

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts, Project Manager
 Joel Lawson, Associate Director Development Review
DATE: March 4, 2019

SUBJECT: Supplemental Report - BZA Case 19910 – 5835 Colorado Avenue, NW to permit a new five-unit apartment house to opt into Inclusionary Zoning requirements for increased density.

I. OFFICE OF PLANNING RECOMMENDATION

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

Special Exception

- Subtitle U § 421 New Residential Developments in the RA-1 zone; and
- Subtitle C § 1001.2(e)(3), to opt into the Inclusionary Zoning (IZ) program (IZ units not required; at least one IZ unit required to opt in; 1 IZ units proposed).

Variances

- Subtitle F § 304, Lot occupancy (40% allowed, 45% proposed);
- Subtitle F § 306, Side yard (8 ft. allowed, 3 ft. proposed); and
- Subtitle C § 1005.1. IZ Regulations: proportionality rule (one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type).

The OP report and recommendation is based on the revised submission (Exhibits 38-40), which includes eliminating previously requested FAR relief, and now includes opting into the IZ program.

II. LOCATION AND SITE DESCRIPTION

Address	5835 Colorado Avenue, NW.
Applicant	Bruno Casu, LLC represented by Caterina Ferreira, AIA
Legal Description	Square 2937, Lot 832
Ward, ANC	Ward 4, ANC 4C
Zone	RA-1 provides for areas predominantly developed with low-to moderate-density development, including low-rise apartments by special exception.
Historic District	Not applicable.
Lot Characteristics	The property has 2,325 square feet of land area and is bounded by 16-foot wide public alleys to the north and rear.
Existing Development	The property is currently developed with a burnt out, two-story, detached building.

Adjacent Properties	To the north and northeast, along Colorado Avenue, Missouri Avenue and Georgia Avenue is a five-story condominium building and to the east along Georgia Avenue is a two-story mixed-use building both with ground floor retail in the MU-7 zone. To the south is a single-family detached residence and to the west is a two-story flat along Colorado Avenue in the RA-1 zone.
Surrounding Neighborhood Character	Colorado Avenue is a mixture of two-story detached and semi-detached residences, flats, and three and five-story apartments. Along Missouri Avenue are two-story flats while along Georgia Avenue are a mixture of retail uses including a Walmart store.
Proposed Development	The applicant proposes to demolish the existing building and construct a new five-unit apartment house consisting of three, two-bedroom units and two, one-bedroom units. The applicant has requested special exception relief to opt in to Inclusionary Zoning requirements in order to achieve bonus density



III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – RA-1	Regulation	Proposed	Relief
Lot Area	None prescribed	2,325 sq. ft.	None required
Lot Width	None Prescribed	25 ft. at front 25.25 ft. at rear	None required
Floor Area Ratio F § 302	0.9 1.08 IZ 0.40 Penthouse	0.9 1.08 IZ 0.14 Penthouse	Bonus FAR requested
Bonus FAR C § 1002	8 GFA	16% GFA	None Required
IZ Set-Aside C § 1005	Proportionality of IZ units	IZ unit provided not proportional	Required
Height (ft.) F § 303	40 ft.	36.75 ft.	None required
Lot Occupancy F § 304	40%	45%	Required
Rear Yard (ft.) F § 305	20 ft.	20 ft.	None required
Side Yard (ft.) F § 306	8 ft.	None required (south) 3 ft. (north)	Required
Green Area Ratio F § 307	0.4	0.4	None required
Parking C § 701	1 per 3 dwelling units in excess of 4 units	2 spaces	None required

IV. OFFICE OF PLANNING ANALYSIS

Special Exception - Subtitle U § 421 New Residential Developments (RA-1):

421.1 In the RA-1 and RA-6 zones, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under Subtitle X, in accordance with the standards and requirements in this section.

The proposed development would be located in the RA-1 zone, and would be an apartment building, consistent with this section.

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:

- (a) Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and*

The property would be developed with five apartment units. The project is within the boundary for Brightwood Education Campus Elementary and Middle Schools at 1300 Nicholson Street, NW and Coolidge High School at 6315 5th Street, NW. The small number of potential children generated from these units should not lead to overcrowding at the schools.

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

No new public streets or additional recreational facilities would be necessary to serve the proposed five units. The property is in close proximity to the Emery Recreation Center to the east of the site.

- 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.*

OP reviewed the site and floor plans submitted and notes that each of the units would be provided with adequate light and air. The applicant provided a landscape plan to OP that shows the front of the building landscaped with grass and trees. The rear yard, side yard and walk areas would be covered with pervious materials. The applicant also informed OP that they would provide a green roof or photovoltaics on the penthouse roof if required to meet the GAR requirement. The development would have two parking spaces at the rear of the building that would be accessed from the alley to the north.

The condominium across the alley has parking/loading entrances on the ground floor and windows starting on the second floor. Their light, air and privacy should not be adversely affected as windows would be positioned high along the wall to limit direct views into the condominium building or hidden by the parapet on the upper floor. Additionally, the 16-foot wide alley would limit the impact of shadows and views. The property to the south is a two-story detached unit and the upper portion of the development would cast limited shadows on its roof and rear yard in early morning hours but should not adversely or unduly affect its light and air. Its privacy should not be affected as here are no windows along the southern elevation.

No major development near the property is proposed at this time. The property is not covered by a Small Area Plan.

- 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.*

The applicant provided a site plan, floor plans and elevations (Exhibit 39) and a landscape plan. No new rights-of-way or easements would be required. The applicant states that a grading plan is not necessary because the land is flat resulting in minimal grading.

Special Exception Relief from Subtitle C § 1001.2(e), Applicability of Achievable Bonus Density in Inclusionary Development (IZ units not required; at least one IZ unit required to opt in; 1 IZ units proposed).

- (e) *Any semi-detached, attached, flat, or multiple dwellings development not described in Subtitle C § 1001.2(b) through 1001.2(d) if the owner voluntarily agrees to the*

requirements of Subtitle C § 1003 and meets all other requirements of this chapter, provided:

- (1) *The square footage set aside achieves a minimum of one (1) Inclusionary Unit;*

With the requested bonus density, the proposal would have a total of 2,511 square feet and an FAR of 1.08. Eight percent of the floor area, or 200.8 square feet, would be required to be provided as an IZ unit. The applicant is providing one IZ unit that would be 509 square feet of space which would be substantially over the requirement. The applicant also has a 10% IZ requirement (32 square feet) for the habitable space in the penthouse per Subtitle C § 1001.2(b). The applicant has combined both requirements into the one IZ unit at 50% MFI.

- (2) *Residential developments located in the areas identified by Subtitle C § 1001.5(a) may not use the modifications to height and lot occupancy, or minimum lot area or width; and*

The proposed development would comply with the height requirement but has requested relief from the lot occupancy and side yard requirements. However, the relief in those areas are not specifically a result of providing the IZ unit.

- (3) *Any use of the bonus density provided in Subtitle C § 1002 in the R-2, R-3, R-10, R-13, R-17, R-20, RF-1, RF-2, RF-3, RF-4, RF-5, or the RA-1 zones shall require special exception approval pursuant to Subtitle X, Chapter 9.*

The applicant has requested special exception relief because the proposed development would be located in the RA-1 zone.

- i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?*

The proposal would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The RA-1 zone provides for areas predominantly developed with low- to moderate-density development, including low-rise apartments. The requested bonus density would result in an additional 419 square feet in the development. The applicant has requested lot occupancy and side yard relief based on the size and shape of the lot but meets all other development requirements, and would be consistent with surrounding developments, which provides a variety of housing types, including apartment houses.

- ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?*

The proposed development would not appear to adversely affect the use of neighboring property as it would replace a burnt out, boarded up building. It would be separated from the adjacent buildings to the north and east by alleys. The project would allow sufficient light and air to adjacent properties and would provide the required minimum two parking spaces.

Variance for Side Yard and Lot Occupancy

Relief from Subtitle F § 306, Side yard (8 ft. allowed, 3 ft. proposed) and Subtitle F § 304, Lot occupancy (40% allowed, 45% proposed)

- i. Exceptional Situation Resulting in a Practical Difficulty*

The subject lot is the smallest in the square along the eastern side of Colorado Avenue where the other lot sizes range from 3,000 square feet to 8,000 square feet. The lot has an irregular shape that tapers from 25-feet to 26.34 feet at the rear which adds to the exceptional situation. This results in a practical difficulty to the applicant as providing the required eight-foot side yard would result in a 16-foot wide multiunit building. The size of the units would be further reduced resulting in an inefficient and impractical layout which would affect the size of the rooms, circulation and enjoyment of the units.

ii. No Substantial Detriment to the Public Good

The reduction in the side yard and the increase in lot occupancy would not substantially affect the light, air and privacy to the second-floor windows of the large, condominium building to the north as the proposed building would be separated by a three-foot side yard on the property and a 16-foot wide alley. In addition, the uncovered stairs on the side of the building are three feet into the side yard and are counted towards the lot occupancy thereby lessening the effect of the reduced side yard and increased lot occupancy. Similarly, the homes to the east would not be affected by the reduced side yard and increase in lot occupancy. The reduced side yard would not affect the building to the south although the building would extend approximately 10-feet past its rear wall.

iii. No Substantial Harm to the Zoning Regulations

The side yard and lot occupancy requirements of the Regulations are to minimize impacts on the light, air and privacy of the adjacent residence. As demonstrated above, the light, air and privacy would only be minimally affected. Therefore, granting the side and lot occupancy relief would not substantially harm the Zoning Regulations.

Variance from Subtitle C § 1005.1 of the IZ Zoning Regulations

Proportionality rule (one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type). In this case, the applicant is proposing five units – three with two bedrooms and two with one bedroom

1005 DEVELOPMENT STANDARDS REGARDING INCLUSIONARY UNITS

1005.1 The proportion of studio and one-bedroom inclusionary units shall not exceed the proportion of the comparable market rate units for each unit type.

i. Exceptional Situation Resulting in a Practical Difficulty

The proposal is a small, five-unit development which is constrained by the lot size and shape which presents an exceptional situation. The building size and geometry would accommodate compact units of three, two-bedroom units and two, one-bedroom units. Typically, the square footage allocated to IZ is 10%. In this case, the development is proposing closer to 20%. To meet the proportionality requirement for the required IZ unit, a two-bedroom unit instead of a one-bedroom unit would be set aside for IZ, adding an additional burden in terms of the economic feasibility of the development, given the small size of the lot and the resulting building's compact size.

ii. No Substantial Detriment to the Public Good

Not meeting the proportionality requirement would not, in this case, be of detriment to the public good as this small apartment building would provide an IZ unit whose size would substantially exceed the required square footage requirement based on square footage. Further, the provision of the IZ unit at 50% MFI would contribute to the provision of affordable units throughout the city.

iii. No Substantial Harm to the Zoning Regulations

Not meeting the proportionality requirement would not harm the Zoning Regulations as a larger than required IZ unit at 50% MFI would be provided.

V. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT has filed a report indicating that the proposal would have no adverse impacts at Exhibit 30.

VI. COMMUNITY COMMENTS

The property is within ANC 4C. The ANC, at its December 12, 2018, voted in support of proposal. The ANC was notified and reviewed the changes made subsequent to the ANC vote and determined that they supported the changes and that another vote was not necessary.