

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

**Application of 5900 Foote, LLC BZA No. 20320**

**APPLICANT’S HEARING STATEMENT**

This Hearing Statement (“Statement”) outlines the existing and proposed use of the property and the manner in which the application (“Application”) complies with the specific tests and burden of proof for the special exception sought in this application before the Board of Zoning Adjustment (BZA)

**NATURE OF RELIEF SOUGHT**

This is an application pursuant to 11 DCMR Subtitle X, Chapter 9, § 900.2 for a special exception under Subtitle U, §421.1 to allow a new residential development comprising of an apartment house containing sixteen (16) dwelling units, subject to the conditions set forth under U, §§ 421.1 through 421.4 in the RA-1 zone district

The proposed new residential development complies with all other applicable provisions of the Zoning Regulations in the underlying RA-1 zone district

**SUMMARY OF APPLICATION**

The applicant seeks special exception pursuant to 11 DCMR Subtitle X, § 900.2 in accordance with the standards set forth in X, § 901.2 (a) through (c).

## **JURISDICTION OF THE BOARD**

The application is properly before the BZA. The Board is authorized to grant the requested special exception under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (2) (2001), as further set forth in 11 DCMR, Subtitle X, Chapter 9, § 900.2.

As further set forth under § 901.2, the Board of Zoning Adjustment is authorized to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a). Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (b). Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (c). Will meet such special conditions as may be specified in this title.

As more specifically outlined below in this hearing statement and as will be further attested in the course of the hearing, the applicant contends that the application complies with the three provisions set for the above, and with all the applicable standards prescribed under §§ 421.2 through 421.4

## **PROPERTY LOCATION AND DESCRIPTION**

The property is located at 5900 Foote Street NE, and it is located in the Deanwood neighborhood.

The surrounding neighborhood is improved with a mix of low to medium density residential developments comprising one-family row and semi-detached dwellings, including medium density three-story apartment buildings

The subject property is located in Square 5256 and is legally described as Lot 0805.

The subject property has street frontage on Foote Street only and is an interior lot, by definition. The property is bounded by a public alley on the Northwest abutting a side lot line and wraps around to abut the rear lot line of the subject property.

The subject property is an unimproved or vacant lot, nine thousand, eight hundred and seventy-four square feet (9,874 ft<sup>2</sup>) in lot area or size.

Applicant proposes to construct a three-story building containing sixteen (16) dwelling units. The proposed project complies with all other applicable provisions, including percentage of lot occupancy; limitation on height and number of stories; side yards, Floor Area Ratio (FAR); rear yard and Green Area Ratio (GAR) requirement.

The proposed apartment house is intended as market rate rental dwelling units and will comprise ten (10) 2-bedroom and 6 3-bedroom dwelling units. The proposed project is an Inclusionary Zoning (IZ) project, therefore subject to the set-aside requirements pursuant to Subtitle C, Chapter 10.

The proposed project will comply with the set-aside requirements for an IZ project as applicable.

## **STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

### **1. Compliance with the three standards set forth under X, § 901.2 (a), (b), and (c)**

#### ***(a). Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;***

The subject property is currently unimproved or vacant. The applicant proposes to construct a sixteen-unit apartment house which complies with all the development standards applicable in the underlying RA-1 zone district as set forth under Subtitle F, Chapter 3. Hence the application is limited to establishing the proposed use in the zoning district within which the subject property is located

The general purpose and intent of the Zoning Regulations for the RA-1 zone district are set forth in Subtitle F, Chapter 3, §§ 300.1 (a) and 300.2, more specifically.

As stated under F § 300.1 (a), the purpose of the RA-1 zone district is to permit “all types of urban residential development if they conform to the height, density, and area requirements established for these districts”

The proposed three-story apartment house is not inconsistent with the stated purpose because it is an urban residential development which conforms with the height, density and area requirements of its underlying zone district.

More specifically, F, § 300.1 states that the RA-1 zone district is intended to “provide for areas predominantly developed with low to moderate-density development, including detached dwellings, rowhouses, and low-rise apartments”

The proposed three-story building is a low-rise apartment and is compatible with the predominant type of development in the immediate and general vicinity of its neighborhood of location.

For the foregoing reasons, applicant submits that the proposed project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

***(b). Will not tend to affect adversely, the use of neighboring property in accordance  
With the Zoning Regulations and Zoning Maps;***

The subject property is separated from all other improvements located Northwesterly and Northeasterly by a 15 feet public alley. The property abuts only one adjoining property on its eastern side property lot line.

The improvement on the adjacent lot to the East is set back an approximate distance of twelve feet (12 ft.) whereas the proposed apartment house on subject property is removed from the common division lot line by an approximate distance of twenty-five feet, resulting in an approximate separation distance of thirty-seven feet (37 ft.) between the adjoining walls facing each other.

The separation distance of 37 feet is in excess of twice the setback prescribed for minimum side yard setback for the protection of adequate light and air and public health standards.

All other improvements on adjacent lots separated by the 15 feet public alley are similar three-story apartment building facing Eastern Avenue and are substantially removed from the rear property lot line.

For the foregoing reasons, the applicant submits that granting the special exception requested will not tend to affect adversely, the use of neighboring properties in accordance with the Zoning Regulations and Zoning Maps.

*(c). Will meet such special conditions as may be specified in this title.*

The special conditions specified are set forth under F, §§ 421.2 through 421.4.

The applicant notes that with the exception of § 421.4, all other conditions are referrals to other Agencies be made by the Board

***§ 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:***

***(a) Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and***

*As of the time of the filing of the final hearing statement, no relevant District of Columbia agency has submitted a comment and/or recommendation with respect to the adequacy of the existing and planned area schools to accommodate that can be expected to reside in the proposed project.*

*Applicant contends that the proposed number of dwelling units (16) is not substantial to significantly impact on the capacity of the existing or planned schools to adequately accommodate the potential number of residents expected to reside in the proposed project*

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

*The subject property is deemed “somewhat walkable” in accordance with the walkability score (65 of 100 walkable score; Bikeable score 57; mostly flat; some bike lanes) for the property.*

*The subject property is within nearby Public Transit as follows:*

***Rail Lines***

*Blue Metrorail Blue Line: 0.6 miles*

*Silver Metrorail Silver Line: 0.6 miles*

*Orange Metrorail Orange Line: 1.3 miles*

***Bus Lines***

*X9: 0.1 miles*

*V2: 0.1 Miles*

*V4: 0.1 miles*

*V14: 0.3 miles*

*F14: 0.3 miles*

***Nearby Parks***

*Marvin Gaye Park*

*Woodson Recreation Center*

*Applicant submits that the subject property is well served by proximity to public streets, recreation and other services to accommodate the residents expected to reside in the proposed project.*

***§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.***

*Applicant consulted interactively with the Office of Planning (OP) and has revised building design and other recommendations to incorporate OP's recommendation in project drawings*

***§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.***

Applicant has filed the listed documents and will file all such additional documents as may be recommended.

### **Community Outreach and Input**

Applicant presented the project to ANC 7C in an executive meeting in October 22, 2020.

Applicant is scheduled to present the project to the Northeast Boundary Civic Association in a meeting scheduled for November 9, 2020, after which the it is on the meeting agenda for full ANC consideration on November 12, 2020.

Applicant therefore anticipates that the ANC would file its resolution before the scheduled BZA hearing date of November 18, 2020.

### **Conclusion**

As set forth under § 901.2, the Board of Zoning Adjustment is authorized to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

(c) Will meet such special conditions as may be specified in this title.

The Applicant submits that the instant application complies with all conditions for the granting of the requested special exception set forth in Subtitle X, § 901.2 by virtue of the representations set forth under “Statement of Compliance with the Burden of Proof”

The proposed use is deemed a conforming use albeit allowed by special exception, and the proposed structure complies with all other applicable development standards provisions in its underlying zone district of location.

Applicant respectfully requests for all the foregoing reasons that the Board approve the application for the relief sought.

**Witness**

- 1. Lolu Fatukasi. Owner**
- 2. Mustafa Durrani. Owner**
- 3. Shahnur Bostan. Project Architect**