



April 3, 2024

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Frederick L. Hill, Chairperson  
Board of Zoning Adjustment  
441 4th Street, NW, Suite 200S  
Washington, DC 20010

**Re: BZA Case No. 21103  
Applicant's Prehearing Statement**

Chairperson Hill and Honorable Members of the Board:

On behalf of Applicant Developer RE1, LLC, please find enclosed the Prehearing Statement for the above-referenced case. We look forward to presenting the application to the Board of Zoning Adjustment on April 24, 2024. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

A handwritten signature in black ink, appearing to read "EJ DeBear", written over a horizontal line.

BY: ERIC J. DEBEAR

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of April, 2024 a copy of the foregoing Prehearing Statement was served, via electronic mail, on the following:

District of Columbia Office of Planning  
c/o Karen Thomas  
1100 4<sup>th</sup> Street SW, Suite E650  
Washington, DC 20024  
[Karen.Thomas@dc.gov](mailto:Karen.Thomas@dc.gov)

Advisory Neighborhood Commission 4B  
c/o Alison Brooks, Chair and SMD 4B08  
[4B08@anc.dc.gov](mailto:4B08@anc.dc.gov)



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Eric DeBear

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

**APPLICATION OF  
DEVELOPER RE1, LLC**

**BZA CASE NO. 21103**

**APPLICANT'S PREHEARING STATEMENT**

**I. EXECUTIVE SUMMARY AND NATURE OF RELIEF SOUGHT**

This prehearing statement is submitted on behalf of Applicant Developer RE1, LLC (the "Applicant"), the owner of the property located at 71 Kennedy Street NW (Square 3389, Lot 138) (the "Property"), in support of its application for special exception relief from the requirements for closed court (Subtitle G § 209.1) and rear yard (Subtitle G § 207.6) to construct a new 47-unit residential building in the MU-4 zone (the "Project").

**II. RESPONSE TO COMMUNITY COMMENTS**

There are a number of letters in opposition in the case record from neighbors of the Project. *See Exs. 17-53.*<sup>1</sup> The primary point of opposition reflected in the letters is that the Project does not incorporate ground-level commercial space. Rather, the community prefers a mixed-use building that has both residential and commercial uses, similar to that proposed under the prior BZA Case 19897 for the Property.<sup>2</sup> Some opposition letters also encourage the Project to incorporate three-bedroom units.

In response to the community opposition, the Applicant attended a community meeting on March 28, 2024 to discuss the Project. The meeting was also attended by ANC 4B Chair Alison Brooks<sup>3</sup> and Ward 4 Councilmember Janeese Lewis George. Overall, the meeting was helpful in establishing the scope of the current BZA application and why the Applicant had chosen not to incorporate commercial space in the Project.

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<sup>1</sup> Ex. 48-48A is a letter of support and incorrectly labeled as a letter in opposition.

<sup>2</sup> The Applicant has no relationship to the prior applicant under BZA Case 19897.

<sup>3</sup> Chair Brooks is also the Single Member District Commissioner for the Property.

To that end, the Applicant is requesting special exception relief from the requirements for closed court and rear yard, and the scope of the Board's review is limited to whether the conditions of that special exception relief have been met. *See First Baptist Church of Wash. V. D.C. Bd. Of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981). The amount of commercial space is not a factor in deciding the special exception relief because the MU-4 zone does not have any requirement that commercial space be incorporated in a building. Therefore, the Project is not required to incorporate commercial space. Likewise, the number of three-bedrooms is not a factor.

It should also be reiterated that ANC 4B is in unanimous support of the Project. ANC 4B's resolution of support is filed in the record at Exhibits 15-15B. As noted in the letter accompanying the resolution, ANC 4B Chair Brooks confirmed that the ANC's October 2023 resolution for case number 19897C can be submitted for the subject application because the Project is the same.

### **III. DDOT COORDINATION**

As outlined in the original application, the Applicant intends to grade and pave an existing "paper" alley located along the Property's eastern lot line. The new alley will provide access to the Project's underground parking garage and loading area. Since filing the application, the Applicant has coordinated with the Department of Transportation ("DDOT") regarding the alley, including a meeting on February 29, 2024.

### **IV. CONCLUSION**

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings as well as the reasons discussed at the Board's hearing, the Applicant submits that the application meets the requirements for special exception relief and respectfully requests that the Board approve the application on April 24, 2024.

Respectfully submitted,  
COZEN O'CONNOR



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