

BOARD OF ZONING ADJUSTMENT

E. D. 262838

Docket Book

Appeal Number #2818
Date of filing Sept. 21, 1950

Name of appellant Mabel Haden Covington

Address 1110 Hamlin Street, N.E.

Location of premises affected 1110 Hamlin St., N.E.

Square 3876 Lot 47

Appeal made as provided by Section XXIII, Part 3, Paragraph 3 for
Variance from the use provisions of the residential district to permit law
office, and to retain existing two kitchens for apartment use.

Appeal made from the decision of the Inspector of Buildings or other adminis-
trative officer or body, from _____

Have all requirements of the Zoning Regulations been met by appellant? Yes

Date of notifying appellant of hearing Oct. 9, 19 50. Date of

Newspaper notice Star -- October 16,, 19 50. Date of notifying

interested persons Oct. 14 - 1950 Both sides of Hamlin St. from

10th to 12th Sts. South side Irving Street bet. 10th and 12th Sts, N.E.

Date of hearing October 25,, 19 50.

Dates of continued or postponed hearings _____, 19 ____.

Date of hearing advanced for good cause shown _____, 19 ____.

Date of order of Board October 25, 19 50.

Order of the Board: Apartment granted. Law office denied.
Motion - Mr. Chamberlain. Second - Mr. Clouser.
Carried unanimously with Mr. Nolen not voting.

Date of notifying appellant
of order Oct. 31, 19 50.

Fee of \$ 25.00, paid Sept. 21, 19 50.

Fee returned _____, 19 ____.

Votes on order

Che
Nolen
Clouser
Scrivener
Chamberlain

: Yes : No

✓ ✓
Not Voting
✓ ✓
✓ ✓

Board of Zoning Adjustment
District of Columbia
CASE NO. 21230
EXHIBIT NO. 2C

DeBear, Eric J.

From: Moldenhauer, Meridith
Sent: Wednesday, September 18, 2019 10:56 AM
To: DeBear, Eric J.
Subject: FW: Zone Boundary Crossing Lot / Mi Casa - Florida and Q Street NW
Attachments: Exhibit35 (10).pdf; DCOZ Zoning Map Export (21).pdf



Meridith Moldenhauer
Member | Cozen O'Connor
1200 19th Street NW | Washington, DC 20036
P: 202-747-0763 F: 202-683-9389 C: 202-246-7070
[Email](#) | [Bio](#) | [Map](#) | [cozen.com](#)

From: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>
Sent: Wednesday, September 18, 2019 10:55 AM
To: Moldenhauer, Meridith <MMoldenhauer@cozen.com>
Cc: Lawson, Joel (OP) <joel.lawson@dc.gov>
Subject: Zone Boundary Crossing Lot / Mi Casa - Florida and Q Street NW

****EXTERNAL SENDER****

Meredith Moldenhauer:

By means of this email I agree with the analysis and summary in the below email, and as shown in the attachments, and specifically that:

- Your client Mi Casa Inc.'s has a proposed project in BZA Case 20095.
- Mi Casa is a non-profit, affordable housing developer that is seeking to redevelop vacant property at the intersection of Florida Avenue and Q Street NW (Square 615, Lots 825, 806, 148, 149, 150, 151, 152, 75) (the "Property"). A copy of the zoning map is attached.
- Mi Casa is proposing a mixed-use project with 24 affordable units and ground level retail space.
- As part of the zoning application, Mi Casa is requesting special exception relief pursuant to Subtitle A-207.2 (zone boundary crossing a lot line) and variance relief from the preamble of Subtitle A-207.1 (requiring single ownership of lots as of May 1958). The relief would allow Mi Casa to extend the MU-4 zone boundary line over the portion of the Property that is currently zoned RF-1.
- However, as part of this case, OP's report raises a question as to how I would apply Subtitle A-207.1(d) and whether it restricts the RF-1 portion of the Property to 0.9 FAR notwithstanding the relief to move the zone boundary line. A copy of OP's report is attached. Under OP's interpretation, Mi Casa would require additional variance relief from Subtitle A-207.1(d).
- Per our discussion on September 10th, 2019, I confirmed that your requested relief was correct and I further clarified how to interpret Subtitle A-207.1(d).

Board of Zoning Adjustment
District of Columbia
CASE NO.20095
EXHIBIT NO.40

- At our meeting I determined that for Subtitle A-207.1(d), that it means: For zones in which there is no designated floor-area-ratio, such as the R zones and the RF zones, Subtitle A-207.1(d) is applied to compute the floor-area-ratio when the R and RF zones are the **less** restrictive zones.
- Here, Subtitle A-207.1(d) does not apply to the Property because the RF-1 zone is the **more** restrictive zone, and Mi Casa is requesting to move the less restrictive MU-4 zone boundary line.
- Accordingly, if special exception relief from Subtitle A-207.2 is granted by the Board of Zoning Adjustment, Mi Casa would not be restricted to a floor-area-ratio of 0.9 in the 35 ft RF-1 portion of the Property, nor would Mi Casa require additional variance relief from Subtitle A-207.1(d).

Please let me know if you have any further questions.

DISCLAIMER: This email is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this email are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this email. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This email is **NOT** a “final writing”, as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this email based on the information submitted for the Zoning Administrator’s review. Therefore this email does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

Matthew Le Grant

Zoning Administrator
Department of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW, Washington DC 20024
Matthew.legrant@dc.gov
202 442-4576

From: Moldenhauer, Meridith [<mailto:MMoldenhauer@cozen.com>]
Sent: Wednesday, September 11, 2019 7:48 AM
To: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>
Cc: DeBear, Eric J. <EDeBear@cozen.com>
Subject: Zone Boundary Crossing Lot / Mi Casa - Florida and Q Street NW

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Matt,

Thank you for taking the time to discuss our client Mi Casa Inc.’s proposed project in BZA Case 20095. Mi Casa is a non-profit, affordable housing developer that is seeking to redevelop vacant property at the intersection of Florida Avenue and Q Street NW (Square 615, Lots 825, 806, 148, 149, 150, 151, 152, 75) (the “Property”). A copy of the zoning map is attached. Mi Casa is proposing a mixed-use project with 24 affordable units and ground level retail space.

As part of the zoning application, Mi Casa is requesting special exception relief pursuant to Subtitle A-207.2 (zone boundary crossing a lot line) and variance relief from the preamble of Subtitle A-207.1 (requiring single ownership of lots

as of May 1958). The relief would allow Mi Casa to extend the MU-4 zone boundary line over the portion of the Property that is currently zoned RF-1. However, as part of this case, OP's report raises a question as to how the Zoning Administrator might apply Subtitle A-207.1(d) and whether it restricts the RF-1 portion of the Property to 0.9 FAR notwithstanding the relief to move the zone boundary line. A copy of OP's report is attached. Under OP's interpretation, Mi Casa would require additional variance relief from Subtitle A-207.1(d).

Per our discussion yesterday on September 10th, you confirmed that our requested relief was correct and you clarified how to interpret Subtitle A-207.1(d). In our meeting you determined that Subtitle A-207.1(d) means: For zones in which there is no designated floor-area-ratio, such as the R zones and the RF zones, Subtitle A-207.1(d) is applied to dictate the floor-area-ratio when the R and RF zones are the **less** restrictive zones.

Here, Subtitle A-207.1(d) does not apply to the Property because the RF-1 zone is the **more** restrictive zone, and Mi Casa is requesting to move the less restrictive MU-4 zone boundary line. Accordingly, if special exception relief from Subtitle A-207.2 is granted by the Board of Zoning Adjustment, Mi Casa would not be restricted to a floor-area-ratio of 0.9 in the 35 ft RF-1 portion of the Property, nor would Mi Casa require additional variance relief from Subtitle A-207.1(d).

As noted today, we would greatly appreciate a response before the end of this week, as we would like to file your written confirmation into the BZA case record before the hearing on September 18th.

Thank you,
Meridith

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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Development Review Specialist
 JL Joel Lawson, Associate Director Development Review
DATE: February 18, 2022

SUBJECT: BZA Case 20638 (5151 Wisconsin Avenue, N.W.) to permit the construction of a new, six-story, 210-residential unit with first floor retail, mixed-use building in the MU-4 and R-2 zones.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- Zone Boundary Line Crossing A Lot, Subtitle A § 207.1, pursuant to Subtitle A § 207.2 and Subtitle X § 901.2 (portion of lot in less restrictive zone may extend up to 35-feet into more restrictive use zone on split-zoned lot permitted; 35-foot extension proposed).

II. LOCATION AND SITE DESCRIPTION

Address	5151 Wisconsin Avenue, N.W.
Applicant	Holland & Knight for Harrison Wisconsin Owner, LLC
Legal Description	Square 1666, Lots 806 and 807
Ward, ANC	Ward3, ANC 3E
Zone	The lot is zoned both MU-4 and R-2. The MU-4 zone permits moderate-density mixed-use development. The R-2 zone provides for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings.
Historic District	None
Lot Characteristics	The irregularly-shaped lot consists of 61,300 square feet of area, with 56,800 square feet zoned MU-4 and 4,500 square feet zoned R-2. The lot has 232-feet of street frontage along Wisconsin Avenue, 403-feet of street frontage along Harrison Street, and approximately 100-feet of street frontage along Garrison Street.
Existing Development	The property is currently developed with a five-story commercial office building that was constructed in the 1960s.

Adjacent Properties	To the north, across Harrison Street, is a single-story commercial office building occupied by a bank and a four-story residential building. To the south, at the northwest corner of Wisconsin Avenue and Garrison Street, is a five-story commercial office building. Further south, across Garrison Street, are detached single-family homes. To the east are detached single-family homes. To the west, across Wisconsin Avenue, is a three-story commercial office building, a single-story retail building, and a five-story commercial office building.
Surrounding Neighborhood Character	The surrounding neighborhood is predominantly moderate to medium density commercial, office, and residential uses generally along Wisconsin Avenue, and lower density residential beyond.
Proposed Development	The Applicant proposes to redevelop the property with a mixed-use building containing approximately 210 residential dwelling units and approximately 1,700 square feet of ground-level retail use. The building would be fifty-feet in height with six stories and include below-grade parking and penthouse space. The proposed development would comply with the development standards for the MU-4 zone.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – MU-4	Regulation	Proposed	Relief
Floor Area Ratio § 402	2.5 max. 3.0 (IZ) 1.5 max. non-residential use	2.92	None required
Height § 403	50 ft. max.	50 ft.	None required
Penthouse Height § 403	12 ft max; 15 ft. for penthouse mechanical space	12 ft.	None required
Penthouse Setback C § 1504	1:1 setback min.	12 ft.	None required
Penthouse FAR C § 1505	0.4 max.	0.3	None required
Lot Occupancy § 404	60% max; 75% IZ	51.8%	None required
Rear Yard § 405	15 ft. min.	15 ft. (Wisconsin Ave.)	None required
Side Yard § 406	None required; if provided, 2 in. per foot, 5 ft. min. req.	15 ft.	None required
Green Area Ratio § 407	0.3 min.	0.3	None required
Parking C § 701	Retail: none required Residential: 1 per 3 dwelling units in excess of 4 units; 50% reduction for being on a priority transit corridor = 35 spaces min.	135-160 parking spaces	None required

Zone – MU-4	Regulation	Proposed	Relief
Bicycle Parking C § 802	Retail: none required Residential LT: 1 per 3 dwelling units (71 spaces) Residential ST: 1 per 20 dwelling units (11 spaces)	71 Long Term spaces min. 11 Short Term spaces min.	None required
Loading	1 Loading Berth req. 1 Service/Delivery space req.	1 Loading Berth 1 Service/Delivery space	None required
Inclusionary Zoning C § 1003	10% of residential GFA, or 75% of bonus density (16,575 sq. ft.)	11% of residential GFA (18,051 sq. ft.)	None required
Zone Boundary Line Crossing a Lot A § 207	May extend portion of lot located in lesser restrictive use zone (MU-4) to portion of the lot in more restrictive use zone (R-2) up to 35 ft.	35 ft. extension of MU-4 zone into R-2 zone	Special Exception required

IV. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief from Subtitle A § 207.2, Zone Boundary Line Crossing A Lot

207.2 *If approved by the Board of Zoning Adjustment as a special exception under Subtitle X, the regulations applicable to that portion of a lot located in a lesser restrictive use zone that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone; provided:*

- (a) *The extension shall be limited to that portion of the lot in the more restrictive use zone but not exceeding thirty-five feet (35 ft.);*

As shown in the architectural plans at Exhibit 28, the Applicant proposes to extend the MU-4 zone boundary into the R-2 zoned portion of the property a distance of 35-feet, pursuant to this provision.

- (b) *In authorizing an extension, the Board of Zoning Adjustment shall require compliance with Subtitle A § 207.1(d);*

The Applicant has provided a determination from the Zoning Administrator that was issued for a previous BZA Case (Case No. 20095), which indicates that this section does not apply when the less restrictive zone (MU-4 zone in this case) is proposed to be extended over the more restrictive zone (R-2 zone in this case).

- (c) *The extension shall have no adverse effect upon the present character and future development of the neighborhood; and*

The proposed extension should not have an adverse effect upon the present character of the neighborhood. The MU-4 zone extends along the Wisconsin Avenue corridor, and there are several

developments that appear to be built to the extent permitted in the zone in terms of height and FAR, including a multi-family building to the north, the commercial office building to the south, and a commercial office building to the west. The proposed development would provide neighborhood-serving retail uses and residential, which are essential uses along the Wisconsin Avenue corridor and near a metro station. The proposed development would be separated from the low-density residential to the east by approximately 220-feet, minimizing any potential adverse impact.

The proposed extension should not have an adverse effect upon the future development of the neighborhood. The recently adopted Comprehensive Plan includes a number of land use designation changes along Wisconsin Avenue between Eastern Avenue and Fessenden Street, which would potentially allow for a higher FAR and height than that which is permitted in the MU-4 zone. As such, other potential development on Wisconsin Avenue could be at a higher density.

- (d) *The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.*

The Office of Planning does not recommend modifications to the plans.

b. Special Exception Relief from Subtitle X § 901.2, Special Exception Review Standards

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), 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;*

The proposed development consists of a mixed-use building with ground floor retail and approximately 210 residential units, which are permitted uses in the MU-4 zone. The building would comply with the development standards of the zone, including FAR, height, lot occupancy, parking, and yards. As such, the proposed development would 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*

As noted above, the requested special exception should not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. The proposed building would be separated by most adjacent properties by streets or undeveloped land. A separation of about 220-feet would be provided between the development and low-density residential neighborhoods to the east. The proposed building would be separated from properties to the west by Wisconsin Avenue, which is 120-feet wide, and should not be impacted by the requested special exception. Harrison Street, which is 85 to 90-feet in width, would provide separation between the proposed development and the properties to the north. There would be no separation between the proposed development and

the existing commercial office building to the south, but it is not anticipated that it would have significant impacts on the commercial office building, since the proposed development would replace an existing building of approximately the same height.

It is not anticipated that the proposed development would have an undue impact on light and air due to its separation from adjacent properties, so most potential shadow would fall on streets. Light and air to the commercial building to the south should not be impacted as most shadowing would be expected to occur to the north.

The Applicant has provided a draft Memorandum of Understanding (MOU) between the property owner and the ANC to the record at Exhibit 28B that addresses several elements of the project, including affordable housing, sustainability, use restrictions, parking, construction management, and offsite improvements. Although OP supports the conditions of the MOU, they do not appear to be directly related to the relief requested.

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

The proposed development would meet the special conditions specified in Subtitle A § 207.1 for a Zone Boundary Line Crossing A Lot, as provided in the analysis above.

V. OTHER DISTRICT AGENCIES

As of the date of this report, there are no comments from other District Agencies in the record.

VI. ADVISORY NEIGHBORHOOD COMMISSION

As of the date of this report, there are no comments from the ANC in the record.

VII. COMMUNITY COMMENTS TO DATE

One letter of support from the property owner of the commercial office building to the south, that shares a property line with the proposed development, has been submitted to the record (Exhibit 26).

Attachment: Location Map

Location Map

