square 416, Lot 31)

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Preliminary Statement of Compliance with Burden of Proof

I. Background

Florida Avenue Residential, LLC ("Applicant"), an affiliate of The JBG Companies, proposes to construct two related mixed use projects along the southern side of Florida Avenue between 7th and 9th Streets NW, one on the northwest portion of Square 416 (this project), the other on the northern portion of Square 393 (which runs from 8th to 9th Street, N.W., and is situated to the immediate west of Square 416). The project on Square 416 would consist of a ground floor devoted to retail and services uses, with five floors of residential above, and parking below the ground floor. The entire property is zoned Arts/C-2-B and falls within the boundaries of the U Street Historic District.

II. Variance Relief Requested

A. Nature of Relief

1. *Lot Occupancy* (§ 772.1) – the residential portion of the project may occupy no more than 80 percent of the lot. Here, the Applicant proposes for the residential project to occupy 90 percent of the lot.

2. *Rear Yard* (§ 774.1) – the Applicant is required to provide a rear yard depth of at least 15 feet. The Applicant does not propose to provide any rear yard.

3. *Number of Parking Spaces* (§ 2101.1) -- the Applicant is required to provide 9 spaces for the retail uses and 32 space for the residential uses, for a total of 41 spaces. Instead, because of the development constraints inherent in the property, only 29 spaces will be provided.

4. *Loading Facilities* (§ 2201.1) – the retail uses of the property required one 30-foot loading berth and one 100 square foot platform. The Applicant proposes to provide only the loading berth. With respect to the residential uses, the regulations require one 55-foot loading berth, one 200 square foot platform, and one 20-foot loading space. Instead, the Applicant will only provide the platform and loading space.

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B. Burden of Proof

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

1. *Exceptional Condition or Situation*

The property is constrained by Metrorail tunnels, related air-handling equipment and the Metrorail "zone of influence" adjacent to the site; its irregular shape based on the diagonal of Florida Avenue intersecting with 8th Street, N.W.; and the narrowness of the site's northern public sidewalk, which does not comply with prevailing streetscape standards.

2. *Resulting Practical Difficulty*

Because of the exceptional conditions and situations inherent in the property, and the Metrorail zone of influence in particular, the Applicant is unable to excavate enough below grade space to provide the requisite number of parking spaces. These constraints also limit the ability to provide the required loading facilities. If the Applicant were required to meet the strict application of the parking and loading requirements, the ground floor retail space would be significantly compromised and the number of residential units would have to be reduced. Similarly, compliance with the lot occupancy and rear yard requirements would also greatly restrict the retail and residential uses. The site is a corner lot and thus the required rear yard would apply to the lot's eastern or southern edges, depending on which face of the lot is determined to be the "front," either of which would impose additional site constraints that thwart overall public and project objectives to develop residential units for occupancy. The lot occupancy relief is necessary in order to accommodate design guidance from the Historic Preservation Office while producing the same amount of housing and maintaining the viability of the project. Strict compliance with these provisions of the zoning regulations would run counter to the goals of the city to increase housing opportunities and allow developers to avail themselves of the bonus density to provide preferred retail uses and affordable housing.

3. *No Harm to Public Good or Zone Plan*

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. With respect to the public good, the replacement of a vacant lot with a new residential building in the Florida Avenue corridor will provide a significant contribution to the community.

The zone plan will not be compromised, as the proposed project will include sufficient parking and loading facilities that are adequate to serve the needs of the prospective residents and tenants of the new building, given the site's close proximity to public transportation. The property is within several blocks of the U Street-Cardoza Metrorail Station and can also be accessed by several Metrobus lines.

IV. Special Exception Relief

A. *Roof Structure (§ 770.6)* – Housing for mechanical equipment or a stairway or elevator penthouse on the roof of a building or structure must be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located. Additionally, the enclosing walls from the roof level must be of equal height. Here, in order to minimize the size and visibility of the roof structures, the Applicant will house the stairway enclosures separately from the communal recreation space on the roof. The surrounding walls of the penthouses will be of quality material to integrate them into the overall design of the building. Thus, the penthouse will still meet the spirit and intent of the Zoning Regulations.

B. *Streetwall Requirement (§ 1903.3)* – Each new building on Florida Avenue between 7th and 9th Streets must be designed so that not less than 75 percent of the streetwall is built to the property line. Here, the Applicant proposes to set back the streetwall at the ground floor level only approximately five feet to ensure that the public sidewalk's width complies with applicable streetscape standards of the District's Department of Transportation ("DDOT") DUKE Plan. The expansion of the sidewalk will not adversely affect neighboring properties or be detrimental to the health, safety, convenience, or general welfare of the public. Rather, it will greatly enhance the safety of pedestrians by increasing the sidewalk width along Florida Avenue, which presently is extremely narrow at only ten feet wide. This existing exceptional circumstance warrants a deviation from the streetwall requirements. The resulting architectural treatment of the ground floor retail area will be greatly enhanced with this setback, and has been well-received by the Historic Preservation Office. The Historic Preservation Review Board is scheduled to review the design at its March 22, 2012, meeting.

Conclusion

Pursuant to section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. Through the Applicant's written statement, and through testimony and evidence presented at the public hearing, the Applicant will demonstrate how it meets its burden of proof to obtain the Board's approval of the requested relief.