

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

**Application of
Greenway Apartments L.P.
Square 5410, Lot 800**

**BZA Application No. 18972
ANC7F, SMD06**

PREHEARING STATEMENT OF THE APPLICANT

This prehearing statement is submitted in support of an application (“**Application**”) for Board of Zoning Adjustment (“**BZA**” or “**Board**”) approval by Greenway Apartments L.P. (the “**Applicant**”), by the Applicant’s attorneys, Greenstein DeLorme & Luchs, P.C., by John Patrick Brown, Jr., Esq. and Kate M. Olson, Esq. This Application seeks the Board’s special exception review and variance relief, pursuant to the District of Columbia’s Zoning Regulations, 11 DCMR §§ 353, 3104.1 and 3103.2, to construct the proposed Meadow Green Courts Senior Housing Project (the “**Project**”) at 3605-3615 Minnesota Avenue, SE (Square 5410, Lot 800) (the “**Property**”) in the R-5-A zone district. See Exhibit A, Zone Map.

I. NATURE OF RELIEF SOUGHT

The Applicant seeks, pursuant to 11 DCMR §§ 3104.1 and 3103.2, a special exception under § 353 and a variance from loading under § 2201.1, to construct a new residential development consisting of 60 multifamily rental housing units for seniors.¹

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the requested special exception relief pursuant to §§ 3103.2 and 3104.1 of the Zoning Regulations.

¹ The Application originally requested approval for 72 senior housing units, but the Applicant has unilaterally reduced the number of units to 60 as shown on the attached revised plans.

III. DESCRIPTION OF THE PROPERTY AND THE SURROUNDING AREA

The Property, with a lot area of 37,543 square feet, is located within the Fort Dupont Park neighborhood of southeast DC (Ward 7) and is bordered by Minnesota Avenue to the west and B Street to the south and Anacostia Road to the east. See Exhibit B, Surveyor's Plat. The Benning Road Metro Station, servicing the Silver and Blue lines, is approximately one mile to the east on East Capitol Street. There is an approximate 10 ft. grade change on the Property. From the center of the Property (95 ft. elevation) the grade reduces to approximately 85 ft. along Minnesota Avenue (west) and approximately 85 ft. along B Street (south). See Exhibit C, Survey and Grading Plan. The Property is currently accessible by one existing curb cut from Anacostia Road, which will be used to access the proposed parking for the Project.

The Project, located on the east side of Minnesota Avenue, is the first phase of a multi-phase project that will result in the total redevelopment of Meadow Green Courts (currently consisting of 462 units in 53 buildings). The Applicant is preparing a planned unit development application for the adjacent (on the west side of Minnesota Avenue) Meadow Green Courts Apartments properties located on Squares 5411, 5412, 5413 and 5413N. See Exhibit D, Area Map showing how the Project, which is the subject of this Application, relates to the future phases of the redevelopment.

IV. BACKGROUND ON THE DEVELOPER

The Applicant is Greenway Apartments L.P., the owner of the property since 1996. The general partner is Greenway Development L.P., the managing partner of which is Greenway Development, LLC. The managing member of Greenway Development, LLC is Thomas P. Gallagher. Mr. Gallagher is a member of E&G Group, LLC along with James H. Edmondson. E&G Group is taking the lead in submitting this application and Mr. Edmondson is authorized to

appear on behalf of the Applicant at the public hearing. E&G Group and its affiliates through single purpose entities, which it and its principals control, own approximately 2000 affordable apartments in the District of Columbia. These apartment properties include multiple properties financed with low-income housing tax credits and other affordable housing programs, both local and federally financed.

V. EXISTING AND INTENDED USE

The Property is currently improved with three brick apartment buildings all constructed in 1941² and 18 parking spaces. Each building consists of three stories for a total of 9,720 gsf. See Exhibit E, Photos. These buildings contain 26 apartment units (two of which are currently elderly households) and will be razed to make room for the proposed first phase of a larger development. The existing buildings are part of the Meadow Green Courts Apartments development which contains a total of 53 buildings. The Applicant proposes to develop the Property with a three-story, 60 unit rental apartment building for senior citizens, as shown on the attached plans (“**Plans**”). See Exhibit F. The Project will consist of 60 affordable housing rental units. The Project will provide 12 parking spaces.

VI. DESCRIPTION OF THE PROJECT

A. Senior Citizen Apartment Building

The Applicant proposes a rental Apartment Building for Seniors (“**Apartment Building**”) consisting of 40,546 gross square feet. The three-story Apartment Building will consist of 60 rental units, with a minimum of 54 rental units at or below 60% AMI, including units for special needs residents which will be eligible for rental subsidies and supportive services. The apartment unit mix will consist of:

² Until 1997 the Property also included a fourth three-story brick apartment building located where the current parking lot exists. See Exhibit C Survey showing the location of the razed apartment building on “Lot 2”.

Number of Apartment Units	Type of Unit	Size
8	Efficiency	450 sq. ft.
45	One-Bedroom	550 sq. ft.
7	Two-Bedroom	825 sq. ft.

There will be a surface parking lot consisting of 12 parking spaces and 4 bicycle spaces for residents, staff, caregivers and other visitors. The surface parking lot will be accessed via the existing curb cut off of Anacostia Road. See Exhibit F, Plans.

The design of the Apartment Building will be inviting to, and connected with, the surrounding community. The main entrance overlooks the prominent corner of Minnesota Avenue and B Street, served by curvilinear stairs that gently ascend the change in grade. Existing ornamental fencing between the Apartment Building and the existing single family neighbors, to the rear, will remain in place. No other fencing will be provided on the Property.

High quality long-lasting building materials that are consistent with the surrounding community and convey a residential scale will be used. Alternating bays of brick and siding in color palettes inspired by the context form a rhythm above a strongly-articulated water table. The attention to landscaping and exterior finishes will greatly improve the current curb appeal of the Project. The Applicant will integrate the designs of this first phase into the product and styles of the remaining phases. The proposed redevelopment will add value to the properties across the neighborhood.

The proposed Apartment Building will be in compliance with the zoning requirements as set out in the chart below. The Applicant requests a variance to reduce the size of both the loading berth and loading platform and to eliminate the requirement for a loading service space.

B. Zoning Requirements

Lot Area = 37,543

Total FAR (1st, 2nd and 3rd floors) = 40,546

60 Units

	R-5-A Matter-of-Right	Proposed	Relief
Height (§400.1)	40 ft./3 stories	40 ft./3 stories	None
Lot Area (§401.3)	Per BZA	Existing	None
Lot Width (§401.3)	Per BZA	Existing	None
FAR (§402.4)	0.9 (1.08 w/IZ bonus density) ³ 33,789 sf. (40,546 sf. maximum)	1.08	None
Lot Occupancy (§403.2)	40% (15,017 sf. maximum)	40%	None
Rear Yard (§404.1)	20 feet	20'	None
Side Yard (§405.9)	3 inches per foot of height of building, but not less than 8 feet	10'	None
Senior Parking⁴ (§2101.1)	1 for each 6 dwelling units (apartment) (10 minimum)	12	None
Bicycle Spaces (§2119.1)	N/A	4	N/A
Loading (§2201.1)	<u>Loading Berth:</u> 1 @ 55 ft. deep <u>Loading Platform:</u> 1 @ 200 sq. ft. <u>Service Delivery Space:</u> 1 @ 20 ft. deep	1 @ 30 ft. deep 1 @ 100 sf. ft. Not provided	25 ft. 100 sq. ft. 1 @ 20 ft. deep

³ Pursuant to Chapter 26 of the Zoning Regulations regarding “Inclusionary Zoning” (affordability requirements).

⁴ As determined by the Zoning Administrator, the Apartment Building constitutes “publicly assisted housing reserved for the elderly and/or handicapped” under 11 DCMR §2101.1 and is required to provide one (1) off-street parking space for each six (6) dwelling units.

	R-5-A Matter-of-Right	Proposed	Relief
Court, Open (§406.1)	4 inches per ft. of height of court but not less than 10 ft.	3 Open Courts	None
Court, Closed (§406.1)	<u>Width</u> : 4 inches per ft. of height of court but not less than 15 ft. <u>Area</u> : Twice the square of the required width of court dimension based on the height of the court, but not less than 350 sq. ft.	N/A	N/A
Inclusionary Zoning (§2602.3(f), 2602.7)	Exempt under Section 2602.3(f) but subject to Section 2602.7	54 units at or below 60% AMI	None
Pervious Surface (§412.3)	N/A	N/A	N/A
Surface Parking Lots Landscaping Standards (§2111.1)	Surface parking areas with ten (10) or more parking spaces shall conform to the landscaping, tree canopy cover, screening, and lighting requirements as set forth in §2111.1	10% of parking lot will be shaded	None
Green Area Ratio (§3400)	0.40	0.40	None

C. Financing and Eligibility

The Project will be financed through the low-income housing tax credit program under Section 42 of the Internal Revenue Code. Under the proposed financing, the D.C. Housing Finance Agency (“**DCHFA**”) will issue private activity tax-exempt bonds accompanied by 4% tax credits. In addition, the Applicant will seek and use subordinate debt funding from the Department of Housing and Community Development (“**DHCD**”). In conjunction with the D.C. financing, at least 90% of the units (54) will be occupied by qualified senior citizens and their households, and certain units will be set aside for “special needs” residents who will receive rental subsidies from the D.C. Housing Authority and supportive services from the Department of Behavioral Health.

D. Amenities

The Apartment Building includes several attractive amenities for its senior residents including: multipurpose community room, lounge, fitness room, library, media/game room, and two green roof terraces. The landscaped terraces will have container planters and garden hoses will be provided for the residents' use to grow their own herbs and vegetables. As the Meadow Green Courts Apartments, of which the proposed site is a part, are redeveloped, additional amenities from that larger project will be made available to the residents of this Apartment Building.

E. Relocation Plan for Existing Tenants

The Applicant is working very closely with the 26 households at the Property. The residents have played a central role in developing the vision for the community. As mentioned above, this is the first phase of a multi-phased project to redevelop all of Meadow Green Courts. See Exhibit D, Area Map. The entire community is composed of 462 apartments in 53 buildings. The Applicant will offer on-site relocation, at the Applicant's cost, to all residents of this first phase. Since this first phase only consists of 26 units, the Applicant can easily accommodate all residents on-site in currently vacant units. For those who wish to move away from Meadow Green Courts, the Applicant will offer relocation to its other communities in Washington DC. The Applicant has already begun to meet with residents living in the 26 units even though the first moves will not occur for over a year.

In addition, each household will have the opportunity to enter in a voluntary agreement which will describe the overall project and the obligations between the Applicant and households.

VII. THE APPLICATION MEETS THE REQUIREMENTS FOR A SPECIAL EXCEPTION UNDER § § 353 and 3104

The Project is in harmony with the intent and purposes of the Zoning Regulations and is generally consistent with the requirements of §§ 353 and 3104.1.

A. The Application is in Harmony with the General Purpose and Intent of the Zoning Regulations.

The main purpose of § 353 is to minimize any adverse impact on surrounding properties which may occur as a result of the Project. Accordingly, the Project has been thoughtfully designed to ensure the Project will not adversely affect the neighboring property owners of the greater community.

1. The Area Schools can Accommodate the Number of Students Expected to Reside in the Project.

The Apartment Building population will consist of seniors and will therefore not contribute or contribute only minimally to the number of students in the area. However, if children live with these seniors, the closest public schools are: Kimball Elementary School, Sousa Middle School and Eastern High School. The Applicant believes that these schools can easily absorb any students from the Apartment Building.

2. The Public Street, Recreation and Other Services are Adequate to Accommodate the Residents of the Project.

Minnesota Avenue and B Street are major thoroughfares which feed into East Capitol Street. As established by the traffic assessment, these streets are adequate for additional vehicular traffic that the Project will generate. The Property is currently accessible via an existing curb cut off of Anacostia Road. The Project proposes to keep the curb cut in place. The Applicant retained Symmetra Design as the transportation consultant and the consultant undertook a transportation assessment (“**Transportation Assessment**”) to confirm that the

proposed Project will not have a detrimental effect on existing traffic patterns. See Exhibit G, Transportation Assessment.

Utilities are available at the site. A new tap will be made into the existing 8" water line in B Street and the 10" sewer line in B Street. Overhead power lines exist on our side of the street along Minnesota Ave and B Street, and across the street along Anacostia Road. A pad-mounted transformer will be provided for new electrical service (location to be coordinated with PEPCO). Gas is available under the sidewalk along Anacostia Road and Minnesota Avenue.

In addition to the terrace, community room, fitness room, library, and game room, the Project is located within several blocks of Fort Chaplin Park and Fort Dupont Park. These recreation areas provide substantial outlets for residents of the Project for recreation and community services.

3. The Site Plan, Arrangement of Buildings and Provisions of Light, Air, Parking, Recreation, Landscaping and Grading are Appropriate.

The Apartment Building will be situated on the Project site so as to maximize the residents' light and air. The Apartment Building fronts on Minnesota Avenue and B Street and has been sited so as to give the maximum light and air to the residents.

The Apartment Building will have a substantial landscaped courtyard at the rear. Exhibit H, Landscape Plan. Foundation plantings will be added at entrances and visual focal points. Low shrubs will be provided around the parking area, and some trees to shade a portion of the parking lot. Street trees exist along Minnesota and will be enhanced along B Street and Anacostia Road. Container plantings, including gardening containers for residents will be provided on accessible green roof areas. The proposed landscaping will help the Project attain a minimum 0.40 green area ratio score. The Project site accommodates a combination of green spaces, permeable paving and a green roof, as shown on the attached Landscaping Plan, to obtain

the final score. See Exhibit H. The Applicant will comply with the Surface Parking Lots Landscaping Standards, pursuant to § 2111.1. Final details of the streetscape improvements will conform with applicable design and permitting standards. The Project's final stormwater management plan will also comply with permitting standards.

As discussed in more detail below, the Traffic Assessment found that the Project will not adversely impact transportation or parking conditions.

VIII. THE APPLICATION SATISFIES THE VARIANCE STANDARD FOR RELIEF FROM THE LOADING REQUIREMENTS

The burden of proof for an area variance is well established. The D.C. Court of Appeals has distilled a three-part test that “[i]n order to obtain [area] variance relief, an applicant must show that (1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.” *Washington Canoe Club v. District of Columbia Zoning Com'n*, 889 A.2d 995, 1000 (D.C.2005)

A. The Property is Affected by an Exceptional Situation or Condition.

The Property is irregularly shaped and there is an approximate 10 ft. grade change on the Property. From the center of the Property (95 ft.) the grade decreases to approximately 85 ft. along Minnesota Avenue (west) and approximately 85 ft. along B Street (south). See Exhibit C, Survey and Grading Plan.

B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty.

The requested relief from loading is for an area variance, which requires the Applicant prove the strict application of the zoning regulations for loading will result in a “practical

difficulty.” It is important to note how the DC Court of Appeals has defined “practical difficulty.” In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in *Palmer v. D.C. Bd. Of Zoning Adjustment*, 287 A. 2d 535, 542 (D.C. 1972) that, “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [footnote omitted]. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only the “the lower ‘practical difficulty’ standards.” *Tyler v. D.C. Bd. Of Zoning Adjustment*, 606 A.2d 1362, 1365 (D.C. 1992), *citing Gilmartin v. D.C. Bd. Of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider “ . . . a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ . . .” *Gilmartin*, 579 A.2d at 1171, *citing Barbour v. D.C. Bd. of Zoning Adjustment*, 358 A.2d 326, 327 (D.C. 1976). See also, *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2d 1362, 1367 (D.C. 1992). Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

The Applicant is faced with a practical difficulty due to the need to provide necessary loading which by virtue of its irregular shape and steep topography limits the reasonable options and locations. For an apartment house with 50 or more dwelling units the regulations require a minimum of: 1 loading berth (55 ft. deep), 1 loading platform (200 sq. ft.) and 1 service/delivery loading space (20 ft. deep). The Project will consist of 60 rental units for seniors and will be able to meet loading demands with the proposed loading facilities of 1 loading berth (30 ft. deep), 1 loading platform (100 sq. ft.) and no service/loading space. The only way to accommodate the required loading would be to reduce either the building footprint or the

landscaped area to the rear of the apartment house. This reduction would lead to a practical difficulty since the Applicant would be unduly limited in providing a sustainable and financeable level of affordable senior housing.

In addition, based on the Applicant's long-term management experience with the residents, a 30 ft. deep berth and 100 sq. ft. platform are more than adequate. Furthermore, construction of a regulation size berth, platform and delivery space would require paving in the critical root zone of large mature trees that are being preserved.

C. Relief Can Be Granted Without Adversely Affecting the Use of the Neighboring Property in Accordance with the Zoning Regulations and Zoning Map.

The Project has been thoughtfully designed to comply with the Zoning Regulations and specifically Section 353 and integrate the proposed structures within the existing site with relatively minor impacts on light, air and traffic. The addition of 60 units is modest. The attendant impacts, including the limited loading facilities, on the surrounding neighborhood is anticipated to be minimal. Accordingly, there will be no detrimental effects on neighboring residential properties.

IX. STATEMENT OF SATISFACTION OF BURDEN OF PROOF FOR ZONING RELIEF SOUGHT

The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction herewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted hereto, it will satisfy and comply with the applicable legal standards and burdens for the special exception requested.

X. TRANSPORTATION ASSESSMENT

The Transportation Assessment concluded that the Project will result in a decrease in site vehicle trips from the existing conditions (6 AM peak hour trips instead of 14 AM peak hour

trips). See Exhibit G, Transportation Assessment. In addition, the proposed loading facilities including a 30-foot deep berth and 100 square foot platform are adequate to accommodate site-related loading activities. Truck maneuvering diagrams are provided showing trucks can enter the site and access the loading area. Finally, the Transportation Assessment concludes that the Project will not adversely impact transportation or parking conditions. The Applicant has committed to a Transportation Demand Management (“**TDM**”) plan that includes a number of measures to encourage future use of non-automobile travel options. The TDM measures are as follows:

- Offer a one-year Capital Bikeshare and Car share membership for the initial term of lease for new apartment residents,
- Post all TDM commitments on-line and provide each initial resident with links to goDCgo.com, WMATA Metrobus routes, and DC Bicycle maps, and
- Identify the property manager as the project’s TDM Leader to advertise and build awareness of programs to residents.

XI. AGENCY AND COMMUNITY OUTREACH

The Applicant met with the Office of Planning to discuss the Project. The Applicant presented the Project at the ANC 7F meeting on March 17th. In response to the ANC 7F request at its meeting, the Applicant provided a detailed written response dated March 19, 2015, providing additional information on this senior housing project, phased redevelopment of Meadow Green Courts and maintenance of at least the current number of affordable units, and procedures and safeguards for the temporary relocation of existing tenants to allow new construction. See Exhibit I.

XII. WITNESSES EXPECTED TO TESTIFY

Applicant’s Representative: Jim Edmondson, E & G Group

Architect’s Representative: Scott D. Q. Knudson, Wiencek + Associates

Transportation Consultant’s Representative: Nicole A. White, Symmetra Design

XIII. EXHIBITS

- Exhibit A: Zoning Map (with the Property outlined in green).
Exhibit B: Surveyor's Plat.
Exhibit C: Survey and Grading Plan.
Exhibit D: Area Map (with Property outlined in green and future phases outlined in blue).
Exhibit E: Photos of the Property.
Exhibit F: Architectural Plans and Elevations.
Exhibit G: Transportation Assessment.
Exhibit H: Landscaping Plan.
Exhibit I: Response to ANC 7F.
Exhibit J: Outlines of Testimony.
Exhibit K: Expert Witness Resumes.

XIV. CONCLUSION

For the reasons set forth above, the Applicant is entitled to, and respectfully requests approval of, the grant of special exception and variance relief to allow for the development of the Property.

Respectfully submitted,
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