

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

**APPLICATION OF  
MCF 1400 MONTANA LLC &  
MCFI LIMITED PARTNERSHIP**

**ANC 5C**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the Applicant, MCF 1400 Montana LLC and MCFI Limited Partnership (collectively the “Applicant”), the owners of the property located at 1400 Montana Avenue NE (Square 4023, Lot 0001) (the “Property”) in support of its application for special exception relief pursuant to 11 DCMR Subtitle X § 901.2, Subtitle A § 207.2 for approval of a 35-foot adjustment of the boundary line allowing the bulk regulations of the MU-4 zone to extend to a portion of the Property zoned RA-1, Subtitle U § 421.1, to construct a new multi-family residential apartment building in the RA-1 Zone District, and Subtitle C § 714.3 to have a 24-foot wide gap in the screening of a surface parking lot.

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception relief requested herein pursuant to Subtitle X § 901.2 of the Zoning Regulations.

**III. BACKGROUND**

**A. The Property and the Surrounding Neighborhood**

MCF 1400 Montana, LLC, a District of Columbia Limited Liability Company and MCFI Limited Partnership, a Maryland Limited Partnership, are developing an 106-108<sup>1</sup> unit apartment building at the Property. The Property is comprised of one triangular lot, Lot 0001, in Square 4023.

---

<sup>1</sup> The current architectural plans show 106 units, but the Applicant is exploring a 108-unit option and will update the application accordingly if the 108-unit option is pursued.

The Property is split-zoned between the MU-4 and RA-1 zone districts. The zone boundary line traverses the property along a straight line running parallel to the Saratoga Avenue NE lot line, and approximately 100 feet from the Saratoga Avenue NE lot line. A copy of the zoning map is attached at **Exhibit A** and a copy of the Subdivision plat is attached at **Exhibit B**. The Property contains 38,926 square feet of land area and is currently improved with a single-story former drive-through bank building used as a place of worship and surface parking.

The Property is located in the center of and surrounded by the Brookland, Brentwood and Langdon neighborhoods. It is triangularly-shaped and is bounded by Evarts Street NE to the north, Saratoga Avenue NE to the southeast, Montana Avenue NE to the southwest, and Rhode Island Avenue NE at the northwest corner. The Property is not located in a historic district, nor is the existing building landmarked. The MU-4 zone permits residential apartment buildings as a matter-of-right, and a new residential apartment building is permitted by a special exception in the RA-1 zone.

Currently, the Historic Berean Baptist Church of Northwest Washington (“Baptist Church”) is located at the Property in the single-story former drive through bank building. When the Baptist Church decided to relocate to better meet the needs of its congregation and placed the property on the market, the Applicant acquired the Property through an open bid process with other market bidders. At present, the Baptist Church is in a lease-back agreement<sup>2</sup> while the Baptist Church identifies a new location and while the Applicant evolves plans to redevelop the Property in the near future.

## **B. Traffic Conditions and Mass Transit**

The Property has good mass transit options. The Rhode Island Metro Station is just over

---

<sup>2</sup> The Baptist Church has been notified pursuant to the requirements of Subtitle Y § 300.8(h).

one-half mile from the Property. Metrobus lines 86, B9, T18, 83, H6, T14, G9, B8 and S41 are on Rhode Island Avenue NE, near the intersection of Montana Avenue NE, one tenth of a mile from the Property. There is a Capital Bikeshare station at Rhode Island Avenue NE and 18<sup>th</sup> Street NE, 0.4 miles from the Property and a second Capital Bikeshare station is located 0.6 miles away near the Rhode Island Metro Station. Walkscore.com indicates that the area is a “Very Walkable” with “Good Transit” and is “Bikeable.”

### **C. The Project**

The Applicant proposes to raze the existing building, and construct a four-story, 106-108 unit apartment building with a compliant penthouse on the Property (the “Project”). The height of the portion of the Project in the MU-4 zone will rise to no greater than 50 feet as permitted in the MU-4 zone and the portion of the Project in the RA-1 zone will rise no higher than 40 feet as permitted in the RA-1 zone. As shown on the architectural plans at **Exhibit C** (the “Plans”), the Applicant proposes to create a residential entry at the front of the building along Montana Avenue NE and another entry at the rear of the building accessing the surface parking located on the rear portion of the Property. Five bays will project four feet into public space along Montana Avenue NE on each of the four floors in the MU-4 portion and four bays will project four feet into public space along Evarts Street NE on each of the three floors in the RA-1 portion. Twenty-one units are proposed to be located on the ground level, twenty-seven units on the second and third floors, twenty-one units on the fourth floor, and ten units will be located in the penthouse. The ground floor will also contain a lobby area, fitness room, leasing office, mail room, and long term bicycle storage.

As permitted by the Zoning Regulations in Subtitle B § 100.2, when a property has more than one street lot line, the Applicant may choose which street lot line is the front. Here, the

Applicant is choosing the Montana Avenue NE street lot line as its front lot line. Accordingly, the Property has two side lot lines, one along Evarts Street NE and the other along Saratoga Avenue NE. In cases such as this, where a property does not have a rear lot line because the side lot lines converge at a point, pursuant to Subtitle B § 318.4, the rear yard is measured as an arc from the point opposite the front lot line. Measured in this manner, the rear yard is measured as an arc at the intersection of the Evarts and Saratoga lot line. The RA-1 zone requires a 20 foot rear yard and the MU-4 zone requires a 15 foot rear yard. As shown on Sheet A01 of Plans, the Project exceeds the 20 foot rear yard requirement in the RA-1 zone and the 15 foot rear yard requirement in the MU-4 zone.

In order to efficiently use the triangular lot and work effectively with its split-zoned nature, the Applicant seeks a special exception pursuant to Subtitle A § 207.2 to effectively extend the MU-4 zone boundary line 35 feet into the RA-1 portion of the lot to permit the allowed bulk and height in the MU-4 zone to extend 35 feet into the RA-1 zone. Under Subtitle A § 207.2, this special exception is permitted when the extension does not extend more than 35 feet and the extension will not have an adverse effect upon the present character and future development of the neighborhood.

Residential apartment use is allowed in the MU-4 zone and is allowed through a special exception in RA-1 zones pursuant to Subtitle U § 421.1. Pursuant to Subtitle U § 421.1, in the RA-1 zone “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.”

Surface parking is provided on-site. The surface parking will satisfy the parking space requirements under Subtitle C § 701.5. The surface parking will adhere to all landscaping and

screening requirements under the Zoning Regulations, except the requirement under Subtitle C § 714.2 that gaps in the screening for driveways and pedestrian entrances/exits be no more than 20 ft. in width. A 24-foot wide gap in the screening is required to meet DDOT's recommendation that the Project have one curb cut capable of accommodating a controlled access driveway serving two-way traffic, including both residential and loading and trash trucks. Waivers of the screening requirements are permitted as a special exception under Subtitle C § 714.3.

The Applicant meets the standard for special exception relief for 1) the boundary line extension, 2) constructing a new residential development in the RA-1 zone, and 3) the approval of the 24-foot wide gap in the surface parking screening, as outlined below.

#### **IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW**

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the 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 Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (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.*

**V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF**

**A. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps**

The relief request will be in harmony with the purpose and intent of the Zoning Regulations and related maps. The purposes of the MU-4 zone are, among other things, to permit moderate-density mixed-use development, housing, and have access to main roadways or rapid transit stops. Subtitle G §§ 400.3(a)-(c). Further, the purposes of the RA-1 zone are to permit flexibility of design and permit all types of residential development. The RA-1 zone also “provides for areas predominantly developed with low to moderate-density development including dwellings, rowhouses, and low-rise apartments.”

The Project’s requests for special exception relief to 1) extend the MU-4 zone boundary line 35 feet into the RA-1 portion of the Property, 2) construct a residential apartment building in the RA-1 zone, and 3) have a 24-foot wide gap for a driveway in the surface parking screening, align with these intentions, as the relief will allow the Applicant to construct a low rise, three- and four-story apartment building in a neighborhood with other moderately-scaled buildings. Further, the Project will advance the important goal of increasing the housing supply in the District by delivering 106-108 new dwelling units, including brand new affordable Inclusionary Zoning (“IZ”) units, pursuant to the requirements of Subtitle C § 1001.2.

For these reasons, the relief is harmonious with the general purpose and intent of the Zoning Regulations and maps.

**B. The Proposed Relief will not tend to Adversely Affect the Use of Neighboring Property**

The Project's proposed height and massing are consistent with and within the zone's design standards for each applicable portion of the lot. The use of neighboring properties includes multiple retail, service, and restaurant uses along Rhode Island Avenue NE, as well as a recreation center and numerous apartment buildings and residential homes of varying sizes in the immediate area. These uses will not tend to be adversely affected by the Project. To the contrary, the Project will complement the surrounding character of the neighborhood by proposing an elegantly-designed, attractive building that provides additional housing supply.

Therefore the special exception relief request for 1) a 35 foot extension of the MU-4 zone boundary line, 2) permission to construct a residential apartment building in the RA-1 zone, and 3) a 24-foot wide gap in the surface parking screening, do not adversely affect the use of the neighboring property.

**C. The Project Satisfies the Special Conditions of Subtitle A § 207.2 in Connection with Extending the Boundary line of the MU-4 Zone**

Subtitle A §207.2 permits the extension of the boundary lines of a less restrictive zone on a split-zoned lot if approved by the Board of Zoning Adjustment as a special exception under Subtitle X § 902.2. Pursuant to Subtitle A § 207.2, "the regulations applicable to that portion of a lot located in a lesser restrictive use zone that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone" when the Project meets the following requirements:

*(a) The extension shall be limited to that portion of the lot in the more restrictive use zone but not exceeding thirty-five (35 ft.);*

The Applicant proposes to extend the zone boundary line of the MU-4 portion of the Property 35 feet into the RA-1 portion of the Property. The Plans demonstrate that no part of the bulk or height permitted by the extension extends beyond 35-feet into the RA-1 zone. All portions

of the building in the RA-1 portion zone comply with the development standards of the RA-1 zone and all portions of the building in the MU-4 zone comply with the development standards of the MU-4 zone.

*(b) In authorizing an extension, the Board of Zoning Adjustment shall require compliance with Subtitle A § 207.1(d);*

This section does not apply as no portion of the Property is located in the R or RF zones.

*(c) The extension shall have no adverse effect upon the present character and future development of the neighborhood;*

The requested relief will have no adverse effect upon the present character of future development of the neighborhood. To the contrary, the Project will have a positive impact on the present character of the neighborhood and is in line with future plans for the neighborhood as outlined in the Comprehensive Plan and Future Land Use Map (“FLUM”).

The Property is an island, separated from all other nearby properties by streets, as it comprises the entire triangular block on which it is located. As stated earlier, the northwest corner of the Property meets Rhode Island Avenue and the Property is bounded by Evarts Street NE to the northeast, Saratoga Avenue NE to the southeast, and Montana Avenue NE to the southwest. As the Project will preserve many existing trees and will plant additional trees on the Property, tree-lined streets will be created on all sides. Further, a substantial portion of the Property at the corner of Evarts Street and Saratoga Avenue will be attractively landscaped with plantings and a grove of trees. The streets separating the Property from the surrounding neighborhood mitigate any impact from the extension of the zone boundary line.

Currently, several apartment buildings as well as a recreation center and club house are located to the south of the Property. To the east of the Project are single family homes. Various



retail businesses and services, such as a pharmacy and a laundromat, as well as small restaurants and grocery stores and a fire station, are located to the north and northwest of the Project. The massing of the Project fronts on Montana Avenue NE, which is a 110-foot wide right of way. The Project steps down on its eastern side, in line with the change in grade and reflecting the change from the MU-4 zone to the RA-1 zone. This step down in the mass of the Project mirrors the character of the surrounding neighborhood as it changes from larger apartment houses on the opposite side of Montana Avenue to single family homes toward the southwest along Saratoga Avenue.

Accordingly, the extension of the boundary line will not adversely affect the present character of the neighborhood.

*(d) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.*

The Applicant will work with the Board of Zoning Adjustment to comply with any requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary.

Based on the above justifications, the request relief meets the conditions in subsections (a) through (d) to qualify for special exception review, and, as articulated above, meets the general special exception standard.

#### **D. The Project Satisfies the Special Exception Requirements for New Residential Development**

Subtitle U § 421.1 permits new residential development in the RA-1 zone if approved by the Board as a special exception. Sections 421.2 – 421.4 set forth the special exception criteria that the Applicant must satisfy for the Board to approve such a use. The proposed Project meets the

requirements of these sections at follows:

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

The application will be referred to the relevant agencies for the reviews described in this subsection. The Applicant will work with the District Department of Transportation (“DDOT”) to address any potential concerns or issues related to circulation and access to the Property from the surrounding surface roads. Moreover, the Applicant will work with the D.C. Department of Education to address any concerns or issues related to the Project’s effect on area schools. Pursuant to the DCPS SY2016-2017 Enrollment Data, attached here at **Exhibit D**, all three of the Property’s “in-boundary” schools have sufficient capacity to accommodate the number of students that would be expected to serve the Project. Specifically, Langdon Elementary School is projected to have a 65% SY2016-2017 utilization rate and the projected utilization rates for McKinley Middle School/McKinley Technology High School and Dunbar High School are 72% and 53%, respectively. Other District agencies will be involved, if necessary, to address any other concerns or issues relating to recreation and other services related to the project.

*(2) 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.*

The Applicant will work with the Office of Planning after filing the application and will address additional issues that may arise as the Project progresses.

(3) *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.*

All site plans and applicable landscape and grading plans as described in this section are included in the Plans at Exhibit B. Accordingly, the Application satisfies the standard for special exception relief from Subtitle U §421.1.

**E. The Project Satisfies the Special Conditions of Subtitle C § 714.3 for Waivers of and Modifications of the Screening Requirements for Surface Parking Lots**

Subtitle C § 714.3 permits modifications and waivers of the screening requirements of Subtitle C § 714.2 as a special exception if approved by the Board of Zoning Adjustment as a special exception under Subtitle X § 902.2. Pursuant to Subtitle C § 714.3, as part of its deliberation, the Board of Zoning Adjustment may consider the following:

*a) Impacts on the pedestrian environment within the adjacent streets, sidewalks, and other public areas;*

Permitting the Project to have a 24-foot gap for a driveway in the required surface parking lot screening will allow the Project to have one curb cut instead of two curb cuts. Currently the Property has three curb cuts, two on Evarts Street NE and an oversized one on Montana Avenue NE. Allowing one curb cut will therefore improve the walkability of the adjacent streets and sidewalks by consolidating ingress and egress traffic for the Project. Further, except for the requested relief for a 24-foot wide gap in the parking lot screening for a driveway, the Project will satisfy the surface parking lot screening requirements of Subtitle C § 714.2, as the only other gaps

in the screening will be for pedestrian entrances/exits, and the screening itself will be 42 inches in height and will consist of compliant solid fencing/wall or dense evergreen hedges.

*b) Existing vegetation, buildings or protective and screening walls located on the adjacent property;*

The Property is the sole property on Square 4023 and, as noted above, is an island, separated from all other properties by the surrounding streets. Therefore, allowing a 24-foot wide gap in the surface parking screening will have no effect on the existing vegetation, buildings or protective screening walls located on adjacent property.

*c) Existing topographic conditions;*

The existing topographic conditions on the Property are not applicable to this specific request for relief.

*d) Traffic Conditions; and*

It is DDOT's recommendation that the Project have one curb cut rather than two. To have one curb cut that can accommodate a controlled access driveway serving two-way residential and truck traffic in and out of the property, a 24-foot wide curb cut and driveway is necessary and requires a 24-foot wide gap in the parking lot screening. The Applicant will work with DDOT regarding any traffic conditions related to allowing one 24-foot wide gap in the surface parking screening for a driveway to the Project.

*e) In granting a modification or waiver, the Board of Zoning Adjustment may require any special treatment of the premises that it deems necessary to prevent adverse impacts on neighboring properties or the general public.*

The Applicant will work with the Board of Zoning Adjustment to comply with any requirements that the Board deems necessary to prevent adverse impacts on the neighboring

properties or the general public.

Based on the above justifications, the Property meets the conditions in subsections (a) through (e) to qualify for special exception review for a 24-foot wide gap in the required surface parking screening, and, as articulated above, meets the general special exception standard.

**VI. COMMUNITY OUTREACH**

Pursuant to Advisory Neighborhood Commission (“ANC”) 5C’s procedures and guidelines, the Applicant will contact ANC 5C when the application is filed and request that the Applicant present to ANC 5C at the next available public meeting.

**VI. CONCLUSION**

For the reasons stated above, the Project meets the applicable standards for special exception relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board grant the application.

Respectfully Submitted,

COZEN O’CONNOR



Meridith H. Moldenhauer  
1200 19<sup>th</sup> Street NW  
Washington, DC 20036