



February 13, 2026

Zoning Commission of the District of Columbia
441 4th Street, NW – Suite 210
Washington, DC 20001

VIA IZIS

Re: OAG Comments in Support of the Voluntary Design Review (“VDR”) of So Others Might Eat (Z.C. Case No. 25-03)

The Office of the Attorney General (“OAG”) recommends that the Zoning Commission approve the proposed voluntary design review (“VDR”) to add an additional floor to an existing residential building. The project will result in 61 modernized housing units for low-income households, thus advancing numerous Comprehensive Plan (“CP”) goals and justifying the grant of design review flexibility and variance and special exception relief. The provision of these units both furthers the public interest in affordable housing and meets both the special exception and variance requirements.

I. The CP Helps Guide Voluntary Design Review Requirements.

A. The CP and District Planning Policies Prioritize Added Density for Housing and Affordable Housing.

The Zoning Act requires the Zoning Commission to promote the general welfare as guided by the CP. The CP establishes the District’s land use and planning goals through a public process culminating in approval by the Council and the Mayor.¹ The CP is therefore law. Under that law, the District’s elected representatives have determined that “it is the availability of safe, decent, affordable housing across all neighborhoods that will determine whether the District’s vision for an inclusive District will be realized.”² To achieve this goal of an inclusive and diverse city, the CP prioritizes affordable housing to serve a variety of household types and income levels.³ In particular, the CP encourages increased density for housing and especially affordable housing near transit to maximize affordability benefits.

¹ D.C. Code §§ 6-641.01–6-641.02 (2001); *Wisconsin-Newark Neighborhood Coal. v. Dist. of Columbia Zoning Comm’n*, 33 A.3d 382, 389–90 (D.C. 2011); District of Columbia Comprehensive Plan Act of 1984 (D.C. Law 5-76), as amended by the Comprehensive Plan Framework Amendment Act of 2019, D.C. Law 23-127 (2020), the Comprehensive Plan Amendment Act of 2021, D.C. Law 24-20 (2021); and the Comprehensive Plan Future Land Use Map and Generalized Policy Map Approval Resolution of 2021, D.C. Resolution R24-0292 (2021).

² D.C. Mun. Regs. tit. 10-A, §§ 500.6a, 503.1 (2021).

³ *See id.* §§ 206.1, 310.10, 500.6a, 504.17 (2021).

A VDR does not involve the balancing tests of the planned unit development (“PUD”) process, where a project’s public benefits may be used to outweigh potential inconsistencies with the CP. However, the ZC must still find that the proposed project is not inconsistent with the CP.

Addressing the District’s Affordable Housing Crisis. The CP identifies rising housing costs as one of “the most pressing and critical issues facing the District.”⁴ Rising housing demand, driven by an increase in higher-income households, has increased housing costs across the District and resulted in a “crisis of affordability.”⁵ To address this crisis, the CP calls for the creation of 12,000 new affordable units equitably distributed across the District by 2025, to put the District on track to make 15% of all housing units in each planning area affordable by 2050.⁶ The CP identifies increased density as critical to supporting its housing and affordable housing policies and recommends using zoning processes and incentives to raise by-right height and density limits in certain locations.⁷ Increased density can support greater affordable housing set-asides.⁸

Addressing the Need for More Housing Around Metro Stations. The CP calls for new affordable and market-rate housing to be located near Metrorail stations.⁹ This increases the affordability of these units by reducing transportation costs, including the need for a car, and so frees up disposable income for other needs.¹⁰ Locating new housing, both affordable and market-rate, near stations supports and enhances neighborhood-serving retail with increased pedestrian traffic while increasing the efficiency of the District’s transportation network.¹¹

FLUM. The property is in an area designated for Moderate Density Residential development, which typically accommodates a FAR up to 1.8 (excluding map amendment or PUD bonus density) and features zones such as R-3, RF, and RA-2.¹² The site is located in the RF-1 zone, which does not have a maximum FAR for residential buildings.¹³ However, a PUD in the RF-1 zone is permitted a maximum height of 50 feet, and the proposed building height will be 46 feet.¹⁴ Furthermore, the building’s new height is comparable to that of other four-story buildings in the area, demonstrating development that is consistent with the surrounding context.

⁴ *Id.* § 206.1 (2021).

⁵ *Id.* § 500.19 (2021); *see also* D.C. Mun. Regs. tit. 10-A, §§ 500.4, 500.15, 500.18 (2021).

⁶ D.C. Mun. Regs. tit. 10-A, §§ 310.10, 501.1, 504.17 (2021); DHCD & DCOP, HOUSING EQUITY REPORT (October 2019), https://housing.dc.gov/sites/default/files/dc/sites/housingdc/page_content/attachments/Housing%20Equity%20Report%2010-15-19.pdf.

⁷ *See* D.C. Mun. Regs. tit. 10-A, § 307.20, 307.2, 310.15, 503.4, 504.15 (2021).

⁸ *Id.* §§ 503.4, 504.26 (2021).

⁹ *Id.* §§ 307.11 (2021).

¹⁰ *See id.* § 508.4 (2021); *see generally* *Id.* §§ 307.3, 307.11, 307.14, 307.21, 310.18, 403.13, 503.11, 508.4 (2021).

¹¹ *Id.* § 307.20 (2021).

¹² *Id.* § 227.6 (2021).

¹³ D.C. Mun. Regs. tit. 11-E, § 201.8.

¹⁴ *Id.* § 203.2. Additionally, zoning regulations limit the amount of height flexibility in design review to what can be given for a PUD, which is fulfilled here. *See* 11-X, § 603.3.

GPM. The property is located in a Neighborhood Conservation Area (“NCA”), which accommodates change that is “modest in scale” and anticipates “some new development and reuse opportunities” as guided by CP policies and the FLUM.¹⁵ An NCA does “not preclude development, particularly to address city-wide housing needs,” but encourages context-sensitive growth based on neighborhood characteristics.¹⁶ As discussed, the project’s density is compatible with the FLUM and matches the scale of the neighborhood overall.

B. Voluntary Design Review Standards and Relation to CP

The applicant is requesting flexibility from the building height and rear yard requirements. The Zoning Commission may grant design review flexibility if: (1) the project is not inconsistent with the CP; (2) new development respects the historic character of the District’s neighborhoods; (3) buildings strive for attractive and inspired façade design; (4) sites are designed with sustainable landscaping; and (5) sites are developed to promote connectivity both internally and with surrounding neighborhoods.¹⁷

The applicant is also requesting variance relief from the minimum area requirement for a VDR, the requirement of a minimum of 900 square feet of land area per dwelling unit, and the transportation demand management (“TDM”) requirement. The Zoning Commission may grant variance relief if: (1) the property is affected by an exceptional situation or condition; (2) strict application of zoning regulations would result in practical difficulty; and (3) relief can be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan.¹⁸ OAG’s analysis will focus primarily on this third requirement as it most aligns with the office’s mission of advancing the public interest.

II. The Project Satisfies the Requirements for Design Review Flexibility and Requested Variance and Special Exception Relief

To satisfy the VDR requirements, the applicant must demonstrate that it meets both the design review requirements and general variance and special exception criteria. OAG finds that the proposed flexibility and variance relief is not inconsistent with, and in fact, advances, the CP’s goals as outlined in the previous section.

A. Design Review Flexibility

Building Height Flexibility. The applicant has requested flexibility to build up to 46 feet. This is below the maximum 50 feet permitted for a PUD in the RF-1 zone and is thus consistent with the design review’s limits on height flexibility.¹⁹ Further, the height does not exceed the

¹⁵ D.C. Mun. Regs. tit. 10-A, § 225.4 (2021).

¹⁶ *Id.* § 225.5.

¹⁷ *See* D.C. Mun. Regs. tit. 11-X, § 604.

¹⁸ *Id.* § 1002.

¹⁹ *Id.* § 603.3.

general scale of the surrounding neighborhood. As such, the height flexibility would not contravene either the FLUM or the GPM’s guidance.

Rear Yard. The applicant also requests flexibility from the rear yard requirements to give the fourth-floor addition the same building plate as the rest of the structure, maximizing residential space. As the building was constructed in 1958 and predates the current zoning regulations, it does not comply with the RF-1 zone rear yard requirements and cannot easily be modified to fit them. As with building height, the ZC has discretion to grant rear yard flexibility. A smaller building plate for the additional floor would likely reduce the number of affordable units produced. The CP’s imperative to create affordable housing based on critical citywide need outweighs the minimal flexibility requested.

B. Special Exception Relief

The applicant requests special exception relief for the conversion of an existing residential building to an apartment house and from the minimum parking requirements. The Zoning Commission may grant special exception relief if it: (1) is in harmony with the general purpose and intent of the zoning regulations and zoning maps, and (2) will not affect adversely the use of neighboring property in accordance with the zoning regulations and map.²⁰

Conversion of Existing Residential Building. The conversion of this building is deemed to be a conforming use that increases the number of units. Four conditions apply, the fourth of which requires that the change be in harmony with the purpose and intent of the zoning regulations and will not result in adverse impacts.²¹ As discussed in the preceding section, the project’s creation, expansion, and modernization of affordable housing through creative means advances the public good with minimal negative impact on neighbors.

Minimum Parking. The project satisfies four conditions for minimum parking relief: the site is physically constrained due to its compact size and cannot accommodate spaces on the lot or within 600 feet; the site is particularly well served by transit, including access to the Stadium-Armory Metro Station and the 96 and B2 Metrobus lines; the nature of the use would generate demand for less parking than the minimum parking standards as few residents own cars; and all dwelling units are dedicated as affordable housing units for the 50% MFI level and below.²²

²⁰ *Id.* § 901.

²¹ OAG believes that the project is in compliance with or seeks relief from the remaining conditions: (a) The building to be converted or expanded is in existence on the property at the time the DCRA accepts as complete the building permit application; (b) The fourth dwelling unit and every additional even number dwelling unit thereafter is subject to Inclusionary Zoning; and (c) There shall be a minimum of 900 sf of land area per each existing and new dwelling unit, from which the applicant is seeking variance relief. *See id.* 11-U, § 320.2.

²² *See id.* 11-C, § 703.2.

C. Variance Relief

Minimum Area Requirement for VDR. The property does not meet the minimum area required for a VDR in the RF-1 zone as it is less than two acres.²³ However, as the present building predates zoning, strict application of the zoning regulations would pose practical difficulty in creating and modernizing the building’s housing units. In fact, this expansion and modernization of units for low-income households with minimal, if any, disruption on the surrounding neighborhood creates a benefit to the public good and fulfills the purpose of the District’s zoning plans.

Minimum Land Area Per Dwelling Unit. The project will not provide a minimum of 900 square feet of land area per dwelling unit due to physical constraints on building changes. As discussed above, the present building predates zoning and strict application of zoning requirements would displace many low-income residents that would otherwise keep their units if no VDR was proposed, while denying them the opportunity to obtain modernized units. There is no detriment to the public good or impairment of the zoning plans for waiving this requirement.

TDM Requirement. The applicant is seeking relief from the TDM plan requirement for a VDR.²⁴ Neither the current nor proposed building will provide parking, and there will be no change in parking demand given the limited car ownership among the building’s residents, which constitutes an exceptional condition for the purposes of granting relief.²⁵ Imposing a TDM requirement poses a practical difficulty as it will detract resources from the rest of the development. Additionally, not imposing a TDM would not result in a detriment to the public good or impairment of the zoning plans as it will have no effect.

OAG recommends that the Zoning Commission approve the VDR as it aligns with numerous Comprehensive Plan priorities and advances the public good through its creative expansion and modernization of housing for low-income residents, and satisfies the requirements for design flexibility and variance and special exception relief.

Respectfully submitted,

BRIAN L. SCHWALB
Attorney General for the District of Columbia

²³ *Id.* 11-X, § 601.3.

²⁴ *Id.* 11-C, § 703.4.

²⁵ Applicant’s Statement in Support of Design Review (Exhibit 3, p. 22).

OAG Comments in Support – February 13, 2026
Voluntary Design Review – So Others Might Eat (SOME)
Z.C. Case No. 25-03

COTY MONTAG
Deputy Attorney General
Public Advocacy Division

BETH MELLE
WILLIAM STEPHENS
Assistant Deputy Attorneys General
Public Advocacy Division

/s/ Noelle Wurst
NOELLE WURST (#90006493)
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2026, a copy of the foregoing petition was served on the following by email.

So Others Might Eat
Represented by Goulston & Storrs
1999 K Street NW, 5th Floor
Washington, DC 20006
ckadlecek@goulstonstorrs.com

Via Email

District of Columbia Office of Planning
Shepard Beamon
1100 4th Street, SW, Suite 650E
Washington, DC 20024
Shepard.beamon@dc.gov

Via Email

Office of the ANCs – oancs@dc.gov

Via Email

Brian Alcorn
Commissioner, SMD 7D08
7D08@anc.dc.gov

Via Email

/s/ Noelle Wurst
NOELLE WURST (#90006493)
Assistant Attorney General