

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

Application of
1801 MD Ave, LLC

BZA Application No:
ANC: 5D 05

STATEMENT OF THE APPLICANT

I.

Nature of Application

This is an application by 1801 MD Ave, LLC (“**Applicant**”) for special exception relief from the strict requirements of the Zoning Regulations to permit the construction of a residential building containing approximately 28 units at 1801-1805 Maryland Avenue NE (Square 4488, Lots 36 and 37) (the “**Property**”). Lot 36 is split-zoned between the MU-7 and RA-2 Zone Districts, while Lot 37 is located in the RA-2 Zone District. The application requests special exception relief pursuant to 11-X DCMR §901.1 to shift the zone boundary line by up to 35 feet pursuant to 11-A DCMR §207.2 on Lot 36. The application also requests relief from the MU court width requirements pursuant to 11-G DCMR §1200.4. The project will conform to the Zoning Regulations in all other ways.

II.

Jurisdiction of the Board

The Board has jurisdiction to grant the relief requested pursuant to 11-X DCMR §901.1 of the Zoning Regulations.

III.

Information Regarding the Property and Project

A. Description of the Property and Surrounding Area

The Property is located in the Carver/Langston neighborhood immediately east of the intersection of Maryland Avenue, Bladensburg Road, and Benning Road (i.e. the “Starburst”

intersection). The Property fronts on Maryland Avenue between 17th and 19th Streets NE. The Property measures approximately 8,177 square feet in land area. The Property is currently improved with two (2) three-story apartment buildings containing a total of 12 units. The Property currently consists of two lots – Lot 36 on the west and Lot 37 on the east. Lot 36 is split zoned. The majority of Lot 36 is located in the MU-7 Zone District, while the east portion of Lot 36 is located in the RA-2 Zone District. All of Lot 37 is located in the RA-2 Zone District. The Property is encumbered by a 20-foot building restriction line along Maryland Avenue.

The Property is bounded by a 20-foot public alley at the rear with two access points along Maryland Avenue NE on either side of the Property. To the east of the Property is another three-story apartment building. To the west of the Property is an Aldi grocery store. At the edge of the Aldi property is a 20-foot public access easement (the “**Public Easement**”), immediately adjacent to the Property, that provides ingress and egress to the 20-foot public alley at the rear of the Property.¹ The Property is located in close proximity to the major bus lines along Maryland Avenue and less than ½ a mile from the Streetcar line on Benning Road.

B. Description of the Project

The Applicant proposes a residential apartment building containing 28 units, with 17 one-bedroom units and 11 two-bedroom units (the “**Project**”). The building will have a gross floor area of approximately 23,924 square feet (the “**Building**”). The Building’s height and bulk will shift with the Property’s bifurcated zoning, subject to the relief requested below. The western half of the Building, on current Lot 36, will be approximately 62 feet in height with five stories and a finished cellar. The eastern half of the Building, on current Lot 37, will be approximately 48 feet in height with four stories and a finished cellar. Both halves of the Building will have a

¹ This Public Easement was granted to the benefit of the District in connection with a partial alley closing in Square 4488 and is a perpetual public access easement, as recorded in the Surveyor’s Office in 2009.

12-foot habitable penthouse which meets all applicable setback requirements. The MU-7 portion of the Property will have a total lot occupancy of approximately 70% and a total FAR of approximately 3.9. The remaining Property in the RA-2 Zone will have a total lot occupancy of approximately 45% and an FAR of approximately 1.8.

Vehicular access to the Project will be via the 20-foot public alley at the rear of the Property accessed from Maryland Avenue. The Project includes three (3) screened surface parking spaces, including one dedicated car share space, at the rear of the Property off of the alley.² The Project will also include 10 long-term bicycle parking spaces.

IV.

Description of Relief Requested

Pursuant to 11-A DCMR §207.2, the Board may grant a special exception for a split-zoned property to extend the zone boundary line by 35 feet, making the less restrictive of the zone district regulations applicable to the use, height, and bulk of structures and the use of land for this 35-foot portion. The Property is split zoned between the MU-7 and RA-2 Zone Districts. Therefore, the Applicant requests a special exception pursuant to 11-A DCMR §207.2 to extend the MU-7 boundary line by up to 35 feet into the RA-2 Zone District.

Pursuant to 11-G DCMR §202.1, an open court in the MU zones must be four (4) inches wide per one (1) foot of height with a minimum width of 10 feet. The west side of the Building opens onto the 20-foot Easement Area that joins to the 20-foot public alley at the rear of the Property. In order to maximize housing unit space, while also providing ample light and air for

² 11-C DCMR §701.5 requires one (1) parking space for every three (3) dwelling units over four (4) units. The parking requirement for the Project is therefore 8 spaces ($28-4=24/3=8$). Additionally, 11-C DCMR §702.1(b) allows a 50% reduction in required parking for properties within 0.25 miles of a streetcar line. The Property is within 0.25 miles of the streetcar line on Benning Road. Therefore, the resulting parking requirement for the Project is four (4) spaces ($50\% \times 8=4$). 11-C DCMR §708.2 allows a car share space provided at a project to count as three (3) required parking spaces.

units, the Building provides a three (3) foot court for the first 16 feet of Building height, where a court 10 feet wide would otherwise be required. Above the first 26 feet of height, the court opens beyond the three (3) foot strip to an 11 foot by 10 foot square joining the three (3) feet for a larger, irregularly shaped court for the remaining 49.5 feet of height, where a 16.5 foot court would otherwise be required. 11-G DCMR §1200.4 provides that the Board may grant special exception relief from the development standards of the MU zones, subject to certain conditions. Therefore, the Applicant requests special exception relief from the minimum open court width requirements for the setbacks on the west side of the Building.

V.

Satisfaction of Standards for Relief

Under 11-X DCMR §901.2, in order to obtain special exception relief, the applicant must show that the requested relief will be in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps and will not adversely affect neighboring properties, in addition to any particular conditions for each special exception. As detailed below, the Project satisfies the standards for special exception approval of the zone boundary line extension and flexibility from the open court width requirements.

Zone Boundary Extension

For the zone boundary extension, pursuant to 11-A DCMR §207.2, the applicant must show that the extension has no adverse effect upon the present character and future development of the neighborhood as well as meet the general special exception standards. In this case, the Applicant seeks relief to shift the zone boundary line at the Property such that almost all of Lot 36 will be in the MU-7 Zone District.

The zone boundary line extension will allow the Applicant to create the most efficient layout of the Building and also provide additional housing and affordable housing units. The height and density difference between the MU-7 and RA-2 zones allows for an additional floor of height on the MU-7 side of the zone boundary line, but in order to utilize this height the Building's core must also be located on the taller (MU-7) side of the Building, so that the elevators and stairs can provide access to the top floor. Given the relatively small lot size and Building footprint, an efficient layout is essential to the Project, and a centrally-located core allows for the most efficient Building layout. The zone boundary line extension extends the MU-7 zoning to the center of the Property and allows for the Building core to be located near the center of the Building. Without the zone boundary line extension, the core would need to be (1) offset in the narrower MU-7 zone, which would lead to inefficient and less desirable unit layouts or (2) located in the RA-2 zone, which would reduce the maximum height that the elevators and stairs can reach and require the elimination of the top story of the Building on the MU-7 side. In either case, the result would be a reduction in the overall number and quality of housing and affordable housing generated by the Project.

The zone boundary line extension will not have an adverse effect on the present character or future development of the neighborhood. Multifamily residential use is permitted in both the MU-7 and RA-2 Zone Districts, so the Applicant's use of the zone boundary line extension does not result in a change in the overall character of the use of the Property or allow for a use that is not anticipated by the Zoning Regulations. Further, the immediate area features multifamily apartment buildings in both the MU-7 and RA-2 Zone Districts, so the proposed multifamily apartment use is consistent with the character of the surrounding neighborhood. All the zone boundary line extension does is shift the point at which the height and density transition from a

mid-rise to a low-rise height by a few feet. While the zone boundary line extension does theoretically increase the amount of the Property that could be used for commercial use, such adjustment aligns with the city's overall planning goal, as evidenced by the Future Land Use Map, which shows all of Lot 36 and most of Lot 37 in the Mixed-Use Medium Density Residential / Medium Density Commercial land use category. Additionally, the Project provides the residential infill development consistent with the Future Land Use Map that is called for in the Upper Northeast Area Element of the Comprehensive Plan.

The zone boundary line extension is also in harmony with the Zoning Regulations and Zoning Map. The Zoning Map already anticipates the Property as a transition point between the MU-7 and RA-2 Zone Districts, and so all the zone boundary line extension does is shift that transition point by a few feet for much of Lot 36, to the center of the Property, which allows for the massing of the Building to step down in a balanced and natural manner. Further, both the MU-7 and RA-2 Zone Districts permit multi-family residential use of a relatively comparable height and density. While the zone boundary line extension will facilitate an additional 15 feet of height and up to an additional 4,005 square feet of gross floor area, this adjustment is essential to achieve a more logical and efficient floorplate and will yield more housing and affordable housing for the reasons described above.

Finally, the zone boundary line extension will also not negatively affect neighboring properties. As noted, the extension allows for the height and mass of the Building to step down naturally at its halfway point. Additionally, because the Property slopes upward from west to east by approximately four (4) feet over the length of the Property along Maryland Avenue, the visual impact of the additional 15 feet of height will be lessened. Further, the building restriction line creates additional open space at the front of the Property, a setback which minimizes the visual

impact of the Building as well. Finally, the Project will only utilize 2,640 square feet, or approximately 66% of the additional density created by the extension. Therefore, the minor massing change enabled by the extension will not adversely affect the neighborhood.

In conclusion, given the improvements to building design and efficiency, and the resulting increase in housing and affordable housing provided by the Project, the modest extension of the MU-7 zone boundary line into the RA-2 Zone will not adversely affect the neighborhood and is in harmony with the Zoning Regulations.

Court Width Relief

There are no specific additional standards under 11-G DCMR 1200.4 for court relief beyond the general requirements that the relief be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps and that it will not tend to adversely affect the use of neighboring property. The proposed lower court provides a three (3) foot gap between the western wall of the Building and the Property line for an approximately 37 foot stretch, after which the Building is constructed to the Property line. This gap is necessary to allow for code compliant windows for the middle unit on each floor of the Building. Additionally, above the first two floors, the additional recess allows for additional light and air for the units above.

The requested court relief is in harmony with the general purpose and intent of the Zoning Regulations. First, no setback on this side of the Property is required, as a building is not required to have either a court or side yard in the MU-7 Zone. Any open space created by the Project represents an increase over what is required as a matter-of-right. Second, even though the area of the court on the Property itself is below the required minimum, the court opens directly onto the adjacent Easement Area, which is dedicated open space that functions as an

alley. As a result, the open space adjacent to the Building is significantly wider than would otherwise be required, which ensures the provision of ample light and air for the Project in harmony with the intent and purpose of the Zoning Regulations.

The requested court relief will also not have a negative impact on neighboring properties. The only neighboring property adjacent to the court is the Aldi grocery store. Again, the Project could be built to the Property line, and so the proposed court, even if below the minimum requirement, still provides more separation than is required by right. More importantly, the grocery store itself is located nearly 200 feet from the shared property line, with a surface parking lot and the Easement Area in the intervening space between the grocery store and the proposed Building. Therefore, the adjacent owner itself has created ample open space on its property and so a reduced amount of open space on the Property will not adversely impact the adjacent owner. Finally, because the court opens onto significant open space, the space does not present a safety concern by creating a hiding or otherwise concealed place. Therefore, the court relief is consistent with the special exception relief standards.

VI.

Conclusion

For all of the above reasons, the Applicant is entitled to the special exception relief requested in this case.

Respectfully submitted,

 /s/

Jeff C. Utz

 /s/

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