

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

**Application for 2619 Wisconsin Avenue, N.W.
Square 1935, Lots 44 & 812**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by the Marital Trust U/ Sheaffer Family Trust and Glover Park Developers, LLC on behalf of the District of Columbia Government, in support of an application pursuant to 11 DCMR §§ 3104.1 and 220.1 for special exception relief to locate an emergency shelter in the R-1-B District on property located at 2619 Wisconsin Avenue, N.W. (Square 1935, Lots 44 & 812) (the "Site").

Pursuant to 11 DCMR § 3113.8, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment ("BZA" or "Board") no fewer than 14 days prior to the public hearing for this application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception relief. The following is a preliminary statement indicating how the Applicant meets the burden of proof.

I. BACKGROUND

A. Description of the Site and Surrounding Area

The Site consists of Lots 44 and 812 in Square 1935 and has a total land area of approximately 19,113 square feet. The Site is zoned R-1-B and is located within the boundaries of Advisory Neighborhood Commission ("ANC") 3C. Square 1935 is bounded by Edmunds Street to the north, 36th Street to the east, Davis Street to the south, and Wisconsin Avenue to the west, all in the northwest quadrant of the District of Columbia. The Site is located in the northwest portion of the square with frontage on Wisconsin Avenue and Edmunds Street, and is otherwise bounded by private property to the south and a public alley to the east. Currently, Lot 812 is vacant and Lot 44 is improved with a vacant single-family dwelling.

The Site is located directly across the street from the R-5-D District. On the west side of Wisconsin Avenue are the Russian Embassy and several large multifamily apartment buildings. Single-family dwellings are located to the north, south and east of the Site. To the south of the square, across Davis Street, is the Savoy Suites Hotel. Two blocks south of the Site is the Wisconsin Avenue commercial corridor, which contains a variety of uses including a grocery store, restaurants, dry cleaners, a CVS, a fitness center, and a gas station, among others. The Guy Mason Recreation Center is also located two blocks south of the Site.

B. Existing Zoning

Square 1935 is zoned R-1-B. The R-1-B District permits a maximum height of 40 feet and three stories, and a maximum lot occupancy of 40%. 11 DCMR §§ 400.1 and 403.2. The R-1-B

District permits emergency shelters for 5 to 15 persons, not including resident supervisors or staff and their families, as a special exception. 11 DCMR § 220.1. The Board may approve an emergency shelter for more than 15 persons pursuant to the criteria listed in 11 DCMR § 220.7. The Board is also authorized to determine the number of required on-site parking spaces for an emergency shelter with 16 or more persons. 11 DCMR § 2101.1.

C. Closing DC General: Short-term Family Housing

The District's plan to end homelessness involves making significant improvements to the current homeless crisis response system for families. This includes the closure and replacement of DC General, the city's largest family homeless shelter. In order to do so, the Mayor has advanced an all 8 Ward Strategy to create short-term family housing. The facilities will be small, safe, and dignified, with the services and support that help families get back on their feet. After a search, the Department of General Services ("DGS") secured the Site as the emergency shelter location for Ward 3. As described below, the Site will be developed with a building that will provide short-term housing for 38 District families, while retaining the look and feel of the neighborhood. The Site will minimize impact to the neighborhood by including adequate on-site parking for the facility's employees and staff.

II. PROJECT DESCRIPTION

As shown on the architectural drawings included in this application, the Applicant proposes to develop the Site with a three story building that will comply with all of the zoning area requirements and limitations of the R-1-B District. The proposed building will have a height of approximately 40 feet and will have a total of 38 units, 19 of which will be three bed units, and 19 of which will be four bed units. As a result, the building can accommodate 134 persons.

The building is specifically designed for the delivery of the services and supports required to address the immediate short-term housing needs of families. To do this, the building includes a balance of residential units, and a variety of common and programmatic spaces for supportive services and activities for parents and children of a variety of ages. Services on site are designed to help families access permanent housing and achieve greater stability, assisting with housing searches, applications, document acquisition, and financial counseling. The on-site social work staff will assist families with a range of supportive services including appropriate linkages to workforce programs, health and behavior health services, and services related to parenting. The program will promote the positive development of children impacted by homelessness in a variety of ways, including ensuring early child development screenings, coordination with school liaisons, and age appropriate recreational activities. Meals will be provided for families in a common dining room, families will have access to laundry facilities, and other basic necessities, exceeding regulatory standards for restroom facilities. The project includes an interior courtyard, and on-site playground and recreation space for resident families. The building has been sensitively designed to be compatible with the architecture of the surrounding community.

III. SPECIAL EXCEPTION RELIEF

A. Relief Requested

The Applicant seeks special exception approval pursuant to 11 DCMR §§ 220.1 and 3104.1 to locate an emergency shelter in the R-1-B District.

B. Burden of Proof

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR § 3104.1, the Board is authorized to grant special exception relief where it finds that the special exception will be in harmony with the general purpose and intent of the Zone Plan and will not tend to adversely affect the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception 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 regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. 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.*

C. The Applicant Meets the Test for a Special Exception Relief Under 11 DCMR § 220

Section 220.2-There shall be no other property containing a community-based residential facility for seven (7) or more persons either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property.

As confirmed by the records of the Office of the Zoning Administrator, Office of Planning and the Office of the Deputy Mayor for Health and Human Services (“DMHHS”), there is one other property, St. Luke’s at 3655 Calvert Street, NW, approximately 2.5 blocks from the Site, that is a transitional housing program for seven persons. Additionally, although not a CBRF, Community of Christ at 3526 Massachusetts Avenue, NW, approximately 4 blocks and just under 1000 ft. from the Site, offers a low-barrier shelter for 25 persons which operates only from 7:00 PM to 7:00 AM on those days when a hypothermia alert has been issued. See Section 220.6, infra.

Section 220.3-There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

The Applicant will provide nine off-street parking spaces on the eastern side of the Site. The parking spaces will be accessed via the public alley that abuts the Site on the east. Pursuant to 11 DCMR § 2101.1 the minimum parking requirement for an emergency shelter for 16 or more persons is as prescribed by the BZA. The District of Columbia Government has determined, based upon experience with other such housing in the District, that nine parking spaces will be adequate for the needs of building occupants, employees, and visitors, many of whom use public

transportation. The Department of Human Services (“DHS”) has found at other similar program facilities in the District that residents typically do not have cars. The on-site parking is sufficient for the staff and employees who will work at the Site.

Section 220.4-The proposed facility shall meet all applicable code and licensing requirements.

DGS will ensure that the proposed emergency shelter will meet all applicable code requirements, and DHS will ensure that the facility will meet all applicable licensing requirements.

Section 220.5-The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

The emergency shelter will not have an adverse impact on the neighborhood. As stated above, there is adequate off-street parking for the emergency shelter that is accessible via the public alley that abuts the Site on the east. There are also a variety of public transportation options in the vicinity of the Site, including 10 bus lines located within 0.2 miles of the Site and the Woodley Park-Zoo Metrorail station, which is located approximately one mile from the Site. The use will be a residential use, and inherently will not produce any adverse impact due to noise. The proposed use will also not adversely impact the neighborhood due to operations, because it will operate similar to multifamily apartment buildings or hotels, which are both found within 300 feet of the Site. The proposed facility will be self-contained, with on-site dining, laundry, playground and wrap-around supportive services for residents. There will be only a warming kitchen with no food preparation on-site. Meals will be delivered twice each day, and the delivery van will use the parking area. There will also be ‘program rules’ imposed by the service provider, as well as security staff on site, on every floor, 24/7.

Moreover, the Department of Human Services will work with a community advisory group to address issues of concern to the community. The District has been proactive at initiating the formation of such groups so that concerns can be flagged and addressed before they become problems. This will provide a venue for constructive input and problem solving.

Section 220.6-The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

As confirmed by the records of the Department of Human Services, there are two facilities serving the homeless within 1000 ft. of the Site. Although not a CBRF, Community of Christ, located at 3526 Massachusetts Avenue, NW, approximately 4 blocks and just under 1000 ft. from the Site, operates a hypothermia shelter on behalf of the District of Columbia, where it provides low-barrier shelter for up to 25 persons from 7:00 PM to 7:00 AM on nights when a hypothermia alert has been issued. Additionally, there is a facility at St. Luke’s, at 3655 Calvert Street, NW, located approximately 2.5 blocks from the Site, that provides emergency shelter for seven individuals. This facility is a transitional housing program offered by Friendship Place, a non-profit organization serving people experiencing homelessness. This program is not administered

or funded by the District of Columbia. Transitional housing operates much differently than low-barrier and hypothermia shelters.

The cumulative effect of these facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations. The Site is located approximately 2.5 blocks from the seven-person St. Luke's facility, and approximately 4 blocks and just under 1000 ft. from the 25-person hypothermia center at the Community of Christ. The emergency shelter at the Site will have full wrap-around services, including meals, so that the residents who live at the Site do not need to leave the facility for those services, or seek additional public or social services in the community. Although the families living at the Site will be free to come and go as they wish, as would any family in any home or apartment house in the area, the provision of wrap-around services, including meals, means that there is no need for the residents to go out into the immediate community to have those needs met. Due to the distance between these facilities, and the different types and times of operation of these facilities, there will be no cumulative adverse effect because of traffic, noise or operations.

Section 220.7-The Board may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

The emergency shelter will house approximately 134 persons, not including resident supervisors or staff and their families. The program goals and objectives of the District of Columbia, as well as the District's legal obligation to provide shelter to families in private rooms cannot be achieved by a facility of a smaller size at the Site. It is imperative that all 270 units at DC General be replaced before DC General can be closed. The aggregate number of units in the replacement sites across all eight Wards is the minimum necessary to meet that need. Therefore, a program for more than 15 persons at the Site is an absolute necessity. Due to the Site's constraints, the facility at the Site would be one of the two smallest facilities. The District has undergone an aggressive search for sites throughout the District, and the Site is both a viable and desirable location for the program. More than any other property available to the District in Ward 3, this site meets the program requirements, and on terms favorable to the District. There is no other reasonable alternative to meet the program needs in Ward 3.

D. The Applicant Meets the Test for Special Exception Relief Under 11 DCMR § 3104.1

In addition to satisfying the specific requirements set forth in 11 DCMR § 220 the Applicant must also demonstrate that the requested special exception meets the more general requirements of 11 DCMR § 3104.1. Before granting an application for a special exception, the Board must determine that the requested relief "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." 11 DCMR § 3104.1. The stated purposes of the Zoning Regulations are set forth in section 6-641.02 of the D.C. Code:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

D.C. Code § 6-641.02 (2001). Those purposes are reproduced in the text of the Zoning Regulations as well. *See* 11 DCMR §§ 101.1-101.2.

The proposed use of the Site as an emergency shelter for 38 families is consistent with the purposes described above. The project will promote the appropriate distribution of population to create conditions that are favorable to health, safety, and prosperity, and will significantly further the efficiency in the supply of public services. The building's design and massing is consistent with the architecture of the surrounding area and will provide adequate light and air to the building's residents and to occupants of surrounding properties. As stated above, the emergency shelter will be a residential use that will not produce any adverse impact due to noise or general operations. There is adequate off-street parking for the emergency shelter use, as well as a variety of public transportation options in the surrounding area.

Accordingly, the proposed emergency shelter is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under 11 DCMR §§ 220.1 and 3104.1.