

May 27, 2022

**Meridith H. Moldenhauer**

Direct Phone 202-747-0763  
mmoldenhauer@cozen.com

**VIA IZIS**

Anthony Hood, Chairperson  
D.C. Zoning Commission  
441 4th Street, NW, Suite 200S  
Washington, DC 20001

**RE: ZC Case No. 22-08  
Applicant's Request for Side Yard Flexibility**

Chairperson Hood and Honorable Members of the Commission:

In conjunction with the post-hearing submission of the Applicant NRP Properties, LLC's (the "Applicant"), the Applicant files this supplemental request for flexibility from the side yard requirements. As described in the post-hearing submission, this supplemental flexibility request is being made after questions posed by the Commission and clarification confirmed by the Zoning Administrator that the previously-identified courts are treated as side yards pursuant to Subtitle G § 406.3 of the Zoning Regulations.

The Applicant requests flexibility from the side yard requirements in the MU-7B zone because the proposed residential building (the "Project") will have a 6-foot-wide western side yard and a 9-foot-wide eastern side yard that narrows to 3-feet. Under Subtitle G § 406.1, if a side yard is provided, it must be equal to two inches per 1 foot of building height. As such, side yards of 15'7" in width must be provided for a proposed building height of 93'6".

Under Subtitle X § 603.1, the Zoning Commission has authority to grant flexibility from the development standards for yards. As noted in the record and during the hearing, the buildable area on the Property is significantly restricted by the encumbrances on the front setback area. As with the rear yard flexibility, the side yard flexibility will allow the Project to maximize the limited buildable area and provide appropriate light and air to units on each side of the building.

Whereas, with compliant side yards, the Project would be squeezed an additional 9'7" off the western lot line and 15'7" off the eastern lot line, resulting in a substantial loss of floor area and requiring a major re-design of the all levels in the Project. Alternatively, constructing the Project to have no side yards would mean eliminating all windows along each side lot line. This results in the loss of at least two affordable units per floor and creates less desirable living conditions in other units.

The side yard flexibility will not adversely impact neighboring properties. As a general matter, the proposed side yards are less impactful to neighboring properties than if the Project were

constructed with no side yards, which is permitted in the MU-7B zone. The ANC and Office of Planning are supportive of the Project as designed.<sup>1</sup>

Nonetheless, with respect to the western neighbor, there are existing garden-style apartments that are setback 27 feet from the Property's western lot line. The setbacks will ensure no adverse impacts to light, air or privacy for both the western neighbor and the Project's residents. In the event the neighboring lot is redeveloped, it is located in the RA-1 zone where a side yard of at least 8 feet is required for a multi-unit building. *See* Subtitle F § 306.2(a). Thus, the Project will always maintain a minimum 14-foot buffer from the western neighbor. The Applicant has adjusted the percentage of windows to no greater than 24% glazing along the western side yard; the window openings are, therefore, permitted for a sprinklered building under the Building Code.<sup>2</sup>

With regard to the eastern neighbor, the existing one-story commercial building is setback 25 feet from the Property's eastern lot line. This existing setback plus the Project's 9-foot side yard (briefly narrowing to 3 feet) beginning at the second level will be sufficient to avoid impacts to light, air and privacy. If in the future the eastern lot is redeveloped, it could be constructed to the shared lot line. However, as with the western side, the Applicant reduced the percentage of windows to 25% glazing along the eastern lot line so that the Project complies with Building Code requirements and the windows are permitted even if the eastern lot is redeveloped.<sup>3</sup>

Finally, due to the existing easements along Benning Road NE, providing the required side yards would significantly constrain the buildable area of the site. Therefore, side yard flexibility would allow the Applicant to maximize the buildable portion of the lot in an efficient manner. Based on the above analysis of the eastern and western neighbors, granting the requested side yard flexibility should not affect adversely the neighboring properties.

In sum, the Project's footprint, including the side yards, has not been altered from what is in the record and presented to the Commission at the May 16<sup>th</sup> hearing. The flexibility request arises from the re-classification of the side setbacks as side yards and not courts. As a result, the Project must provide a side yard equal to 2 inches per 1 foot of building height, which is 15'7". The 6-foot-wide western side yard and 3 to 9-foot-wide eastern side yard (beginning at the second level) do not meet this standard. Accordingly, the Applicant is adding a request for flexibility from the side yard requirements.

Sincerely,  
COZEN O'CONNOR



Meridith Moldenhauer

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<sup>1</sup> The side yards have not been altered from the original architectural proposal submitted with this application. Thus, the potential impacts to neighboring properties are no different. The only change is that the side yards were previously referenced as courts.

<sup>2</sup> *See* Table 705.8 of Building Code.

<sup>3</sup> *See* Table 705.8 of Building Code.

**Certificate of Service**

I HEREBY CERTIFY that on this 27<sup>th</sup> day of May, 2022, a copy of the Applicant's Request for Side Yard Flexibility was served, via email, on the following:

District of Columbia Office of Planning  
c/o Elisa Vitale  
1100 4<sup>th</sup> Street SW, Suite 650E  
Washington, DC 20024  
[Elisa.Vitale@dc.gov](mailto:Elisa.Vitale@dc.gov)

Advisory Neighborhood Commission 7D  
c/o Commissioner Siraj Hasan, Chair  
Commissioner Stephanie Audain, SMD  
7D02@anc.dc.gov  
7D05@anc.dc.gov



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