



SUPPLEMENTAL REPORT

TO: District of Columbia Board of Zoning Adjustment

FROM: Megan Rappolt, Case Manager

Joel Joel Lawson, Associate Director Development Review

DATE: February 2, 2015

SUBJECT: **BZA Case 18891 – OP Supplemental Report** regarding a request for special exception and variance relief, including FAR relief for a new six-story apartment building with ground floor retail proposed on property located at 1401 Florida Avenue NE

SUPPLEMENTAL ANALYSIS of REQUESTED FAR RELIEF

The Office of Planning (“OP”) continues to **not support** the Applicant’s request for floor area ratio (“FAR”) relief, to allow an additional FAR of at least 0.4. While OP remains highly supportive of efforts to provide appropriately-scaled new development on corridors such as H Street and Florida Avenue, the Applicant’s argument for practical difficulty in meeting the FAR regulation does not meet the required variance test, particularly for a new building on a razed site.

The Applicant submitted an amended pre-hearing statement late in the day on January 29, 2015, two working days prior to the continued BZA hearing. OP has had limited time to review the additional submission. However, the submission attempts to provide a general level of additional justification to address concerns regarding the requested relief which includes: 1) core factor issues and; 2) examples where previous applications have been granted relief from FAR by the BZA.

- 1) OP does not in this case accept the core factor analysis as justification to warrant bonus FAR of 0.4, or 2,659 square feet. Typically, in past cases when core factor has been considered as part of justification for bonus/additional FAR, there is an existing building or historic structure that is part of the project, which would warrant a closer examination regarding how the core affects the distribution of floor area in a retrofit; and /or the site is on an extremely small or unconventional lot. In this case, the Applicant is constructing a new building, so the retrofitting of internal space is not a factor as no part of the existing structures are planned to remain. Nor does OP believe that the site is so unique or unusual that it results in a practical difficulty in providing a building of a conforming scale with a reasonable service core. While OP understands the desire for a lower core factor, it is the responsibility of the Applicant to design an efficient and cost effective building. The large number of buildings designed and constructed on a variety of sites that meet the applicable FAR regulations indicates that this should be possible on this site.
- 2) Past cases cited by the Applicant which included FAR relief do not appear to be relevant or convincing, as many (unlike the proposal) included existing, small-scale buildings, and some are located in historic districts – both of which are factors which might warrant justification for some FAR relief. Most importantly, past cases do not set a precedent for current BZA action. A past BZA decision should be not considered as constituting a “new normal” as this Applicant seems to be arguing. The question is not whether the BZA has the authority to consider this kind of relief (it does), the question is whether the applicant in this case has met the mandated burden of proof.

Requests for FAR relief are relatively rare - the level of justification is very high as this form of relief can be considered tantamount to a rezoning of the property. There exists a zoning mechanism to allow for the level of additional density the Applicant seeks through the preservation of existing building facades, consistent with planning for the H Street NE corridor. The Applicant has made the choice to not pursue that option, but instead to request FAR relief with no relevant justification and without adequately addressing the variance test.

