

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

**3311-3329 14th Place, SE  
Square 5917, Lots 40-41**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

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This statement is submitted on behalf of SE Washington Development Associates II LP (the “Applicant”) in support of an 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 14<sup>th</sup> Place, SE (Square 5917, Lots 40-41) (the “Property”).

Attached hereto is a letter from the Applicant authorizing the filing and processing of this application and filing fee in the amount of \$36,720.00 for the special exception relief requested.

Pursuant to 11-Y DCMR § 300.15, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or “Board”) no fewer than 21 days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board’s approval of the requested special exception relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

**I. BACKGROUND**

**A. Description of the Property and Surrounding Area**

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 14<sup>th</sup> Place, SE to the east, Savannah Place, SE to the south, and public alleys to the north and west. As shown on the attached Zoning Map, the Property is zoned RA-1.

The Property is presently vacant. 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.

**A. Description of Proposed Use**

As shown on the attached architectural drawings (the “Plans”), the Applicant proposes to construct a new three-story apartment building on the Property. The proposed building would comply with all of the 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.

As shown on the Plans, the proposed building will have 56-68 residential units, 100% of which will be senior, affordable housing. The project will be comprised of approximately 41,880 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.

### **III. SPECIAL EXCEPTION RELIEF**

#### **A. Relief Requested**

As stated above, the Applicant seeks special exception relief pursuant to 11-U DCMR § 421.1 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.

#### **B. 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.

#### **1. The Applicant Meets the General Test for Special Exception Relief Under 11-X DCMR § 901.2**

The proposed residential development meets the general special exception standard of review set forth in 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:

Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein.

In this case, the proposed residential development 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, and all of the lots surrounding the Property are also zoned RA-1 and are presently improved with three-story apartment buildings. Thus, the proposed three-story apartment building will be consistent with the Zoning Regulations and Zoning Map and will fit in with the existing residential character and use of the surrounding area. The Property will provide all required parking and loading facilities on-site, which will be accessed from the adjacent public alley, such that no negative traffic or parking impacts will be created by the project.

Moreover, as a senior affordable housing development, the project will provide new housing that is both dedicated to seniors and affordable, which is specifically prioritized in the Mayor's 2019 Housing Initiative (Mayor's Order 2019-036) (the "Housing Order"). The Housing Order encourages a variety of housing types, including 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 to meet its goals.

The District of Columbia Comprehensive Plan also encourages the development of housing, affordable housing, and senior housing. *See, e.g. Policy H-4.2.2: Housing Choice for Seniors*, which encourages the development of a "wide variety of affordable housing choices for the District's seniors;" *Policy H-1.2.1: Affordable Housing Production as a Civic Priority*, which supports the "production of housing for low and moderate income households;" *see also Policy H-4.2.3: Neighborhood-Based Senior Housing; Action H-4.2.B: Incentives for Senior Housing; and Policy H-1.2.7: Density Bonuses for Affordable Housing*, among others.

Based on the foregoing, 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 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.

**2. The Applicant 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 will refer the application to existing and planned area schools upon the filing of this application. The Property is currently 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 development will be housing for seniors, there will be little to no impact on the surrounding schools as a result of the project.

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

The Board will refer the application to the relevant District agencies to evaluate the project's impact on public streets, recreation, and other services upon the filing of this application. However, given the modest size of the proposed residential development, the existing public streets, recreation facilities, and other services will not be adversely impacted by the project.

The Project is located within 0.4 miles of the green line at the Congress Heights Metrorail station, and is also surrounded by seven different Metrobus lines, with bus stops for all seven lines located within 0.2 miles of the Property. Parking will be provided on-site, such that on-street parking will not be impacted. Therefore, with the combination of ample public transportation and on-site parking, the project will not result in adverse impacts to public streets through traffic, parking, or the overcrowding of public transportation facilities.

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. The Property itself will also have ample open space that will be accessible to residents of the building.

Thus, there are ample recreation facilities in the immediately surrounding neighborhood, such that the project will not have any adverse effects on their 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 will refer the application to OP upon the filing of this application. However, the application includes a site plan showing the location of the proposed building on the Property, which provides ample light and air for residents. The site plan also shows that the building will be setback from its property line to provide front, side, and rear yard setbacks that are greater than the maximum dimensions required. Moreover, the Property is surrounded on all sides by public streets or alleys, thus further increasing the distance between the proposed building and other adjacent residential buildings.

In addition, parking is provided on-site, accessed from the public alley, and green space and landscaping are shown on the plans. As noted above, the proposed building and site development will fit in with the surrounding neighborhood, which is also improved with three-story residential apartment homes.

- 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.*

Attached to this application are the site plans and drawings required by this section.

## **V. COMMUNITY ENGAGEMENT**

The Property is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 8E04. Prior to filing this application the Applicant contacted the ANC commissioners to describe the project and the required zoning relief. The Applicant also requested to formally present the application at the ANC’s upcoming public meeting.