

## **MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Stephen J. Mordfin, Case Manager  
*JS for*  
Joel Lawson, Associate Director Development Review  
**DATE:** November 1, 2019

**SUBJECT:** BZA Case 20078 (1256-1258 Talbert Street, S.E.) to permit a six-lot theoretical subdivision to be developed as six flats, including one inclusionary zoning (IZ) unit

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### **I. OFFICE OF PLANNING RECOMMENDATION**

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

- Rules of Measurement for Front Setbacks, Subtitle B § 315.1(c), pursuant to Subtitle X § 1000 (64 to 75 feet minimum required for Lots 1, 2 and 3); 6 feet proposed;
- Setback, Subtitle E § 305, pursuant to Subtitle X § 1000 (within range of all existing front setbacks on same side of street in the block required; not within the existing range proposed for Lots 4, 5 and 6); and
- Building Height, Subtitle E § 303.2, pursuant to Subtitle X § 1000 (40 feet and 3 stories permitted; 42 feet, 3 inches and 3 stories proposed for Lots 4, 5 and 6).

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

- Subtitle C § 305.1, Theoretical Subdivisions, to permit a six-lot theoretical subdivision; and
- Subtitle C § 1002.2, IZ Dimensional Modifications for Lower Density Zones (18-foot minimum width required; 16-foot width proposed for Lots 1, 2, 4 and 5).

Subject to the following conditions:

1. The applicant submits the following to the record:
  - a. A proposed grading plan, as required by Subtitle C, Section 305.4(a)(5);
  - b. An existing landscape plan, as required by Subtitle C, Section 305.4(a)(6), including documentation of any heritage trees on-site. Should any heritage trees be located on site, the applicant would be required to work with the Urban Forestry Administration to appropriately address the existence of those trees;
  - c. A plan depicting the storage of solid waste on site, as required by Subtitle C, Section 305.5(a)(2); and
  - d. A plan depicting the retaining wall along the Morris Road frontage pulled back sufficiently to allow for a six-foot wide public sidewalk, per Subtitle C, Section 305.5(a)(6); and

2. The rear yards of the two flats abutting the northwest side of the subject property on lots 1 and 4 be fenced to protect the privacy and use of the side yard of the adjacent property to the northwest.

## II. LOCATION AND SITE DESCRIPTION

Address	1256-1258 Talbert Street, S.E.
Applicant	SIG LLC
Legal Description	Square 5805, Lots: A&T 824; 290-293
Ward, ANC	Ward 8, ANC 8A06
Zone	RF-1
Lot Characteristics	Through lot fronting on Morris Road and Talbert Street with no alley access, and steep downward topography from Morris Road to Talbert Street
Existing Development	Two semi-detached dwellings
Adjacent Properties	North and West: One-family detached dwellings South: Apartments and row houses East: Across Morris Road, apartments and one-family detached dwellings
Surrounding Neighborhood Character	Moderate density residential
Proposed Development	Demolition of the two semi-detached dwellings and construction of six three-bedroom flats (12 units), including one IZ unit

## III. ZONING REQUIREMENTS and RELIEF REQUESTED

### Theoretical Lot 1

Zone: RF-1	Regulation	Existing	Proposed	Relief
Height E § 303	40-foot and 3-story max.	N/A	36.5 feet and 3-stories	None Required
Lot Width E § 201	18 feet 16 feet (IZ SE)	N/A	16 feet	<b>REQUIRED</b>
Lot Area E § 201	1,800 sq.ft. min. 1,500 sq.ft. min (IZ SE)	N/A	2,048 sq.ft.	None Required
Lot Occupancy E § 304	60% max.	N/A	56.4 %	None Required
Rear Yard E § 306	20-foot min.	N/A	46 feet, 8 inches	None Required
Front Setback B § 315, E § 305	64 – 75-foot min.	N/A	6 feet	<b>REQUIRED</b>
Parking C § 702.3(a)	None	N/A	None	None Required

### Theoretical Lot 2

<b>Zone: RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height E § 303	40-foot and 3-story max.	N/A	36.5 feet, 3 stories	None Required
Lot Width E § 201	18 feet (min.) 16 feet (IZ SE)	N/A	16 feet	<b>REQUIRED</b>
Lot Area E § 201	1,800 sq.ft. min. 1,500 sq.ft. min (IZ SE)	N/A	2,001 sq.ft.	None Required
Lot Occupancy E § 204	60% max.	N/A	57.72%	None Required
Rear Yard E § 306	20-foot min.	N/A	39 feet, 8 inches	None Required
Front Setback B § 315, E § 305	64 – 75-foot min.	N/A	9 feet, 11 inches	<b>REQUIRED</b>
Parking C § 702.3(a)	None	N/A	None	None Required

### Theoretical Lot 3

<b>Zone: RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height E § 303	40-foot and 3-story max.	N/A	36.5 feet, 3 stories	None Required
Lot Width E § 201	18-foot min. 16 feet (IZ SE)	N/A	18 feet	None Required
Lot Area E § 201	1,800 sq.ft. min. 1,500 sq.ft. min (IZ SE)	N/A	2,195 sq.ft.	None Required
Lot Occupancy E § 304	60% max.	N/A	59.54%	None Required
Rear Yard E § 306	20-foot min.	N/A	32 feet, 8 inches	None Required
Front Setback B § 315, E § 305	64 – 75-foot min.	N/A	13 feet, 7 inches	<b>REQUIRED</b>
Parking C § 702.3(a)	None	N/A	None	None Required

### Theoretical Lot 4

<b>Zone: RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height E § 303	40-foot and 3-story max.	N/A	42 feet, 3 inches and 3-stories	<b>REQUIRED</b>
Lot Width E § 201	18-foot min. 16 feet (IZ SE)	N/A	16 feet (IZ)	<b>REQUIRED</b>

<b>Zone: RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Lot Area E § 201	1,800 sq.ft. min. 1,500 sq.ft. min (IZ SE)	N/A	1,982 sq.ft.	None Required
Lot Occupancy E § 304	60% max.	N/A	59.33%	None Required
Rear Yard E § 306	20-foot min.	N/A	20 feet	None Required
Front Setback B § 315, E § 305	28-35-foot min.	N/A	32 feet, 10 inches	None Required
Parking C § 702.3(a)	None	N/A	None	None Required

#### Theoretical Lot 5

<b>Zone: RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height E § 303	40-foot and 3- story max.	N/A	42 feet, 3 inches and 3 stories	<b>REQUIRED</b>
Lot Width E § 201	18 feet (min.) 16 feet (IZ SE)	N/A	16 feet	<b>REQUIRED</b>
Lot Area E § 201	1,800 sq.ft. min. 1,500 sq.ft. min (IZ SE)	N/A	1,997 sq.ft.	None Required
Lot Occupancy E § 304	60% max.	N/A	58.89%	None Required
Rear Yard E § 306	20-foot min.	N/A	ft.	None Required
Front Setback E § 305	28-35-foot min.	N/A	32 feet, 10 inches	None Required
Parking C § 702.3(a)	None	N/A	None	None Required

#### Theoretical Lot 6

<b>Zone: RF-1</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Height E § 303	40-foot and 3- story max.	N/A	42 feet, 3 inches, and 4-stories	<b>REQUIRED</b>
Lot Width E § 201	18-foot min. 16 feet (IZ SE)	N/A	18 feet	None Required
Lot Area E § 201	1,800 sq.ft. min. 1,500 sq.ft. min (IZ SE)	N/A	2,265 sq.ft.	None Required
Lot Occupancy E § 304	60% max.	N/A	58.41%	None Required
Rear Yard E § 306	20-foot min.	N/A	20 feet	None Required
Front Setback B § 315, E § 305	28-35-foot min.	N/A	32 feet, 10 inches	None Required
Parking C § 702.3(a)	None	N/A	None	None Required

#### **IV. OFFICE OF PLANNING ANALYSIS**

**Variance Relief from Subtitles B § 315.1(c), Rules of Measurement for Front Setbacks and E § 305.1, Rules of Measurement for Front Setbacks for Residential Dwellings in the RF-1 Zone; Lots 1, 2 and 3 (64 to 75 feet required; 6 feet (Lot 1), 9 feet, 11 inches (Lot 2) and 13 feet, 7 inches (Lot 3) proposed) (Lots 4, 5 and 6 conforming)**

##### **i. Exceptional Situation Resulting in a Practical Difficulty**

Proposed lots 1, 2 and 3 face Talbert Street and the three proposed row buildings are laid out in a staggered design, acknowledging the angle of the property to Talbert Street. Development on the same side of the street of this block includes a one-family detached dwelling on a large lot to the northwest. To the southeast is a development of townhouse-style units on a single large lot partially surrounding a common parking lot in the center with additional surface parking fronting on Talbert Street.

Setting back the three flats proposed to front on Talbert Street to accommodate the adjacent parking lot to the southeast would not contribute to a positive street façade. Aligning the front of the proposed buildings to acknowledge the front yard of the only detached dwelling on large lot within the block would result in the need to reduce the size of the rear yard and/or the square footage of the proposed three-bedroom (family-size) units, impairing the use of the rear yards as private outdoor residential space and/or the ability of the proposed units to house families. The proposed six-foot front yards would be more consistent with typical rowhouse development.

##### **ii. No Substantial Detriment to the Public Good**

The reduced front yards would improve the streetscape, allow for improved “eyes-on-the-street” and result in a building design more consistent with other row house/flats existing within the immediate surrounding area.

##### **iii. No Substantial Harm to the Zoning Regulations**

The intent of this provision is to ensure new development is reflective of the existing patterns of neighborhood development. In this case there is no consistent front yard setback within the surrounding area, and existing neighboring properties have front yards inconsistent with typical rowhouse patterns. The requested relief, though, would permit a housing development otherwise consistent with the RF-1 bulk regulations for a use permitted as a matter of right.

##### **c. Special Exception Relief from Subtitle C § 305, Theoretical Subdivisions, to Permit a Six-Lot Theoretical Subdivision**

**305.1 In the R, RF, and RA zones, the Board of Zoning Adjustment may grant, through special exception, a waiver of Subtitle C § 302.1 to allow multiple primary buildings on a single record lot provided that, in addition to the general special exception criteria of Subtitle X, Chapter 9, the requirements of this section are met.**

The subject application is to permit four record lots that have been consolidated into one tax lot to be subdivided into six theoretical lots, each to be improved with a flat and consistent with the RF-1 zone.

**305.2 The number of buildings permitted by this section shall not be limited; provided, satisfactory evidence is submitted that all the requirements of this section are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations.**

Six buildings are proposed, and the application is in conformance with the requirements of this section, as described below.

**305.3 The following development standards shall apply to theoretical lots:**

- (a) **Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;**

The application proposes six row buildings, for which side yards not required in the RF-1 zone. Rear yards, ranging between twenty and 46 feet, 8 inches, are proposed, consistent with the minimum requirement of twenty feet.

- (b) **Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways;**

The subject property has no alley access; therefore, no off-street parking is required, and no vehicular ingress and egress is proposed.

- (c) **The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and**

The application indicates that the height of buildings is measured from the finished grade at the middle of the building façade facing the nearest street lot line.

- (d) **The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.**

The applicant agrees to abide by this provision and is unaware of any conflicts with the Height Act.

**305.4 For a theoretical subdivision application, the following information is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300:**

- (a) **Site plans including the following information:**

- (1) **A plat of the record lots proposed for subdivision;**

A plat of the record lot proposed for subdivision is included in the application. (Exhibit 2)

- (2) **The location of proposed streets and designated fire apparatus roads;**

No new streets or designated fire apparatus roads are proposed. Each theoretical lot would be directly accessible from either Morris Road or Talbert Street.

**(3) Location of proposed easements;**

No easements are proposed.

**(4) Lot lines of proposed theoretical lots, and the delineation of the lot lines shared by theoretical lots that will serve as private drives or easements;**

The lot lines of the proposed theoretical lots are shown on the plat. (Exhibit 2)

**(5) Existing grading and proposed grading plans;**

Proposed grading plans were included in Sheet A 200 (Exhibit 38A). An existing site plan with topography was submitted to OP, but not to the record. The applicant should submit a copy of that plan to the record.

**(6) Existing landscaping and proposed landscaping plans, including the sizes and locations of all trees on or adjacent to the property on public or private lands;**

The applicant submitted a plan depicting the proposed landscaping to the record (Exhibit 38A, Sheet L700), and site plan of the existing site, including landscaping and topography to OP, but not to the record. The plan of the existing site should be submitted to the record. The applicant should confirm that any trees on the site are not heritage trees.

**(7) Plans for the location of building footprints on theoretical lots; and**

Plans for the location of each building footprint on a theoretical lot are shown on Sheet A 200. (Exhibit 38A)

**(8) Required yards (rear, side and front) based on the regulations applicable to a zone or any modifications to regulations provided through this section;**

The application is in conformance with the applicable rear and side yard regulations. The applicant requested front yard relief as a part of this application. (see Section 4, Office of Planning Analyses, above)

**(b) Typical or individual floor plans and elevations for the proposed buildings and structures; and**

Floor plans for each proposed unit (Exhibit 38A, sheets A201, A202, A203, A205, A206, A27, A208), and elevations of the proposed buildings (Exhibit 38A, sheets A400 and A401) were submitted to the record.

**(c) A table of zoning information including required and proposed development standards.**

A table of zoning information was included for each proposed theoretical lot.  
(Exhibit 4)

**305.5 Before taking final action on an application under this section, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including:**

- (a) **The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:**

- (1) **Public safety relating to police and fire concerns including emergency vehicle access;**

The FEMS Office of the Fire Marshall, in an email to OP dated October 25, 2019, stated that it had no objections to the application.

- (2) **The environment relating to water supply, water pollution, soil erosion, and solid waste management;**

The following comments were received from the Department of Energy and Environment by email on October 29, 2019, for which the applicant will have to submit prior to the issuance of permits:

*“The entire project will disturb more than 5000 square feet of area which will trigger both Stormwater and Erosion and Sediment Regulations, and is considered a Common Plan of Development according to the 2013 Stormwater Rule.*

*When submitting for building permits, provide the following information:*

- *Civil Drawings that include the following:*
  - *Existing Conditions Survey*
  - *Proposed Grading Conditions and/or Site Plan*
  - *Utility Plan*
  - *Utility Profiles*
  - *Utility Details*
  - *Erosion and Sediment Control Plans*
  - *Erosion and Sediment Control Details and Notes*
  - *Stormwater Management Plan for the entire project*
  - *Stormwater Management Calculations and BMP Design Calculations*
  - *Stormwater Construction details and notes*
  - *Stormwater Maintenance requirements.”*

A plan depicting the storage of solid waste should be submitted to the file.

**(3) Public education;**

Comments from DCPS were not submitted to the record. However, the DCPS website indicates that public schools assigned to the site, and their permanent capacity utilization rates for the 2016-2017 school year ([X:\DEVELOPMENT REVIEW\Zoning Commission\DCPS SY2016-17 Enrollment Data\\_0.xlsx](#)), are as listed below.

- Savoy Elementary School: 73 percent
- Kramer Middle School: 32 percent
- Anacostia Hight School: 54 percent

The above listed utilization rates indicate there would likely be sufficient capacity to absorb students from the twelve proposed three-bedroom dwellings.

**(4) Recreation;**

The site is located one-half mile from the Barry Farm Recreation Center, offering a variety of indoor and outdoor recreational facilities for children, teens, adults and seniors. No recreational facilities are proposed on-site.

**(5) Parking, loading, and traffic;**

Parking and loading facilities are not required for this site. The site has a Walk Score of 80, indicating that most errands can be accomplished on foot and a Transit Score of 74, indicating that convenient transit is available. (walkscore.com). DDOT informed to OP that it would submit its comments separately to the record.

**(6) Urban design; and**

The following comments were received from the Urban Design Division of OP in an email dated June 19, 2019:

- *Incorporate brick into the materials palette on Talbert and Morris streets to better reflect the mix of materials used in the adjacent building stock.*
- *Redesign entrance steps in public space on Morris Road by consolidating the three sets of steps into one shared set of steps.*
- *Pull the retaining wall at Morris Street back to provide a wider sidewalk to 6'.*
- *Plant shade trees in the public space behind the retaining wall on Morris Street.*

In response the applicant submitted the following:

1. Brick veneer was added to the materials palette on Talbert Street and Morris Road (Exhibit 38A, Sheet A400);
2. The entrance steps within public space on Morris Road were consolidated into one set of shared steps (Exhibit 38A, Sheet A205);

3. Two shade trees are proposed within Morris Road public space (Exhibit 38A, Sheet L700).
4. The applicant should submit to the record a plan pulling the retaining wall on Morris Road back to widen the public sidewalk on Morris Street;

**(7) As appropriate, historic preservation and visual impacts on adjacent parkland;**

The site is not located within an historic district, is not an historic resource and is not located adjacent to parkland.

- (b) Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;**
- (c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;**

No on-site parking is proposed. Any parking for the units would be accommodated on the street. DDOT informed OP that it would file its comments to the record separately.

**(d) The impact of the proposed development on neighboring properties; and**

The proposal would be generally consistent with the existing development to the southeast. To the northwest is a one-family detached dwelling on a large lot, set back from the common lot line separating the two properties. Although denser than the existing adjoining residence, the proposed residences would be consistent with the use and density anticipated by the zoning and would be oriented toward the streets, with pedestrian access from either Morris Road or Talbert Street only.

**(e) The findings, considerations, and recommendations of other District government agencies.**

Comments from FEMS and DOEE are as noted above. Comments from other District government agencies were not received.

**305.6 The proposed development shall comply with the substantive intent and purpose of this title and shall not be likely to have an adverse effect on the present character and future development of the neighborhood.**

The proposed building type would be similar in style to other developments within the immediate surrounding area, including row houses and townhouse-style apartments, maintaining much of the existing character of the neighborhood.

**305.7 The Board of Zoning Adjustment may impose conditions with respect to the size and location of driveways; floor area ratio; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.**

OP recommends the rear yards abutting the northwest side of the property be fenced to protect the privacy and use of the side yard of the adjacent property to the northwest. The applicant has agreed to this condition.

**305.8 Any modification to a theoretical subdivision application resulting from an addition to a one (1) dwelling unit building may be reviewed as an expedited review, pursuant to Subtitle Y, Chapter 4.**

Not applicable.

**d. Subtitle C § 1002.2, IZ Dimensional Modifications for Lower Density Zones, 18-foot minimum lot width required; 16-foot lot width proposed for Lots 1, 2, 4 and 5**

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

Reducing the minimum lot width from 18 to 16 feet would allow the applicant to create six lots and develop each lot with a flat, for a total of twelve units. The applicant would then be required to provide one of the dwellings as an IZ unit.

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

The proposal would allow the applicant to construct six row buildings in a neighborhood developed with similarly styled buildings, including row houses, flats and apartments, while providing an additional IZ unit, to the benefit of the community.

**V. COMMENTS OF OTHER DISTRICT AGENCIES**

With the exception of the comments submitted to OP and noted above, no additional Except form comments submitted to OP as noted above, no additional comments were submitted to the file from other District agencies as of the date of the filing of this report.

**VI. COMMUNITY COMMENTS TO DATE**

One letter in opposition was received from the adjoining property owner to the north. (Exhibit 32)

Attachment: Location Map

