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July 7, 2015

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 18987 – 1124 Florida Avenue NE
Supplemental Submission of the Applicant

Chairperson Lloyd Jordan and Honorable Members of the Board:

On behalf of the Applicant, Pierce Investments, LLC, please find enclosed the Supplemental Submission for the above-referenced application. At the conclusion of the hearing on June 9, 2015, the Board requested updated plans from the Applicant, and left the record open to allow ANC 5D the opportunity to file a resolution with the Board given that the ANC meeting was held on June 9th, the evening of the hearing. The Board set the case down for Decision on June 16th. As of the day of the Decision hearing ANC 5D had not submitted a resolution to the Board. The Applicant informed the Board that the ANC intended to request additional time to allow the ANC to hold another special meeting on the proposed project. The Board postponed the decision to July 14th, with all submissions due July 7th.

The Applicant has used the additional time granted by the Board to continue working with the community to modify the application in a way that is acceptable to the community and ANC. Enclosed you will find revised plans that resulted from additional community dialogue. In addition to what was presented before the Board on June 9, 2015, the following submission provides additional evidence that the Application meets the standard for FAR and rear yard relief¹.

A. Eliminated Height Variance

¹ As will be discussed later in the submission, the Applicant reduced the height of the building, thereby eliminating the need for a height variance, and reduced the degree of rear yard relief.

The proposed structure originally sought a height variance for exceeding the maximum height in the C-2-A by a mere 3' 6 ½". The height relief was related to the inability to excavate and provide cellar units below grade. The height relief was also related to the goal of providing a neighborhood servicing space that was the appropriate retail floor to ceiling height on the first floor. Upon further discussion with the community it was evident that the community would prefer a building that complied with the height requirement even if it did not have a neighborhood servicing retail space. Consequently, the Applicant reduced the height of the building to 50', eliminating the height variance. See, Revised Architectural Plan at **Exhibit A**. The Applicant has also agreed to continue to searching for a business that would want to utilize the space on the first floor front, even though it is only 10' high, floor to ceiling. If the Applicant is unable to find a business that desires to utilize the space, the area will be constructed as residential units, and would not be left as an unoccupied commercial space.

B. Reduced visual height of building to 40 feet

To further address the community's concern about height, the Applicant has set back the fifth floor 24'2". The setback gives the structure the visual appearance of a building that is 40 feet in height and eliminates the fifth floor from the sightline of a person standing across the street. See, Building Section at **Exhibit B**. Moreover, the setback, along with the façade corner detail, gives the proposed structure a visual height more in line with the neighboring rhythm of the block.

C. Reduced Rear Yard Relief

During community outreach, neighbors who live across the alley on Morse Street expressed concern about the rear yard relief. The Applicant reduced the degree of relief needed for the rear yard by reducing the size of the court. The rear yard from 20' to grade has always satisfied the rear yard requirement. Previously, the rear yard for above 20' was 4'6"; the rear yard has been increased to 10', thus reducing the relief needed by almost 50%. Relief could not be eliminated due to the project being pushed off the front property line to align with the street frontage of adjacent property but the reduction was acknowledged by the ANC. However, the proposed structure will be at least 110' from the rear of the houses on Morse Street.

D. Reduced FAR Relief

At the time of the hearing, the proposed FAR was 3.6. In light of the comments from the Board, the Applicant reduced the FAR to 3.4. Consequently, the Applicant is only requesting relief for an additional 0.4 FAR. As explained in prior submissions and at the hearing, the requested FAR relief is directly connected to the contaminated nature of the Property. As a contaminated site, the Property must be remediated regardless of proposed use. As the Applicant testified to at the hearing, the cost of remediating the site is approximately \$900,000 to \$1,000,000. The additional FAR does not completely offset the cost of environmental remediation however; it does alleviate less than half of the cost associated with remediation. The requested relief directly addresses the Property's unique condition and evidences the practical difficulty of complying with the Zoning Regulations. Lastly, the 24'2" setback of the top floor reduces any visual impact the requested relief previously had.

E. Community Outreach

The Applicant has conducted extensive community outreach. The Applicant has met with the Single Member District on multiple occasions. In addition to attending SMD and ANC meetings, the Applicant has reached out to all the property owners adjacent to the Project and to the rear of the Project. The continued and evolving community discussion has shaped the design of this Project in a number of significant ways. As evidenced by a letter of support from the owner of 1128 Florida Avenue, the property directly east of the Property, the ultimate result of the continued engagement is a Project that the community can truly support. See letter from Emily Austin at **BZA Exhibit 37**. At the final SMD meeting, 15 community members expressed support and appreciation for the updated design. The ANC held a special meeting on this Application on July 2nd, and voted unanimously to support the revised project. See, Confirmation of Support from ANC 5D Commissioners at **Exhibit C**².

F. No Substantial Detriment to Public Good or Inconsistency with Zone Plan

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the Zone Plan by approving the zoning relief. The proposed Project eliminates a nonconforming use, in the middle of a primarily residential block, and replaces it with a conforming use, residential units. Furthermore, the proposed project redevelops a site that is very challenging to develop due to its environmental contamination. For the reasons stated above, and in prior submissions, approval of the zoning relief requested will not cause a detriment to the public good or zone plan.

In response to the Board's questions and request, the Applicant has included with this Supplemental Submission the following documents and will be prepared to present additional witness testimony if necessary:

Exhibit A: Revised Architectural Plans

Exhibit B: Building Section

Exhibit C: Confirmation of Support from ANC 5D Commissioners

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP


Meredith H. Moldenhauer

² ANC 5D Chair stated that she would file the draft resolution unanimously approved by ANC 5D on July 2, 2015. As of 12PM on the filing deadline, no formal resolution has been submitted. Consequently, we contacted members of ANC 5D present at the hearing to attest to the vote.

Enclosures:

Cc: Advisory Neighborhood Commission 5D
c/o Kathy Henderson, Chair (via email)
Single Member District 5D03 Representative, Yvonne Buggs (via email)
Stephen Mordfin, Office of Planning (via email)
Cliff Moy, Board of Zoning Adjustment (via email)