

January 15, 2019

To: Mr. Clifford Moy

Office of Zoning - BZA

441 4th Street, NW, Suite 200S  
Washington, DC 20001

## Burden of Proof

### *Project Description*

DC Housing Finance Agency's ("DCHFA") Housing Investment Platform ("HIP") Single Family Investment Fund ("SFIF" or the "Fund") has partnered with HIP West St Partners, LLC, owners of 2501-2509 West SE, for the development of housing affordable to families earning workforce incomes (60-120% of Median Family Income). Project has been developed as part of the Vacant to Vibrant DC initiative.

HIP West St Partners, LLC, seek Board of Zoning Adjustments Special Exception relief for the subdivision of lots at such property, for construction of a 6 Unit Workforce Housing Row Dwelling development, to include one Inclusionary Zoning unit. Property owners elect to provide Inclusionary Zoning unit in exchange for a higher density development than would otherwise be allowable.

A total of three lots are involved: lots number 0824, 0069, 0050. Intent is to combine the three lots and subdivide the larger lot into six individual lots of different dimensions to make them optimal for development.

### *Relief Sought*

Lots are in the R-3 Zone, which is subject to the following regulations per DCMR 11 Subtitle D § 302.1

**TABLE D § 302.1: MINIMUM LOT WIDTH AND MINIMUM LOT AREA REQUIREMENTS**

Zone	Minimum Lot Width (ft.) for building type; applicable to all zones in left column	Minimum Lot Area (sq. ft.)
R-1-A	75	7,500
R-1-B	50	5,000
R-2	40 (detached) 32 (IZ detached) 30 (semi-detached) 25 (IZ semi-detached) 40 (all other structures)	4,000 (detached) 3,200 (IZ detached) 3,000 (semi-detached) 2,500 (IZ semi-detached) 4,000 (all other structures)
R-3	40 (detached) 30 (semi-detached) 20 (attached) 16 (IZ attached) 40 (all other structures)	4,000 (detached) 3,000 (semi-detached) 2,000 (attached) 1,600 (IZ attached) 4,000 (all other structures)

SOURCE: Final Rulemaking published at 63 DCR 2447 (March 4, 2016 – Part 2).

Special Exception is sought for Opting In to Inclusionary Zoning Minimum Lot Width and Area, per Subtitle C § 1002.2, pursuant to Subtitle C § 1001.2 (e)(3), and Subtitle X § 900.

***Special Exception Test***

Lot dimensions proposed are 18.33’ wide by 104.9’ long, 1,919.7 sq. ft in area, which comfortably meet IZ lot requirements per § 302.1 of 16’ minimum width and 1,600 sq. ft minimum area. As such, we believe that the proposed development 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, as required for Special Exception approval.

Variance relief is required from Subtitle D § 307, for eliminating 5' side yard requirement at lot on North end of development, where it abuts a paper alley (lot A6).

### *Variance Test*

To obtain an area variance, “an applicant must show that

- (1) there is an extraordinary or exceptional condition affecting the property;
- (2) practical difficulties will occur if the zoning regulations are strictly enforced; and
- (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.”

We address each factor in turn below.

#### 1. Exceptional Condition/“Uniqueness”

1. A paper alley exists on the North end and along the rear (East) of the development, but is unlikely to be finished, due to the severity of the grade change along that alleyway, which is approximately 20' from North to South, and 4' from East to West.
2. As an IZ development by election, the 16% of the floor area will set aside for the Inclusionary Zoning dwelling unit, instead of the normally required 10%, given that the development is comprised of six dwelling units instead of ten, making it important to maximize the overall sq. ft. and number of bedrooms provided in each unit.
3. This property is a classic illustration of the issues raised in the proposed text amendment outlined in ZC case 17-23. It is optimum in terms of overall dimensions for an attached row dwelling development, however the current regulations require that a semi-detached dwelling be provided on the North end.

As outlined in the proposed text amendment to those regulations, Zoning Commission Case 23-17:

“In the 1958 Zoning Regulations, detached, semi-detached and row dwellings were defined by whether they provided side yards (two (2), one (1), or none respectively). In the 2016 Zoning Regulations the Commission, among other things, adopted amendments that replaced the definitions of Dwelling, one-family detached, Dwelling, one-family semi-detached, and Dwelling, row with definitions for Building, Detached, Building, Semi-detached, and Building, Attached. The 2016 definitions defined buildings by whether they are physically attached to an adjoining building and not by the provision of side yards.

The 2016 definitions and side yard development standards resulted in a shift from prior longstanding practices and have now required lot-line to lot-line buildings that would not share a common division wall to provide the required side yard. This has resulted in inconsistent infill buildings when they cannot attach to another building in a row or semi-detached block or when a property owner only owns a single lot.

Based on experience implementing the 2016 Zoning Regulations, the Zoning Administrator's (ZA) staff and the Office Planning drafted amendments to more closely align the 2016 Zoning Regulations with historical and ZA practice related to side yard requirements, which the Commission is proposing through this notice. In brief, the proposed amendments would amend the 2016 definitions and side yard requirements to allow a lot-line to lot-line building to be considered an attached building for purposes of determining a required side yard in the residential zones; increase the minimum side yard width adjacent to an addition or extension to three (3) feet in the R-20, RF and RA zones; and require that existing conforming side yards not be reduced to a non-conforming width or eliminated."

## 2. Practical Difficulty

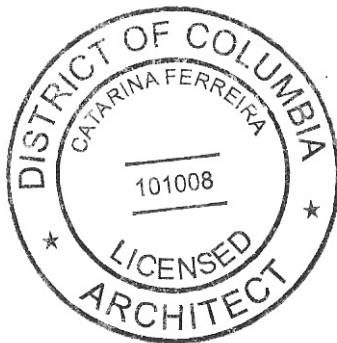
Providing the required 5' side yard at the end of row lot would result in a reduction in width for that dwelling to 13.33', and less than adequate interior spaces for livability, and would not meet the HIP program parameters/goals for providing quality Workforce housing.

## 3. No substantial detriment to the public good or integrity of the zone plan.

The proposed developments will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, as it not only satisfies but exceeds IZ lot size requirements, and proposed row dwellings will require no further relief.

We believe the proposed developments will not tend to affect adversely the Public Good, for reasons mentioned above, as it will bring six much needed Work Force Housing units to the neighborhood, one of which will offer the added benefit of meeting Inclusionary Zoning requirement. Off-street parking will be provided for all units.

Please do not hesitate to contact me with any questions or concerns.



Sincerely,

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