

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

**Application for 900-914 55th Street, NE
(Square 5204, Lot 22)**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by Habitat for Humanity of Washington DC (“Habitat” or the “Applicant”) in support of its application pursuant to 11-C DCMR §§ 302.2(a) and 305 and 11-X DCMR § 901.2, for special exception relief to allow multiple primary buildings on a single record lot pursuant to the theoretical subdivision regulations on property located in the R-2 Zone District at 900-914 55th Street, NE, Washington, DC (Square 5204, Lot 22) (the “Site”).

Pursuant to 11-Y § 300.15 of the Zoning Regulations, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or the “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

The Site consists of Lot 22 in Square 5204, which is bounded by private property to the northeast, 55th Street, NE to the southeast, private property and a public alley to the southwest, and private property to the northwest. The Site has approximately 62,223 square feet of land area and is mostly vacant, except for two vacant single-family detached homes that will be razed as part of redevelopment.

II. Proposed Project

As shown are the architectural drawings attached hereto, the Applicant proposes to redevelop the Site with 17 new semi-detached and detached row dwellings on the single record lot. Each row dwelling will be three-stories and approximately 32 feet, 7 inches in height and will have three bedrooms, living space, an unfinished basement, and an attached single-car garage. A side yard of at least eight feet will be provided on the detached side of each dwelling, and zoning-compliant rear yards will be provided. Lot occupancy for each theoretical lot varies, with the maximum being less than 28%. A new private drive on Lot 22 will connect each new dwelling to 55th Street, NE.

II. Special Exception Relief

Pursuant to 11-C DCMR § 302.2, each new primary building must be erected on a separate record lot, except as provided for in the theoretical lot subdivision regulations of 11-C DCMR § 305.1. Accordingly, pursuant to 11-C DCMR § 305.1, the Board may grant, through special

exception, a waiver to allow multiple primary buildings on a single record lot provided that the application meets the requirements of 11-C DCMR § 305 and the general special exception criteria of 11-X DCMR, Chapter 9. The number of buildings permitted under the theoretical lot subdivision regulations is not limited, provided that satisfactory evidence is submitted that all the requirements of 11-C DCMR § 305 are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations. As set forth herein, the application complies with all requirements of 11-C DCMR § 305 and 11-X DCMR, Chapter 9.

A. Standard of Review

Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant special exceptions where it finds the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and will meet such special conditions as may be specified in 11-Z DCMR Chapter 9. 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.*

B. Special Exception Standards for Multiple Primary Buildings on a Single Record Lot

Pursuant to 11-C DCMR § 305.1, the following development standards shall apply to theoretical lots:

- a. *Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;*

As shown on the architectural drawings, the side and rear yards of the theoretical lots will meet the zoning requirements for the R-2 zone.

- b. *Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways;*

As shown on the architectural drawings, the only means of vehicular ingress and egress to the buildings on the Site is a driveway, which is 20 feet wide as permitted by this subsection.

- c. *The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and*

As shown on the architectural drawings, the height of the proposed buildings are measured from the finished grade at the middle of the front of the building façades facing 55th Street, which is the nearest street lot line.

- d. *The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.*

The proposed building height, measured consistent with 11-C DCMR 305.3(c) does not conflict with the Height Act.

Pursuant to 11-C DCMR § 305.4, for a theoretical subdivision application, the information listed in 11-C DCMR § 305.4 is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300.

Attached hereto are the plats, plans, and zoning information required to be submitted by 11-C DCMR § 305.4.

Pursuant to 11-C DCMR § 305.5, before taking final action on a theoretical subdivision application, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including the following:

- a. *The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:*

- i. *Public safety relating to police and fire concerns including emergency vehicle access;*

The proposed site plan complies with all fire code and emergency vehicle access requirements.

- ii. *The environment relating to water supply, water pollution, soil erosion, and solid waste management;*

The project complies with all stormwater management retention and detention regulations, as shown on the preliminary civil engineering drawings.

iii. Public education;

The addition of 17 new dwellings will not have a perceptible impact on the public education system. The Site is assigned to Burrville Elementary School, Kelly Miller Middle School, and Woodson High School. It is the Applicant's understanding that the D.C. public school system has adequate capacity to accommodate any future children living in the proposed development at the Site.

iv. Recreation;

The addition of 17 new dwellings will not have a perceptible impact on recreation facilities in the area. The Site is located in close proximity to the Marvin Gaye park and Woodson High School's recreation facilities, and the Site will be well-sited to provide easy access to these community facilities.

v. Parking, loading, and traffic;

Each theoretical lot will include one on-site parking space, which meets the anticipated demand for each dwelling. Loading is not required or provided for the 17 dwelling units. Traffic will not be impacted by the proposed project, which will generate a nominal number of vehicular trips.

vi. Urban design;

As shown on the plans, the project includes an attractive urban design that is compatible with the surrounding single family neighborhood and provides adequate light and air for future residents of the project and of adjacent properties

vii. As appropriate, historic preservation and visual impacts on adjacent parkland;

The Site is not located within an historic district and does not impact views to any adjacent parkland.

b. Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;

The existing lot is significantly larger than any of the surrounding residential lots, which range in size from approximately 2,000 square feet to approximately 5,000 square feet, whereas the Site has approximately 62,223 square feet of land area. The proposed project would create smaller lots with detached and semi-detached dwellings,

similar in scale to the majority of the other lots and homes within the square and neighborhood. The minimum side and rear yards, lot occupancy, and pervious areas, will be well within the requirements of the R-2 District.

c. Considerations of traffic to be generated and parking spaces to be provided, and their impacts;

As noted above, the project provides the required number of parking spaces for the proposed development, and will not create any perceptible impacts on traffic volume in the surrounding neighborhood.

d. The impact of the proposed development on neighboring properties;

As noted above, the project has been designed to be compatible with the surrounding single family residential neighborhood, and will be sited and designed to not create any adverse impacts on surrounding properties.

e. The findings, considerations, and recommendations of other District government agencies.

The Office of Zoning will circulate this application to relevant District agencies.

The proposed development shall comply with the substantive intent and purpose of this title and shall not be likely to have an adverse effect on the present character and future development of the neighborhood (11-C DCMR § 305.6).

As noted above, the project complies with the purpose and intent of the theoretical subdivision regulations and will not have an adverse effect on the present character or future development of the neighborhood. Indeed, the project will put a mostly vacant and underutilized lot to productive use by constructing 17 new row dwellings that will be affordable to and large enough to house District families.

The Board of Zoning Adjustment may impose conditions with respect to the size and location of driveways; floor area ratio; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations (11-C DCMR § 305.7).

The Applicant does not believe that any additional conditions are needed for the project, since it has already been designed to protect the purpose and intent of the Zoning Regulations.

C. General Special Exception Standards under 11-C DCMR § 901.2

The Board is authorized to grant special exception relief where, in the judgment of the Board, 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 in accordance with the Zoning Regulations and Zoning Maps.

In this case, the subdivision of the Site into 17 separate theoretical lots is in harmony with the purpose and intent of the Zoning Regulations and Zoning Map and will not affect adversely the use of neighboring property because it will enable development of new semi-detached and detached row dwellings in a neighborhood that is otherwise already developed with detached and semi-detached dwellings. The proposed dwellings meet the development and use standards of the Zoning Regulations for the R-2 District and are designed as a matter-of-right other than for the special exception for theoretical lots requested herein. The project will improve the neighborhood by providing new housing and affordable housing on an otherwise underutilized and mostly-vacant site, and the buildings and site plan will be designed to avoid any negative impacts on surrounding properties.

Therefore, the proposed project will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.

III. Affected Advisory Neighborhood Commission

The Site is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 7C. As required under 11-Y § 300.8(l), the Applicant has apprised ANC 7C its intent to develop the Site and submit a zoning application. The Applicant will work with the ANC throughout the zoning application process and will provide an update on the ANC’s review prior to the public hearing on this case.