

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

Application for 2720 Ontario Road, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by Jubilee Housing, Inc., (the "Applicant") the owner of property located at 2720 Ontario Road, N.W., Square 2580, Lot 420 (the "Site"), in support of its application pursuant to 11 DCMR § 3104.1 for a special exception from the requirements of 11 DCMR §§ 357, 358.2-358.7 and 358.9 to establish an Adult Rehabilitation Home for ten women in the existing building in the R-5-B District at the Site.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its prehearing statement with the Board no fewer than 14 days prior to the public hearing date. In that statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

I. Background

Founded in 1973, Jubilee Housing, Inc. is a non-profit organization that provides safe, affordable housing options and supportive services for low-income citizens in the Adams Morgan neighborhood of Washington, D.C. Jubilee currently supports more than 700 individuals and families as they pursue financial independence, and is a model for programs around the country seeking effective responses to the urban affordable housing crisis. One of Jubilee's primary programs is the Reentry Housing Initiative, which is specifically aimed to support adults recently returning to the community after time in jail or prison. The Site is one location which Jubilee has specifically designated for this initiative.

The Site consists of Lot 420 in Square 2580. Square 2580 is bounded by Ontario Road, N.W. to the northeast, Columbia Road, N.W. to the southeast, Adams Mill Road, N.W. to the southwest, and Lanier Place, N.W. to the west and northwest. The Site is located on the south/west side of Ontario Road, south of Ontario Road's intersection with Lanier Place, and is improved with a three-story row structure. The existing building is used by Jubilee as a boarding house¹ for the Reentry Housing Initiative. Boarding house use is permitted as a matter of right in the R-5-B district. The Site includes 1,868 square feet of land area.

¹ Section §199.1 of the Zoning Regulations defines Boarding House as "a building or part thereof that provides for compensation, meals or lodging and meals to three (3) or more guests on a monthly or longer basis. The term "boarding house" shall not be interpreted to include an establishment known or defined in this title as a hotel, motel, inn, bed and breakfast, private club, tourist home, guest home, or other transient accommodation."

The Applicant purchased and renovated the Site in 2010 and completed renovations in 2013, and has since been using the building as a boarding house for female residents. The building contains five bedrooms and accommodates a total of ten residents. The building has shared common facilities, including bathrooms, a living room, and a kitchen. In addition, there is a separate studio unit for a resident manager. In compliance with the boarding house requirements, Jubilee only admits persons who will reside in the house on at least a monthly basis; it is not a residence for people who need housing for only a short term of less than a month. Jubilee requires that the residents find and hold a job, and expects that most residents will be off-Site during most of the day. As residents stabilize, they become eligible to move into Jubilee apartments in the neighborhood.

II. Relief Requested

Despite Jubilee's efforts, it has found it difficult to identify a sufficient supply of eligible residents to fill the Site. The primary challenge is that the use of the Site as a boarding house prohibits individuals who are on court supervised release. However, Jubilee has recently found that the vast majority of people being released from prison-- the exact type of individuals that Jubilee is trying to reach with its Reentry Housing Initiative-- are on court supervised release. In order to permit individuals under court supervision to become residents of the Site and participate in Jubilee's Reentry Housing Initiative, Jubilee is seeking a special exception to designate the Site as an adult rehabilitation home instead of a boarding house. An adult rehabilitation home, defined by section 199.1 of the Zoning Regulations is a "facility providing residential care for one (1) or more individuals sixteen (16) years of age or older who are charged by the United States Attorney with a felony offense, or any individual twenty-one (21) years of age or older, under pre-trial detention or sentenced court orders."² Thus, if the Site was designated for adult rehabilitation home use instead of boarding house use, the Applicant would be able to accommodate a wider range of individuals in need of its facilities and services.

² An adult rehabilitation home is one category under the broader use definition of Community Based Residential Facility, which is defined in 11 DCMR § 199.1 as

"[a] residential facility for persons who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living. This definition includes, but is not limited to, facilities covered by the Community Residence Facilities Licensure Act of 1977, effective October 27, 1977 (D.C. Law 2-35; 24 DCR 4056) (repealed by District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48, as amended; D.C. Official Code §§ 44-501 to 44-509 (formerly codified at D.C. Code §§ 32-1301 to 32-1309 (1998 Repl. & 1999 Supp.))), and facilities formerly known as convalescent or nursing home, residential halfway house or social service center, philanthropic or eleemosynary institution, and personal care home.

"If an establishment is a community-based residential facility as defined in this section, it shall not be deemed to constitute any other use permitted under the authority of these regulations. A community-based residential facility may include separate living quarters for resident supervisors and their families. All community-based residential facilities shall be included in one (1) or more of the following subcategories: . . . (a) Adult rehabilitation home."

II. The Applicant Meets The Burden Of Proof For The Requested Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested 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 regulations." *Gladden v. District of Columbia Board of Zoning Adjustment*, 659 A.2d 249, 255 (D.C. 1995) (quoting *Stewart v. District of Columbia Board 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.*

Under section 357.1 of the Zoning Regulations, the Board may grant special exception relief to permit an adult rehabilitation home in an R-5 District for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of §§ 358.2 through 358.7 and 358.9.

A. Section 358.2

There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.

There is no other property within Square 2580 that contains a community-based residential facility for seven or more persons.

B. Section 358.3

There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property.

There is no other property within 500 feet of the Site that contains a community-based residential facility for seven or more persons.

C. Section 358.4

There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

The Site provides adequate off-street parking for the needs of the facility's occupants, employees, and visitors. There are currently two off-street parking spaces at the rear of the Site, which will be used by the resident manager and occasional visitors. However, the building's residents are not permitted to have cars, and the majority of employees and visitors to the Site either live or work in the Adams Morgan neighborhood, and therefore do not need a car to travel to the Site.

D. Section 358.5

The proposed facility shall meet all applicable code and licensing requirements.

Adult rehabilitation homes do not require a license from the D.C. Department of Consumer and Regulatory Affairs. The Site will otherwise meet all applicable code requirements.

E. Section 358.6

The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

The facility will not have an adverse impact on the neighborhood. Residents in the building will not own cars and visitors and employees are expected to access the Site by foot, thus eliminating any adverse impacts on the neighborhood's traffic congestion. Noise and other operations will also not have an adverse impact because of Jubilee's extensive list of house rules for the Site, which include quiet hours at 10:00pm, limitations on overnight guests, and prohibitions against smoking, drug and/or alcohol use, and the possession of weapons and/or firearms. Program residents are required to sign a form acknowledging their commitment to complying with the rules. If rules are violated, residents are dismissed from the program.

In addition, the facility will not have a cumulative adverse impact on the neighborhood because there are no similar facilities within Square 2580 or within 500 feet of the Site.

F. Section 358.7

The Board may approve more than one community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

As described above, there are no other community-based residential facilities in Square 2580 or within 500 feet of the Site.

G. Section 358.9

The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

The Applicant will work with the Office of Planning for review and approval of the proposed use on the Site.