



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



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please go to www.dcoz.dc.gov > IZIS > Participating in an Existing Case > Party Status Request for instructions. Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

Name:	Hosea McClain, Gazmyn McClain, Sylvia Carroll, and Geraldine McClain		
Address:	1533 First St SW, DC, 20024; 1541 First St SW, DC 20024; 1539 First St SW, DC 20024		
Phone No(s):	See Attorney	E-Mail:	See Attorney

I hereby request to appear and participate as a party in Case No.: 18-13

Signature:	See Signed Client Agreement	Date:	8/24/2018
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Will you appear as a(n)	<input type="checkbox"/> Proponent	<input checked="" type="checkbox"/> Opponent	Will you appear through legal counsel?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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If yes, please enter the name and address of such legal counsel.

Name:	Aristotle Theresa		
Address:	1604 V St. SE, Washington DC, 20020		
Phone No(s):	202-651-1148	E-Mail:	actheresa@stoooplaw.com

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/Subtitle Z § 404.3:

I hereby request advance Party Status consideration at the public meetings scheduled for: 10/22/2018

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness;
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts; and
4. The total amount of time being requested to present your case.

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

STOOP LAW

A COMMUNITY JUSTICE PROJECT

1604 V St, SE
Washington, DC 20020
(202) 651-1148

August 31, 2018

Re: Zoning Case No. 18-13
1530 1st St SW
Square No. 0656
Lot No. 0053

To: Zoning Commission
CC: Sharon Schellin

Party Status Request

Upfront, the McClains' acknowledge the deep level of affordability and family housing being proffered in this project. That withstanding, the approval of the proposed application would contribute to further declines in the McClains' health, safety, and welfare so they seek party status in opposition. Here, Applicants seek flexibility so as to not be required to build a loading dock for the proposed 10 story building located on a residential, side street. 11 DCMR §C901.1.¹ Applicants also seek a variance for the increased vehicular traffic and the commingling of residents and pedestrian traffic with on-street loading and ingress/egress of a 67-car garage. 11 DCMR §K504.6; 11 DCMR §K504.10.²

The McClains are a family of 5 people, spanning 3 generations, who have lived in the area for over 20 years, and are homeowners of three separate homes within 50 feet of the site. Approval of Applicant's current proposal would result in great hardship and injury for the McClains who all live within 50 feet of the building. (Exhibits A, B, C, D, E). The closest McClain owned property is less than 20 feet from where large diesel trucks will be idling, offloading goods for the planned ground floor retail and residential building. (Exhibit E, F). Hosea and Gazmyn McClain already suffer respiratory issues due to the rampant development of the area. (Exhibit C, D). Sylvia Carrol and Hosea McClain have had to limit use of their yards and gardens due to air quality. (Exhibit A, D). The current level of exhaust fumes is so bad Geraldine McClain keeps her windows shut. (Exhibit B). The air filters that were given to Geraldine McClain as a result of the DC United Soccer stadium project turn red within minutes of operating, signifying a base line of poor air quality. *Id.* Geraldine McClain complains the exhaust from diesel trucks emitting blue plumes of smoke is so bad some days she can "taste it". *Id.* All of the McClains will be greatly impacted by excluding the Applicant from providing a loading dock and by allowing loading to occur on

¹ The McClains reserve the right to raise other issues at the hearing.

² See Fn 1

the street, mere footsteps from their homes. (Exhibit A-F). The McClains will be greatly impacted by providing zoning relief from area provisions that stipulate for the separation of pedestrian traffic from vehicular traffic. (Exhibit A-D).

While all residents of Buzzard Point suffer from poor air quality, due to their extremely close proximity, the McClains will be uniquely impacted from this development's air and noise pollution and any compounding effects. (Exhibits A, F).

The McClains are concerned about the impact of street level offloading of diesel trucks mere footsteps from their home, the ongoing and unending development and accompanying diesel trucks and toxic dust, the constant flow of traffic going into the underground parking that will be mere footsteps from their homes, and the cumulative impact of all of those activities, and petition the commission to consider their health, safety, and welfare pursuant to 11 DCMR §A101 when it assesses the suitability of this site for the proposed uses and zoning relief. The McClains do not believe the current proposal meets the minimal standards for PUD status, much less consistency with the Comprehensive Plan. *Id.*

The McClains question the appropriateness of the Applicants zoning relief due to its impact on the immediately surrounding area pursuant to 11 DCMR §X304.3. The McClains request written reports from relevant agencies be placed on the record, including reports from DOEE and the Department of Transportation addressing the developments impacts so the commission may make findings based on substantial evidence on the record pursuant to 11 DCMR §X304.8.

For the foregoing reasons, the McClains seek party status in this matter so they may exercise their full rights to contemporaneously cross-examine witnesses, to present experts³, and to submit evidence on the record in protection of their lives and property and their 5th Amendment rights.

Very truly yours,

Aristotle Theresa, Esq.
s/Aristotle Theresa
Stoop Law
1604 V St. SE
Washington DC, 20020

Enclosures
Exhibits A-F

³ The McClain's have not identified expert witnesses as of yet, but plan to utilize experts at the hearing. The McClain's will notify all parties at least two weeks prior to the November 15, 2018 hearing date.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing **PARTY STATUS REQUEST** was served this 6th day of September, 2018 by electronic mail.

ANC 6D
1101 4th Street SW, Suite W130 Washington, DC,
20024
office@anc6D.org

Sharon Schelin
Zoning Commission
441 4th St NW
Apt 200
Washington DC, 20001
zcsubmissions@dc.gov

Merideth Moldenhauer Cozen O'Connor
1200 19th St NW
Suite 300
Washington DC, 20036
mmoldenhauer@cozen.com

s/Aristotle Theresa
Aristotle Theresa, Esq
DC Bar No. 1014041
Stoop Law 1604 V St SE
Washington, DC 20020

STOOP LAW

A COMMUNITY JUSTICE PROJECT

1604 V St SE
Washington DC, 20002
Ph: (202) 651-1148

June 30, 2018

Re: Engagement Letter

Dear Hosea McClain
Gazmyn McClain
Sylvia Carroll
Geraldine McClain

On behalf of Stoop Law (“the “Firm”), I would like to thank you for giving me the opportunity to work with you on appearing before the Zoning Commission to represent you. In the event, we do not succeed at the Zoning Commission, I agree to file an appeal at the District of Columbia Court of Appeals.

By signing and returning to the Firm a copy of this letter, you are agreeing:

1. Stoop Law will represent you before the zoning commission and apply for party status.
2. “Stoop Law” will review the agency record and give professional advice on the possibility and scope of an appeal based on that record.
3. “Stoop Law” will represent clients at the Court of Appeals, representation includes filing of an opening brief and reply brief as well as motions practice.
4. That Stoop Law will employ every legal strategy available to leverage your negotiating position.
5. While the Firm will pursue finding substantial basis for appeal on your behalf, you understand that the Firm makes no guarantee as to the viability of the appeal.
6. Waives confidentiality on the aspects of Stoop Laws representation that are public record.

7. Waives conflict of interest given there is more than one person party to our representation and on all matters all parties may not agree. In that event, we will do everything possible to come to agreement, but if that is impossible, the person who disagrees may choose to proceed without Stoop Law's representation.

~~The Professional Fee for this Matter is \$10,000.00. The Firm will have a role in the development of a contingency fee. If there is a settlement, agreement, between you and the developer, and/or developer partners, "Stoop Law" will receive 15% of the settlement. If the settlement includes specific performance, Stoop Law will negotiate reasonable attorney's fees with the Developer. Under no circumstances will any of you owe Stoop Law legal fees.~~

~~In the event of a settlement, the money shall be distributed through Stoop Law's LLC/PA Account.~~

Other Attorneys: We reserve the right to engage other attorneys and non-attorneys to assist the Firm in its representation of you. Such engagement will be at the Firm's sole expense and at no additional cost to you.

Media: You agree to allow Stoop Law to discuss this case in marketing materials, including social media.

Consent: You hereby consent to allow the Firm and its designated agents to do, execute and perform all and every other act or thing needful and necessary, in law, to be done as you might or could do if you were personally present in relation to the Firm's representation of you.

Representations Made by You: By signing and returning this agreement, you understand that you are agreeing to cooperate with us and participate in the conduct of the case and to truthfully and immediately notify us as to anything which may occur in the future that could affect the case. You also understand that we are relying on the information of the case as you have provided it to us. You further warrant that you have made any and all disclosures of information material to the proceeding.

Termination and Withdrawal: You understand that you are free to cancel this agreement at any time. Should you wish to do so, you must do so in writing, via U.S. mail or facsimile, at your option. We agree that should the Firm desire to withdraw from representing you, we will inform you in advance of our withdrawal. If client chooses to terminate its agreement with Stoop Law after Stoop Law has investigated the record and filed an opening brief, Stoop Law will retain 50% of the attorney's fees for any future settlement agreement whether it is a voluntary settlement or court ordered.

Binding Arbitration: In the event that you dispute the professional fee owed to the Firm upon your termination the Firm's representation of you, you agree to submit to and be bound by a determination of the District of Columbia Attorney-Client Fee Arbitration Board ("BOARD").

You further agree that the arbitration service of the BOARD shall be your exclusive remedy to dispute the Professional Fee owed to the Firm.

The staff of the BOARD is able to advise you about this arbitration provision, the nature of fee arbitration, the advantages and disadvantages, and the alternatives to fee arbitration.

Firm's Right to Termination: The Firm reserves the right to terminate this agreement if at any time it concludes that the claim is without merit.

Dispute Resolution: In the unlikely event a dispute or controversy arises from this agreement, we would like for us to be able to resolve the matter peacefully, sparing all parties any undue delay or expense, including the cost of paying attorneys. Accordingly, by signing this letter, you and the Firm agree as follows:

1. As soon as a grievance, dispute, or controversy arises, the complaining party will send the other(s) a letter outlining the complaint.
2. All signatories must then meet in person or by telephone within 14 days.
3. If no resolution is reached at that meeting, all signatories agree to submit the matter, within 21 days, to informal mediation as may be provided by the Bar Association of the District of Columbia or the courts of the District of Columbia.
4. If this mediation does not resolve the matter, all signatories agree to submit the matter to binding arbitration, to be conducted in the District of Columbia, by and under the rules of the American Arbitration Association or as otherwise prescribed by law or rules of the Bar Association of the District of Columbia.

Modification of the Agreement: This agreement represents the full agreement between you and the Firm. No other agreement, written or oral, exists and discussions between you and the Firm, the terms of which are not set forth in this agreement, are not part of this agreement.

If you and the Firm agree to change any term in this agreement, the agreed-to change must be in writing and signed by both parties.

Please do not hesitate to contact us if any of the above is unclear or if you have any questions.

With best regards

S/A Theresa
Aristotle Charles Theresa
Attorney at Law

I HAVE READ AND UNDERSTAND THE ABOVE AGREEMENT AND AGREE TO ITS TERMS:

6-30-18
Date

Theresa McClain
McClains' & Carroll

6-30-18

Sylvia A. Carroll

6-30-18

Geraldene McClain

6-30-2018

J McC

Sylvia Carroll – 1533 First St SW Washington DC 20024. I have been living in this neighborhood since 1986. Geraldine McClain is my sister. I oppose the development being proposed at 1530 First SW the bombardment of development over the past several years has increased my stress levels. I feel like I am being closed in. I worry about my health with the big trucks constantly coming in and the dust being kicked up from construction sites. Traffic is a problem. Parking was a problem until I put a garage in my yard. I can park now but no longer have access to my yard. Before I did that, I had to worry about parking after returning from church, going to the doctors, or just being out. I am 69 years old and I would have to park on Q St and it was a hardship walking back and forth especially with all the dust and emissions. Right now a developer is building a building across the street from me where the height is going to be emotionally and mentally depressing. When I look out my window now I see trees and the sky line but when the building is built, 9 stories, it will block out all of the sun. I am frightened to death of having upwards of 150 new people no one knows being introduced into the neighborhood. I am worried about the foot traffic of people converging on the community especially with the soccer stadium within a stone's throw. I think this development is going to make the neighborhood very crowded. Right now, it is a laid-back community. Mostly two-story row homes. I am worried about tax increases on my property. Further, DC's policies to attract the creative class and create environments for them, such as with this Soccer Stadium and proposed Frederick Douglass Bridge development, have or will inevitably impact my quality of life. The patterns and practices of the zoning commission not adequately addressing the adverse impacts of individual projects like at the Soccer Stadium at Buzzard Point, and cumulatively with other projects, has negatively impacted my quality of life. Sometimes it is so bad I can't even go out and work in my garden. I live within 200 feet of the project being proposed at 1530 First SW.

I swear under penalty of perjury that the foregoing is true and correct,

Sylvia A. Carroll 6/30/18

EXHIBIT A

Geraldine McClain – 1541 First SW Washington DC 20024. I am 67. I have been living in the neighborhood since 1986. Sylvia Carroll is my sister. I oppose the development being proposed at 1530 First SW I have many of the same concerns as my sister and incorporate her statement into my own. My daughter and I live right across from the food place and we are closer to Pepco than my sister. We encounter construction more since we are closer to the stadium. The trucks sit there and idle for hours at a time. I have to close my windows from all of the exhaust. I am back and forth closing my window because I don't want the diesel fumes to come into my house. I can almost taste it. DC United paid for some tiny air purifiers. I cut it on and the indicator turns to red immediately specifying the air is very bad. The construction has been non-stop since 2015. This new building will bring more dust, more heavy machinery, more idling trucks, more trucks going back and forth. More pollution. They are either digging up the streets to put the pipes in or working on something else. Sometimes stuff goes wrong. Power has been knocked out three times for hours at a time. One time it even knocked out the gas lines. When that happened the pilot on my furnace went out and I had to hire someone to come back and get my gas cut back on. They pour the fuel in these trucks and when they start them up sometimes blue smoke comes out of them. They just sit their idling. Who do we complain to? No one hears. The other thing when they were doing the construction the vibrating, digging up the ground, shook your whole house, and everybody was feeling it. Construction workers have knocked parts off my back fence. I didn't even make a complaint about it because what's the point? I just got frustrated after a while about it. It's a form of helplessness you see all the stuff going on and there is nothing you can do about it. Your hands are tied and there's nothing you can do about it. As soon as they finish one project something else starts. The bridge, this hotel over on Q st., this stadium, all of this dust and emissions. The one's in charge are more reactive than proactive. I don't know how they are going to accommodate all of this, this is a little street. The people in this neighborhood had no say about the stadium being built. We had no say. The people who will benefit come and go for entertainment, but this is a constant living thing for us. Further, DC's policies to attract the creative class and create environments for them, such as with this Soccer Stadium and proposed Frederick Douglass Bridge development, have or will inevitably impact my quality of life. The patterns and practices of the zoning commission not adequately addressing the adverse impacts of individual projects like at the Soccer Stadium at Buzzard Point, and cumulatively with other projects, has negatively impacted my health. I have allergies that have been exacerbated by all of the dust. Additionally, I am always stressed out by the activity and always getting headaches. There seems to be no peace.

I swear under penalty of perjury that the foregoing is true and correct,

Geraldine McClain 4/30/18

EXHIBIT B

Hosea McClain Jr. -- I am 65 years old. I have lived here since 1994. I oppose the development being proposed at 1530 First SW. My address is 1539 First St SW DC. Sylvia and Geraldine are my sisters and Gazmyn is my niece. I have concerns about parking circulation and parking circulation for the building being built across my house. I am concerned about the parking density. I am concerned about the alteration to the quality of life on this side of the street. I am concerned about the lack of sunlight. How that will affect my plants and shrubbery. I am concerned about the increased usage of machinery will impact what air we breath. I suffer from breathing challenges as a result of the dust. It can be a challenge parking in the front of my home. I also had to build a garage in my yard. I live within 200 feet of the project being proposed at 1530 First SW.

I swear under penalty of perjury that the foregoing is true and correct,

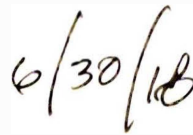
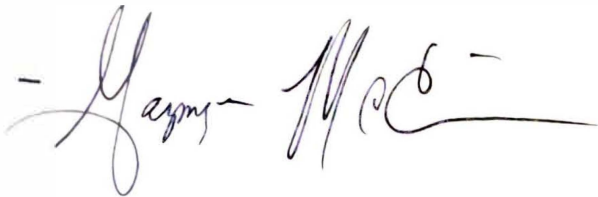


EXHIBIT C

Gazmyn McClain – I live at 1541 First St SW, it is within 200 feet of the 1530 First St SW property that is slated to come before the zoning commission. I am 38 years old. I have lived in this neighborhood since 1986. I incorporate the same issues as my mother and my aunt. I oppose the development being proposed at 1530 First SW. I am also concerned about the foot traffic. I am also concerned with construction dust. It covers the street and my door. My dog has had health issues since the Stadium project and I concerned this project will add to it. I do a lot of coughing recently, especially at night. I never have coughed like I do now. I am really concerned from the rattling of my property like with what happened at Pepco. The digging disturbs the rodents as a result of the constant disturbing of the ground. I have seen a lot of trash that has been left as the result of construction workers. It's going to block the sky line. It is a feeling you are being closed in. It's a struggle to even get out of the neighborhood sometimes because of all of the construction. I live within 200 feet of the project being proposed at 1530 First SW.

I swear under penalty of perjury that the foregoing is true and correct



6-30-2018

EXHIBIT D



**BEFORE THE ZONING COMMISSION
FOR THE DISTRICT OF COLUMBIA**



FORM 107 - APPLICATION FOR DESIGN REVIEW

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

New Application : Required Voluntary Modification to a Previously Approved Design Review

Pursuant to:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Subtitle K, Chapter 5 - Capitol Gateway (CG) Overlay District | <input type="checkbox"/> Subtitle K, Chapter 4 - Southeast Federal Center (SEFC) Overlay |
| <input type="checkbox"/> Subtitle K, Chapter 2 - Hill East (HE) District | <input type="checkbox"/> Subtitle K, Chapter 3 - Union Station North (USN) District |

an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s).	Zone District(s)	Additional Type of Relief Being Sought	
				Area Variance Use Variance Special Exception	Section(s) of Title 11 DCMR - Zoning Regulations from which relief is being sought
1530 First St. SW	656	53	CG-4	Area variance	C-901.1
				Special exceptions	K-504.6, K-504.10

Present use(s) of Property: Vacant

Proposed use(s) of Property: Residential building containing 101 affordable units and ground floor retail

Owner of Property: TM Jacobs LLC

Address of Owner: 1530 First St. SW

Phone No.(s): 202-747-0770 E-Mail: mmoldenhauer@cozen.com

Advisory Neighborhood(s): 6D07 Date Presented at ANC(s): TBD

Date NOI Sent: June 19, 2018 U.S. Mail E-mail Other

Brief description of proposal: Residential building containing 101 affordable units and ground floor retail

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22-2405)

Date: August 10, 2018 Signature*:

To be notified of hearing and decision (Owner or Authorized Agent*):

Name: Meridith Moldenhauer

Address: 1200 19th St. NW, Suite 300, Washington, DC 20036

Phone No.(s): 202-747-0770 E-mail: mmoldenhauer@cozen.com

* To be signed by the Owner of the Property for which this application is filed or his/her authorized agent. In the event an authorized agent files this application on behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany this application.

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

EXHIBIT F



