

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

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

**1814 Central Place, NE (Square 4047, Lot 57)**

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This statement is submitted on behalf of Habitat for Humanity of Washington DC, Inc. (“Habitat” or the “Applicant”), the contract purchaser of property located at 1814 Central Place, NE (Square 4047, Lot 57) (the “Site”), in support of its application submitted pursuant to 11 DCMR § 3103.2 for area variances from (i) the lot width requirements of 11 DCMR § 401.3, and (ii) the off-street parking space requirements of 11 DCMR § 2101.1, to permit the construction of four new flats (eight units total, each sold as a single family inclusionary zoning unit) in the R-4 District on the northwest portion of the Site (the “Property”).

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 Information Regarding the Property and Proposed Developments**

**A. The Applicant**

Habitat for Humanity is an international non-profit and non-governmental organization that was founded in 1976 to build decent and affordable housing across the world. Habitat's international operational headquarters are located in Americus, Georgia, however, Habitat's local offices coordinate all aspects of home building, including fundraising, site selection, family selection and support, construction, and mortgage servicing. Since its founding, Habitat has helped more than four million people construct, rehabilitate, or preserve homes, making Habitat for Humanity the largest not-for-profit builder in the world.

Habitat for Humanity of Washington DC (the Applicant) is the local Habitat affiliate. The Applicant organization has operated in Washington, DC for over 25 years and has built and rehabilitated over 200 homes for over 300 D.C. residents, making a life-changing impact on the lives of families in all four quadrants of the District.

**B. Related Planned Unit Development**

Pursuant to Zoning Commission Order No. 15-01, dated July 13, 2015, and effective on August 21, 2015, the Zoning Commission for the District of Columbia approved a planned unit development (“PUD”) and a zoning map amendment for property located at 320 Florida Avenue, NE (Square 3587, Lot 4), submitted by Level 2 Development (“Level 2”). As part of the approved public benefits and project amenities for the PUD, Level 2 committed to contributing “\$107,000 per unit to DC Habitat to co-develop a minimum of approximately 13,747 net square feet in 13 off-site affordable housing units, set aside for-sale to households earning an average of no more

than 50% of the AMI.” See Z.C. Order No. 15-01, Decision No. B(1)(a). Approximately 7,747 square feet of that amount was used to satisfy 50% of the PUD’s Inclusionary Zoning (“IZ”) requirements; and approximately 6,000 square feet of that amount was for additional affordable housing units to be regulated under DC Habitat conditions. The eight units proposed to be constructed pursuant to this BZA application will help to satisfy the IZ commitment in accordance with Z.C. Order No. 15-01.

C. 1833 Central Place – Companion Application

The Applicant simultaneously filed a companion BZA application with the present case, for property located at 1833 Central Place, NE (Square 4044, Lot 10), which is located directly across Central Place from the Property. The Applicant proposes to subdivide 1833 Central Place into two new record lots, and to construct one flat (two units) on each new record lot. The flats at 1833 Central Place will be identical to the flats proposed for the Property, and the Applicant requested the same zoning relief (variances from the lot width and off-street parking requirements) for 1833 Central Place as it did for the Property.

D. 1814 Central Place – The Property

1814 Central Place (the “Site”) is located on Lot 57 in Square 4047 in the northeast quadrant of the District. Square 4047 is bounded by Gallaudet Street, NE to the north, Central Place, NE to the east, Capitol Avenue, NE to the south, and Kendall Street, NE to the west. The Site is located on the west side of Central Place, NE, and has approximately 23,963 square feet of land area. The Property is bounded by private property to the north, south, and west, and Central Place, NE to the east, with no alley access.

The southern portion of the Site is presently improved with the Trinity Baptist Church and its associated surface parking; the northern portion of Lot 57 is vacant. The Applicant proposes to construct the proposed flats on the vacant portion of the Site (the “Property”), and to subdivide the Property so that each flat is constructed on its own record lot. Following the subdivision, the portion of the Property that will be devoted to the flats will have approximately 60 linear feet of frontage on Central Place, NE (approximately 15 linear feet per new record lot), and approximately 7,200 square feet of land area (approximately 1,800 square feet per new record lot).

D. Proposed Development

As shown on the architectural plans and elevations included with the application, the Applicant proposes to develop the Property with four flats (eight units). Each flat will be constructed to a maximum height of 32 feet, 2 inches in three stories, and will have approximately 2,646 square feet of gross floor area to be divided between the two units within each flat. The flats will be 15 feet in width and approximately 65 feet, 10 inches in depth. The flats will be split in half, such that the first level and the rear portion of the second level will be devoted to one unit; and the third level and the front portion of the second level will be devoted to a second unit. Each unit will have three bedrooms. Off-street parking will not be provided.

All of the new units will be for-sale and devoted to households earning up to 50% of the AMI. The proposed residential use for the Property is consistent with its zoning designation and with the surrounding residential uses in the neighborhood.

## **II. The Applicant Meets The Burden Of Proof For The Requested Area Variances**

Under D.C. Code §6-641.07(g)(3) and 11 DCMR § 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

*See French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also*, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, the Applicant meets all three prongs of the area variance test.

### **A. The Property Is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition.**

The phrase "exceptional situation or condition" in the above-quoted variance test may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). The exceptional situation or condition applies not only to the land, but also to the existence and configuration of a building on the land. *See Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2<sup>nd</sup> 291, 294 (D.C. 1974). In this case, the Property is an interior lot, with private property on three sides and no alley access. The Property is the largest lot in Square 4047 and is partially improved with the Trinity Baptist Church and its associated surface parking, which restrict the size and location of the proposed subdivided lots. Due to these existing improvements, there is only 60 linear feet and 7,200 square feet of land area on which to develop the flats, which directly impacts the ability to provide matter-of-right lot widths.

### **B. Strict Application Would Result in a Practical Difficulty to the Owner**

#### **1. Lot Width**

Section 401.3 of the Zoning Regulations requires 18 feet in width for each flat in the R-4 District. Section 2604.3 of the Inclusionary Zoning Regulations permits 16 feet in width for

dwelling in the R-4 District as a special exception. The Applicant proposes to create four new record lots that are each 15 feet in width.

Based on the limited land area and street frontage on the Property available for new development, combined with the Property's land-locked condition, it is practically difficult for the Applicant to divide the Property into four 18-foot wide lots. At 60 feet wide, the maximum achievable width for each proposed record lot is 15 feet. Due to the existing church and surface parking on the Site, and the existence of private property to the north and west, the land area available for the proposed flats is limited and cannot be increased. The Applicant tried to purchase more land area from the church in order to create zoning-compliant record lots, but the church would not sell more than the 7,200 square feet of land area for which the Applicant has a contract to purchase (which amounts to approximately 30% of the 23,963 square foot site Site).

If the Applicant subdivided the Property such that each new record lot had a matter-of-right minimum width of 18 feet, then only three lots (and three flats) could be accommodated, which would result in the elimination of affordable housing. Moreover, the proposed width for each subdivided lot is only three feet less than the width permitted as a matter-of-right, and only one foot less than the width permitted as a special exception under 11 DCMR § 2604.3, such that the proposed record lots are still consistent with the spirit and intent of the Zoning Regulations.

## 2. Parking

Section 2101.1 of the Zoning Regulations requires one off-street parking space for each two dwelling units within a flat. Thus, the Applicant is required to provide one off –street parking space on each proposed lot. In this case, the Applicant cannot provide any on-site parking spaces.

The Applicant cannot provide parking at the rear of the Property because there is no alley access. Therefore, the only other potential place to provide parking is in the front yards, or in front-loaded garages. Neither is a viable option, since DDOT will not permit new curb cuts at the front of the lots on Central Place, thus restricting vehicles from driving onto the Property to park. Moreover, providing surface parking in the front yard is not a permitted location under 11 DCMR §§ 2116.2 and 2116.4.

## C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan

The requested relief can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose or integrity of the zone plan. The construction of four new flats (eight units) that will be set aside for-sale to households earning an average of no more than 50% of the AMI will be a great benefit to the city as a whole. The flats will contribute to the vibrancy of the neighborhood, will infill the vacant portion of the Property, and will fully support the District's housing and affordable housing goals.

The proposed lot widths will not result in a detriment to the public good or zone plan. The 15-foot lot widths are consistent with lot widths in the surrounding neighborhood, are only one foot short of the minimum 16-foot lot width permitted for IZ units as a special exception, and are

only three feet short of the minimum 18-foot lot width permitted as a matter-of-right. At 120 feet deep, each lot is large enough to accommodate units designed for families with three bedrooms and generous living spaces. If the Applicant created zoning-compliant lots at 18-feet wide each, the Applicant would have to eliminate one of the proposed record lots, thus resulting in two fewer units and contradicting the District's goal of increasing housing and affordable housing, particularly family housing at 50% of the AMI. In addition, each proposed lot will have a 39.5 foot rear yard where a 20 foot rear yard is required, plus a 14 foot, 8 inch front yard, which will result in significant open space. Moreover, despite the slightly substandard lot widths, each lot will still meet the minimum lot area and lot occupancy requirements, and each flat will comply with all Building Code requirements.

Regarding parking, the lack of on-site parking spaces will not result in a detriment to the public good or zone plan. The Property is conveniently located near multiple Metrobus lines, including the D3, D4, D8, and E2 lines, which all have stops located approximately 0.1 mile from the Property. The Property is also situated in close walking distance to a variety of amenities, including grocery stores (Mom's Organic Market is located approximately 0.4 miles away), schools, parks, and eating and drinking establishments, such that many new residents will not need to use a car for many daily activities. Moreover, there is on-street parking available throughout the neighborhood surrounding the Property, such that future residents will be able to park on the street without causing any appreciable impacts to the existing on-street parking conditions.

Overall, the design of the proposed flats respects the existing residential character of the neighborhood, will incorporate new, high-quality architecture at affordable prices, and will infill a vacant portion of the Property. These endeavors are consistent with *Policy LU-1.4.1* of the Comprehensive Plan for the National Capital, which encourages "infill development on vacant land within the city, particularly in areas where there are vacant lots that create "gaps" in the urban fabric and detract from the character of a commercial or residential street. Such development should complement the established character of the area and should not create sharp changes in the physical development pattern." 10A DCMR § 307.5.