

Before the District of Columbia
Board of Zoning Adjustment

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Application of Florida Avenue Residential, LLC
800 Florida Avenue, NW
(Square 393, Lots 41, 44, 45, 46 and 826)

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 northern portion of Square 393 (this project, which runs from 8th to 9th Street N.W.), and the other on the northwest portion of Square 416 (which is situated to the immediate east of Square 393). An application for the project in Square 416 was recently submitted to the Board of Zoning Adjustment for zoning relief in BZA Case No. 18375, which is tentatively scheduled for a hearing on July 10, 2012.

The project on Square 393 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 site is presently divided by a ten foot wide public alley running south from Florida Avenue. This alley will be officially closed but replaced with larger public access easement from 9th Street that will be 20 feet wide. Historic buildings located at 1933-35 9th Street, N.W., will be relocated to the south to accommodate the private access easement. 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. *Number of Parking Spaces* (§ 2101.1) – the Applicant is required to provide 27 spaces for the retail uses and 55 spaces for the residential uses, for a total of 82 spaces. Instead, because of the development constraints inherent in the property, only 69 spaces will be provided.

3. *Loading Facilities* (§ 2201.1) – the retail uses of the property require two 30-foot loading berths, two 100 square foot platforms, and a 20-foot loading space. The Applicant proposes to provide only one 30-foot loading berth, one 100-square foot platform and the 20-foot loading space. 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

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proposes to share the loading facilities with the retail uses and provide one 200 square foot platform.

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) the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) 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 and 9th Streets, N.W.; the two historic resources, which contribute to the U Street Historic District and must be retained and incorporated into the development; 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 requirement would also greatly restrict the retail and residential uses. The lot occupancy relief is necessary in order to accommodate design guidance from the Historic Preservation Office and protection of the historic buildings, 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 three blocks of the U Street-Cardoza and the Shaw-Howard University
Metrorail Station and can also be accessed by several Metrobus lines.

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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 in one enclosure and 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 approximately six feet to ensure that the public sidewalk's width complies with applicable streetscape standards of the District's Department of Transportation ("DDOT") Design and Engineering Manual and the Public Design Realm 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 for a commercial street 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 endorsed the overall design direction of the project at its March 22, 2012, meeting, and the Applicant will return to HPRB for further refinements in May.

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.