

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

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

1533 9th Street, NW (Square 397, Lot 31)

This statement is submitted by Victory Village Development Corporation regarding property located at 1533 9th Street, NW (Square 397, Lot 31) (the "Site"), in support of its application to the Board of Zoning Adjustment ("Board" or "BZA") pursuant to 11 DCMR § 3104.1 for special exception relief under 11 DCMR § 334 to provide a community service center in the R-4 District at the Site.

Pursuant to 11 DCMR § 3113.8, 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.

I. Background

A. Description of the Site

Square 397 is located in the northeast quadrant of the District and is bounded by Q Street to the north, 8th Street to the east, P Street to the south, and 9th street to the west. Square 397 is split-zoned: the southern properties located close to P Street are zoned C-2-A, and the remainder of the properties in the Square are zoned R-4. The Square is primarily occupied with row dwellings and is bisected by a 10-foot wide public alley running north-south from Q Street to P Street.

The Site is located mid-block on the east side of 9th Street, NW, between P and Q Streets. The Site is bounded to the north and south by row dwellings, to the east by the public alley, and to the west by 9th Street. The Site has approximately 3,962 square feet of land area (42 feet wide by

94.34 feet long) and is approximately double the width of most of the surrounding row dwelling lots. The northern portion of the Site is presently improved with a vacant two-story building; the southern portion of the Site is vacant. An existing curb cut is located on the southern portion of the Site.

The Site is located in the Shaw Historic District. The existing building on the Site is typical of the Shaw Historic District in exhibiting a variety of building forms from multiple overlapping phases of development. The structure was built individually with two stories, a basement, and a projecting bay. The roof line has corbelled brick and wood cornices.

B. Prior BZA Approval

Pursuant to BZA Order No. 18059, effective on May 24, 2010, the Board approved a variance from the lot occupancy requirements under 11 DCMR § 403.2; a variance from the off-street parking requirement under 11 DCMR § 2101.1; and a special exception under 11 DCMR § 334, to permit the construction of an addition to the existing building on the Site and to allow for community service center use in the building. Subsequent to the BZA approval, the Applicant undertook interior demolition and framing activities, but did not undertake any new construction. BZA Order No. 18059 expired on May 24, 2012, and the Applicant abandoned the proposed construction activities for the new addition.

C. Description of Proposed Project

The Applicant proposes to convert the existing building into a community service center and provide four surface parking spaces on the vacant portion of the Site to the south of the building. The renovated structure will have approximately 3,360 square feet of gross floor area (0.85 FAR), approximately 28.25% lot occupancy, and a maximum height of 34 feet in two stories, plus a basement.

The current application proposes to complete the interior renovation activities started in 2011 and occupy the building with a community service center use. Most interior partitions of wood and metal stud framing already exist. The Applicant will install mechanical, plumbing, and electrical systems in the existing building, and complete the interior finishes for floors, walls, and ceilings, which were not completed in the previously permitted project. The Applicant will also provide four standard-sized parking spaces on the vacant portion of the Site, and will install a new six foot tall wrought iron fence with 12 foot wide swing gates at the front of the Site along 9th Street, and a new eight foot tall security fence at the rear of the Site.

The proposed community service center use for the Site is consistent with the Site's zoning designation and with other uses in the neighborhood.

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

Relief granted through special exception approval 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*, 569 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.*

Subsection 334.1 of the Zoning Regulations permits the Board to approve, as a special exception, the establishment of community service centers in R-4 Districts that are created for the purpose of improving the social or economic well-being of the residents of the neighborhood in which the center is proposed to be located, including job training, family counseling,

consumer cooperatives, and such other facilities as are similar in nature and purpose, subject to the following requirements set forth in subsections 334.2 through 334.5:

Section 334.2 - A community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions.

The community service center proposed for the Site will be located so that it is not likely to become objectionable to the neighborhood. The existing building orientation and configuration will remain such that the main entrance to the building will be on P Street. Activities are planned to be held inside the building. Nothing in the community service center design or programming is expected to generate any noise or other objectionable impacts to the surrounding residences. In fact, it is expected that the reuse of the building as a community service center will improve this section of the neighborhood by redeveloping a blighted property, re-activating this section of 9th Street, and providing a place for the community to come together.

Section 334.3 - No structural changes shall be made except those required by other municipal laws or regulations.

As shown on the architectural drawings included with the application, no structural changes will be made to the existing building, except those required by other municipal laws or regulations.

Section 334.4 - The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.

The use of the Site as a community service center is reasonably necessary and convenient to the Shaw neighborhood in which the Site is located. As a community service center, the premises will promote the social and economic well-being of the neighborhood by providing incubator space for non-profit organizations and/or small local minority businesses that will support the programming at the Shiloh Baptist Church, which is committed to worship, teaching, promoting justice, and empowering its members to be a positive influence in the surrounding

community. The space will serve as shared incubator space that will help to promote non-profit organizations and small businesses and will support the economic empowerment mission of the Church.

In addition to bringing a new use that is compatible with the neighborhood, the community service center will improve the aesthetics and vibrancy of the neighborhood through the reuse of a structure that is vacant and in serious disrepair, and by securing the existing vacant lot.

Section 334.5 - A community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual.

The community service center is not being organized for profit and no part of its net income will inure to the benefit of a private shareholder or individual.