

July 11, 2018

Via Hand Delivery and IZIS

Frederick L. Hill, Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20001

Re: BZA Case No. 19772 – Application of 1729 T Street TF LLC to the District of Columbia Board of Zoning Adjustment for 1729 T Street, SW (Square 151, Lot 0015) (the “**Property**”) – Applicant’s Post-Hearing Statement

Dear Chairperson Hill and Members of the Board:

On June 13, 2018, the Board of Zoning Adjustment (the “**Board**”) heard BZA Case No. 19772 regarding the application of 1729 T Street TF, LLC (the “**Applicant**”) for variance relief pursuant to Subtitle X, Section 1002.1 from the closed court, floor area ratio (“**FAR**”), and lot occupancy requirements of the RA-2 zone as set forth in, respectively, Subtitle F, Sections 202.1, 302.1, and 304.1, to allow the construction of a five-unit multifamily residential building, containing two 3-bedroom units, one 2-bedroom unit, and two studio units (the “**Project**”). The Project is located midblock on T Street, NW between 17th Street, NW and 18th Street, NW and is located within the Strivers’ Section Historic District.

The Applicant hereby submits this post-hearing statement (i) to update the Board on the status of the Applicant’s agreement with neighboring property owners’ regarding construction management; (ii) to summarize the Applicant’s discussions with the Office of Planning (“**OP**”) regarding OP’s recommendation that the Applicant opt in to the Inclusionary Zoning (“**IZ**”) program of the Zoning Regulations; and (iii) to file materials related to the Applicant’s presentation at the public hearing. Additional drawings, including color renderings of the Project, are attached as Exhibit A (the “**Supplemental Plans**”).

In sum, the Applicant has elected to opt in to the IZ program pursuant to Subtitle C, Section 1001.2(e), as suggested by OP. The bonus density afforded by the IZ program increases the matter of right FAR from the underlying 1.8 to 2.16. As part of its opting into the IZ program, the Applicant has also elected to provide an IZ unit at 60 percent MFI rather than the required 80 percent MFI as permitted pursuant to Subtitle C, Section 1003.10. The Applicant continues to seek an FAR variance from the 2.16 allowable under the IZ program to the 2.3 proposed for the Project, a delta of 0.14 FAR. As noted at the hearing, by opting into the IZ program, the Applicant is by rule obligated to provide one (1) IZ unit, and given the proposed mix of units in the Project, that IZ unit would have to be a two-bedroom unit. In order to make the provision of an IZ unit feasible economically, the Applicant requests an additional variance from the proportionality requirements of Subtitle C Section

1005.1 so that the Applicant can provide a studio IZ unit rather than a two-bedroom IZ unit. The provision of a studio unit satisfies the required set aside in terms of floor area.

I. Community Outreach

At the public hearing on the Application, the Board heard testimony from representatives of the multi-family residential buildings on either side of the Property. The neighbors are not opposed to the proposed relief but have raised concerns about construction issues. The Applicant and the neighbors are continuing to work through an agreement on construction issues, and the Applicant fully expects to submit to the Board an agreement with both sets of immediate neighbors ahead of the continued July 25, 2018 public hearing on the application.

II. Revised FAR Variance Request

The Applicant has agreed to opt into the IZ program to provide an IZ unit, to increase the matter-of-right FAR, and to reduce the amount of variance relief requested for the proposed FAR relief. By opting into the IZ program, the Applicant also seeks new variance relief from the proportionality requirements of the IZ program.

To recap the Project's posture going into the public hearing:

- The Applicant initially sought an FAR variance to increase the underlying matter-of-right FAR in the RA-2 zone from 1.8 to 2.3.
- This amount of relief granted was consistent with what the Board had recently approved in a variance request at 1719 T Street, NW, a property located on the same block as the Property that is the subject of this application.
- OP supported increasing the FAR variance at 1719 T Street, NW.
- However, OP, in its pre-hearing report, did not support the instant FAR relief request on the grounds that the Applicant was electing not to opt into the IZ program. OP noted that the IZ opt-in program was not available at the time of the 1719 T Street application.
- At the hearing the Applicant noted that if it were to opt into the IZ program, the IZ proportionality requirements would obligate the Applicant to provide a two-bedroom unit as an IZ unit given the Project's unit mix. The Project's unit mix—including the provision of two three-bedroom units¹—was expressly called out by the ANC in its support for the Project.

Following the public hearing and at the encouragement of Chairman Hill and the Board, the Applicant had further discussions with OP regarding the FAR relief requested as part of the Application. As a result of those discussions, the Applicant proposes the following:

- The Applicant will opt into the IZ program and provide one (1) for-sale IZ unit in the Project. The IZ unit will be a 600 sf studio unit affordable at 60 percent of MFI.

¹ Two of the market-rate units will be marketed as three-bedroom units; however, for clarity, these units would be considered two-bedroom plus den units under the IZ program because the dens have windows that open only onto the Project's lightwell and not to an exterior wall.

- By opting into the IZ program, the Project's matter-of-right FAR increases from 1.8 to 2.16 because of the bonus density afforded by the IZ program.
- The Applicant continues to request an FAR variance to increase the matter-of-right 2.16 FAR to the originally proposed 2.3 FAR, a delta of 0.14 FAR.
- The encroachment of an existing party wall onto the Property is a unique condition that creates a practical difficulty in complying with the Zoning Regulations and that justifies the minor 0.14 FAR relief requested.
 - As noted in the Applicant's previous filings and at the public hearing, the Applicant will not take advantage of the party wall from a structural perspective on account of the Applicant's agreement with its immediate neighbors and at the advice of its structural engineer. The party wall is effectively foregone space on the Property.
 - The party wall encroaches approximately six inches along each of the Property's two shared lot lines. As noted previously, the party wall encroachment occupies in the aggregate 281 square feet, which has an FAR equivalent of 0.14 on the 2000 square foot property.
 - Page 11 of the Supplemental Plans shows the Property line (in red), the existing party wall projecting onto the Property, and the Project's structural system as proposed to be constructed entirely inboard of the existing party wall. The party wall is effectively only an encroachment onto the Property and not contemplated as part of the Project's structural system. In order to minimize the impact of the proposed project, the Applicant has voluntarily agreed to forego the use of the party wall as part of the structural support for the Project. Utilizing the existing party wall would require that a ledger be installed at each floor level on either side, and two rows of epoxy fasteners be drilled at sixteen-inch (16") centers. Although this is a conventional structural framing for infill construction, the Project's immediate neighbors on the opposite side of the party wall have expressed concerns about the impact of the installation, as well as about the additional loads imposed on the existing masonry walls and foundations. The Applicant has had a structural engineer review the neighbors' concerns and the viability of using the party wall for structural support for the Project. The Applicant's structural engineer has recommended use of an independent bearing wall rather than the existing party wall. *See Exhibit B.* Accordingly, the Project's structural loads have been designed to rest entirely on new foundations and traditional platform-framed wood bearing walls. The party wall will not be used for structural support.
 - The 281-square foot encroachment of the party wall precisely equals the delta between the matter-of-right 2.16 FAR and the requested 2.3 FAR for the Project.
 - For the reasons previously given in support of the FAR variance request (*see Exhibits 12 and 37 for the Applicant's full explanation of the Project's satisfaction of the FAR variance test*), and in light of the substantial reduction in the extent of the FAR variance request, the Applicant believes that the Project now readily achieves the variance standard with respect to FAR.

- In addition, the Applicant requests a new item of variance relief. The Applicant requests relief from the proportionality requirements of Subtitle C, Section 1005.1.
 - As noted at the public hearing, Section 1005.1 provides that the proportion of studio and one-bedroom IZ units must not exceed the proportion of comparable market rate units for each unit type.
 - That is, if the Applicant reserved one of the Project's two studio units as the IZ unit, then 100 percent of the IZ units would be studio units, whereas only 25 percent of the market rate units would be studio units. This violates Section 1005.1 because the proportion of IZ studio units exceeds the proportion of market rate studio units.
 - To comply with Section 1005.1 (while satisfying the ANC's stated preference and District policy objectives for providing larger bedroom count units), the Applicant would have to reserve at least a two-bedroom unit as the IZ unit. However, doing so would render the Project economically unviable.
 - The provision of an approximately 1,254 square foot two-bedroom IZ unit would vastly exceed the square footage set-aside requirement under the IZ program and accounts for approximately 27 percent of the GFA of the Project. Under the IZ program, accounting for the 0.14 FAR variance as part of the density bonus, the Applicant would be required to devote to the IZ program approximately 750 square feet.
 - In a condominium building such as the one proposed as part of the Project, Section 1003.10 of the IZ program also allows for a 20 percent reduction in the gross floor area devoted to the IZ program provided that all IZ units are reserved for households earning 60 percent MFI (as opposed to the standard 80 percent MFI for typical for-sale units). In order to align the IZ requirements in the Project with the proposed unit sizes, the Applicant has elected to provide the deeper level of affordability contemplated in the Zoning Regulations.
 - That is, the Applicant proposes to provide a 600 square foot IZ unit at 60 percent MFI rather than a 750 square foot IZ unit at 80 percent MFI.
 - The IZ program does not contemplate any flexibility in complying with the proportionality rule of Section 1005.1. Accordingly, the Applicant requests variance relief from Section 1005.1.

- The Project satisfies the variance test for the relief requested from Section 1005.1.
 - Uniqueness: As noted previously, the Project is subject to a confluence of factors that create an exceptional condition. Most notably in the context of opting into the IZ program, the Property is so small dimensionally that it does not support the number of units exceeding the threshold for participating in the IZ program. Thus it is very unique among properties subject to IZ and the proportionality requirement.
 - Practical Difficulty: On account of its small size, the Property supports—in absolute terms—a very small number of units. The difficulty of complying with the proportionality requirements of Section 1005.1 are magnified for properties with an absolutely small number of units. Properties that can support a larger number of units can more readily achieve the balance of unit mixes that Section 1005.1 seeks to achieve. In a building with a very small number of units, which includes 2 or 3

bedroom units, the proportionality rule effectively requires that the IZ unit be the largest unit size regardless of the square footage set aside requirement. The effect of Section 1005.1 as written would require setting aside 27 percent of the Project as affordable. This is an undue burden on the Project and not what was contemplated in the introduction of the IZ program. Accordingly, the Project suffers a practical difficulty in complying with Section 1005.1 on account of its small size.

- *No Substantial Detriment to the Public Good*: The requested relief facilitates a public benefit and does not detriment the public good. Rather, the requested relief allows the Project to provide an IZ unit where one is not otherwise required and allows the Project to continue to provide the three-bedroom units as originally proposed and as sought by the ANC and District housing policy.
- *No Impairment to the Intent, Purpose, or Integrity of the Zone Plan*: The requested relief also does not impair the intent, purpose, or integrity of the Zoning Regulations. The extent of variance relief requested in this context is quite minimal because the Project still provides the amount of floor area required under the IZ program. In addition, the requested relief does not impair the purpose of the IZ program because the Applicant is opting into that program. This relief in no way sets a precedent for projects that are obligated to comply with the IZ program. The flexibility requested makes the IZ opt-in program attractive to the Applicant and thereby advances the very purpose of the IZ opt-in program.

We believe that the application is complete, and we look forward to discussing this matter with the Board at its continued public hearing on July 25, 2018. If you have any questions, please do not hesitate to contact the undersigned at (202) 721-1127. Thank you for your attention to this application.

Respectfully Submitted,



Christine A. Roddy



David A. Lewis

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to the following by e-mail, first-class mail or by hand delivery by no later than July 11, 2018:

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