

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

**APPLICATION OF
SE WASHINGTON DEVELOPMENT
ASSOCIATES II LP**

**BZA CASE NO. 20158
SQUARE 5917, LOTS 40-41
HEARING DATE: DEC. 11, 2019
ANC 8E**

PREHEARING STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This Prehearing Statement of the Applicant is submitted by SE Washington Development Associates II LP (the “Applicant”), in support of its application pursuant to Subtitle X § 901.2 and Subtitle U § 421.1 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) for special exception relief to construct a new residential development in the RA-1 zone at premises 3311-3329 14th Place, SE (Square 5917, Lots 40-41) (the “Property”).

**II.
JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the requested relief pursuant to 11-X DCMR § 901.2.

**III.
WITNESSES**

Outlines of testimony for the Applicant and its witnesses were provided in the BZA application and are included in the record at Exhibit 12. Copies of the resumes for the Applicant’s expert witnesses are included in the record at Exhibit 14.

IV.
THE PROPERTY AND PROPOSED PROJECT

The Property consists of Lots 40 and 41 in Square 5917 and has a total land area of approximately 38,778 square feet. The Property is bounded by 14th Place, SE to the east, Savannah Place, SE to the south, and public alleys to the north and west.

The Property is zoned RA-1 and is presently vacant but was previously improved with an apartment building. The Property is located approximately 0.4 miles from the Congress Heights Metrorail station in a residential neighborhood. Immediately surrounding the property in every direction are three-story apartment buildings.

As shown on the Architectural Plans and Elevations attached hereto as Exhibit A (the “Plans”), the Applicant proposes to construct a new three-story apartment building on the Property. The current Plans have been modified from the plans submitted with the initial application and now incorporate comments from the Office of Planning (“OP”) and the District Department of Transportation. The proposed building complies with all of the applicable development standards in the RA-1 zone, but seeks zoning relief pursuant to 11-U DCMR § 421.1, which requires that new residential developments in the RA-1 zone (other than those comprised of one-family detached and semi-detached dwellings) are reviewed by the BZA as special exceptions.

The proposed building will have approximately 67 residential units, with 20% of the units dedicated to seniors at or below 30% of the Median Family Income (“MFI”), and 80% of the units dedicated to seniors at or below 50% of the MFI. The project will be comprised of approximately 41,783 square feet of gross floor area, and will have a maximum building height not exceeding 40 feet. The Applicant proposes to provide six on-site surface parking spaces, which will be accessed by the public alley. Loading will also be located adjacent to the building and accessed from the

alley. Long- and short-term bicycle parking spaces will be provided in an amount that meets or exceeds the minimum requirements. The project is hereinafter referred to as the “Project.”

The Project will help to achieve the goals set forth in the Mayor’s Housing Equity Report, dated October, 2019, which seeks to establish an equitable distribution of affordable housing in the District to support the Mayor’s vision for creating 36,000 new housing units by 2025. The Mayor’s report acknowledges that the “production of new affordable housing is not keeping up with [] residents’ needs” and that growth “puts pressure on the overall housing supply, which can lead to rising costs. On average, residents are paying a greater share of their income for rental housing than before, an effect that disproportionately burdens low-income residents.” *See* Mayor’s Housing Equity Report, p. 2.

Recognizing the factors identified above, the Mayor established a goal of creating 36,000 new housing units, which would “expand the competitive supply of housing, moderate increases in housing costs, provide needed relief to a broad range of middle income families, and reduce pressure on the supply of housing serving lower incomes.” *See* Housing Equity Report, p. 2. *See also* Housing Initiative - Mayor’s Order 2019-036, dated May 10, 2019, which states that the District must “plan for a variety of housing types, including units for large and/or multigenerational families, seniors, and persons with disabilities.” The Applicant’s proposal to construct a 100% affordable project that is devoted entirely to seniors at 30% to 50% of the MFI is fully consistent with these goals.

V.
THE PROPERTY AND PROPOSED PROJECT

Since filing the application, the Applicant has engaged with the Office of Planning (“OP”) and has made several updates to the Project’s site plan, landscape elements, building materials, and massing. At the request of OP, the Applicant shifted the location of the transformer on the

northwest portion of the Property and added more landscaping to better screen both the transformer and the adjacent parking spaces from the garden areas on the Property and from the surrounding public spaces. The Applicant also shifted the location of the walking path on the north side of the Property so that it creates a clear walking loop for Project residents, and added a landscaped hedge around the perimeter of the Property.

With respect to building massing, the Applicant separated the building into two distinct segments so that it better adapts to the curving shape of the Property. The Applicant also revised the façade treatment to create a more varied and visually interesting alternating pattern of brick and hardie lap siding materials along the street-facing elevations. The building now has two larger brick towers in lieu of four smaller brick towers. To increase the residential nature of the building, the Applicant added shutters on some of the windows and provided larger windows and a more defining canopy at the building's entrance. The Applicant also shifted the building slightly to the north to add more vegetation along Savannah Place.

VI. **SPECIAL EXCEPTION RELIEF**

Pursuant to 11-U DCMR § 421.1, the Applicant seeks special exception relief to construct a new residential development in the RA-1 zone. The Board can grant the relief requested pursuant to the general special exception standard of review set forth in 11-X DCMR § 901.2, and the specific requirements set forth 11-U DCMR §§ 421.2-421.4.

A. Burden of Proof

Pursuant to D.C. Code § 6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant a special exception where it finds the special exception 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, 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.*

In addition, pursuant to 11-U DCMR § 421.1, the Board shall grant the special exception in accordance with the standards and requirements of 11-U DCMR §§ 421.2-421.4. As set forth below, the application meets the burden of proof to meet the general special exception standard of review and the specific standards of 11-U DCMR §§ 421.

B. The Project Meets the General Test for Special Exception Relief Under 11-X DCMR § 901.2

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-X DCMR § 901.2(a)-(c). The stated purposes of the Zoning Regulations are set forth in DC Code § 6-641.02.

The Project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. Apartment buildings are a permitted use in the RA-1 zone. All of the lots surrounding the Property are also zoned RA-1 and are already improved with three-story apartment buildings. Moreover, the Property itself was previously improved with an apartment building before it was razed, such that the use will not create any stark contrasts to the prior use.

Thus, the proposed three-story apartment building at the Property will be consistent with the Zoning Regulations and Zoning Map because it will fit in with the existing residential character and scale of the surrounding area and will not create any contrasts in use or intensity of the land. The Property will provide all required parking and loading facilities on-site, which will be accessed from the adjacent public alley and screened appropriately, such that no negative traffic or parking impacts will be created by the Project. The Project will also include a significant amount of on-site landscaping and open green spaces that can be used and enjoyed by residents and which will improve the aesthetic and visual character of the Property compared to current site condition.

Moreover, as a senior affordable housing development, the Project will provide new housing that is affordable to seniors, which is prioritized in the Mayor Housing Order that encourages a variety of housing types, including housing units for seniors, and states that “housing affordability is a top policy priority for Washington, DC.” *See* Housing Order, pp. 1-2. The Housing Order also encourages the production of new residential development generally to meet its residential unit target goals.

The District of Columbia Comprehensive Plan also encourages the development of housing, affordable housing, and senior housing, as demonstrated in the following policies with which the Project is consistent:

- *Policy H-1.1.1: Private Sector Support - Encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives;*
- *Policy H-1.1.3: Balanced Growth - Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing;*
- *Policy H-1.2.1: Affordable Housing Production as a Civic Priority - Establish the production of housing for low and moderate income households as a major civic priority,*

to be supported through public programs that stimulate affordable housing production and rehabilitation throughout the city;

- *Policy H-1.2.7: Density Bonuses for Affordable Housing - Provide zoning incentives to developers proposing to build low- and moderate-income housing. Affordable housing shall be considered a public benefit for the purposes of granting density bonuses when new development is proposed. Density bonuses should be granted in historic districts only when the effect of such increased density does not significantly undermine the character of the neighborhood;*
- *Policy H-4.2.2: Housing Choice for Seniors - Provide a wide variety of affordable housing choices for the District’s seniors, taking into account the income range and health-care needs of this population. Recognize the coming growth in the senior population so that the production and rehabilitation of publicly-assisted senior housing that meets universal design standards becomes a major governmental priority. Acknowledge and support the establishment of Senior Villages throughout the city that allow seniors to remain in their homes and age in-place;*
- *Policy H-4.2.3: Neighborhood-Based Senior Housing - Encourage the production of multi-family senior housing in those neighborhoods characterized by large numbers of seniors living alone in single family homes. This will enable senior residents to remain in their neighborhoods and reduce their home maintenance costs and obligations;*
- *Policy LU-1.3.3: Housing Around Metrorail Stations - Recognize the opportunity to build senior housing and more affordable “starter” housing for first-time homebuyers adjacent to Metrorail stations, given the reduced necessity of auto ownership (and related reduction in household expenses) in such locations; and*
- *Policy FSS-1.1.4: Infill Housing Development - Support infill housing development on vacant sites within the Far Southeast/Southwest, especially in Historic Anacostia, and in the Hillside, Fort Stanton, Bellevue, Congress Heights and Washington Highlands neighborhoods.*

In addition, the Far Southeast and Southwest Area Element in which the Property is located acknowledges that “there are opportunities for increased density within the Planning Area—especially around the Metro stations at Anacostia and Congress Heights... Transit-oriented development in these areas can provide opportunities for seniors, households without cars, young renters, and others.” 10A DCMR § 1807.2(d).

The proposed Project is fully consistent with these important District policies since it will be providing approximately 67 new residential units that are available to District seniors at 30%

to 50% of the MFI. The Project will be located in a residential neighborhood at a height and density consistent with surrounding development patterns, and therefore appropriately takes advantage of the IZ bonus in order to maximize the amount of affordable housing on-site. The Project is also located in close proximity to the Congress Heights Metrorail station, which is fully consistent with the Comprehensive Plan's goals for providing housing generally, and affordable and senior housing more specifically.

Therefore, the requested relief to construct a new three-story senior, affordable apartment house at the Property 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. The project is also fully consistent with the important goals of the Mayor's 2019 Housing Initiative, the Mayor's Housing Equity Report, and with a variety of stated policies within the Comprehensive Plan. Therefore, the proposed residential development meets the general special exception standard of review set forth in 11-X DCMR § 901.2.

C. The Project Meets the Test for Special Exception Relief Under 11-U DCMR § 420.1

Pursuant to 11-U DCMR § 420.1, new residential developments in the RA-1 zone, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board as a special exception in accordance with the following standards:

- a. *11-U DCMR § 421.2 - The Board of Zoning Adjustment shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:*
 - i. *Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and*

The Board referred the application to the Deputy Mayor for Education (“DME”) on October 21, 2019 (Exhibit 17) for the purpose of commenting on the adequacy of existing and planned area schools. As of the date of this filing, DME has not yet submitted a report on the application.

The Property is within the boundaries of the Malcom X Elementary School, Johnson Middle School, and Ballou High School, all of which are located a short distance from the Property. However, given that the Project is dedicated to the housing of seniors, there will be little to no impact on the surrounding schools.

ii. *Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.*

The Board referred the application to Department of Parks and Recreation (“DPR”) and the District Department of Transportation (“DDOT”) on October 21, 2019 (Exhibits 16 and 20, respectively) for the purpose of evaluating the Project’s impact on public streets, recreation facilities, and other services. As of the date of this filing, neither agency has submitted a report on the application. However, the Applicant has reached out to DDOT and their only comment was that the short-term bicycle parking spaces should be located at the front of the building as opposed to the rear. As shown on the site plan included in the Architectural Drawings, the Applicant has made this change.

Given the modest size of the Project, the existing public streets, recreation facilities, and other services will not be adversely impacted. With respect to transportation, the Project complies with all applicable vehicle and bicycle parking requirements, as well as with all applicable loading requirements. Moreover, the Project as convenient access to existing Metrorail and Metrobus routes. The Congress Heights Metrorail station is located 0.4 miles from the Property, and seven different Metrobus lines are located within 0.2 miles of the Property. For residents and visitors who choose to drive, parking will be provided on-site such that on-street parking in the neighborhood will not be affected. Loading will occur for move-ins and move-outs and small residential deliveries, all of which can be accommodated on-site at the rear of the Property and accessed from the public alley system. Therefore, with the combination of ample public transportation options and on-site parking and loading, the Project will not result in adverse impacts to public streets through traffic, parking, or the overcrowding of public transportation facilities.

The Property itself will also have ample open space that will be accessible to residents of the building and their visitors, and which will tie into the surrounding sidewalk network. For example, a significant portion of the Property will be dedicated to a walking trail, landscaping, and a trellis with removable seating that can be programmed for building residents. The building includes two outdoor terraces on the third floor and a fitness center. In addition, the Property is located approximately 0.2 miles from the Malcom X Recreation Center and the Oxon Run Parkway. Slightly farther away, but also within a half-mile, is the Oxon Run Park,

Turner Playground, and the Mary Church Terrell Recreation Center. Fort Circle Park and the Hayden-Johnson Recreation Center are both located approximately 0.6 miles from the Property. Thus, the ample facilities within the Project combined with those in the immediately surrounding neighborhood will be able to accommodate Project residents such that the Project will not have any adverse effects on existing capacity.

- b. *11-U DCMR § 421.3 - The Board of Zoning Adjustment shall refer the application to the Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the surrounding neighborhood, and the relationship of the proposed project to public plans and projects.*

The Board referred the application to OP on October 21, 2019 (Exhibit 19) to evaluate the Project's site plan, arrangement of buildings, and the provision of light, air, parking, recreation, and landscaping features as they relate to the surrounding neighborhood and public plans. As of the date of this filing, OP has not yet submitted a report on the application but the Applicant has met with OP and has adjusted the site plan in response to specific requests from OP.

As shown on the Plans, the Project's site plan includes information on the location of the proposed building, which is setback from all property lines in accordance with the Zoning Regulations and provides ample light and air for future residents. Given that the Property is surrounded on all sides by public streets or alleys, the distance between the proposed building and other adjacent residential buildings is significant and will not create any adverse impacts. Since filing the application, and in response to comments from OP, the Applicant has separated the massing of the building into two parts so that it better adapts to the curving shape of the Property.

In addition, the Applicant increased the amount of landscaping on the Property to better screen the parking spaces and transformer from the garden areas and surrounding public spaces. The Applicant also shifted the location of the walking path on the north side of the Property and revised various elements on the building façade. Based on these modifications, the Applicant submits that the Project's site plan, building location, landscaping, and other on-site facilities relate well to the surrounding neighborhood and will not create adverse impacts with respect to light, air, or parking.

- c. 11-U DCMR § 421.4 - In addition to other filing requirements, the developer shall submit to the Board of Zoning Adjustment with the application a site plan and set of typical floor plans and elevations, grading plan (existing and final), landscaping plan, and plans for all new rights-of-way and easements.

The Applicant submitted the required information as part of its initial application filing (architectural drawings at Exhibit 6 and existing landscape plan at Exhibit 5, which is an existing condition photograph). The Applicant herein submits the

revised Plans at Exhibit A in further compliance with this requirement, which also include a grading plan that was not previously submitted.

VIII.
COMMUNITY ENGAGEMENT

The Project is within the boundaries of Advisory Neighborhood Commission (“ANC”) 8E. The Applicant presented the Project to ANC 8E at its regularly scheduled, duly noticed public meeting on October 7, 2019. At that meeting, the ANC took no position on the application and did not take a vote on the Applicant’s request.

VII.
CONCLUSION

For the reasons stated above and described elsewhere in the case record, the Applicant has demonstrated that its request for special exception relief to construct a new residential development in the RA-1 zone is in harmony with the purpose and intent of the Zoning Regulations and Zoning Map and meets the test for special exception approval under 11-X DCMR § 901.2 and 11-U DCMR §§ 421.2-421.4. Accordingly, the Applicant respectfully requests the Board’s approval of the application.