

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Elisa Vitale, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** February 16, 2018  
**SUBJECT:** BZA Case 19684, 2610 4<sup>th</sup> Street, NE – Special Exception to permit construction of three new flats in the RF-1 zone.

**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval with conditions** of the following relief pursuant to X § 901, for special exception from:

- C § 1002.2, Inclusionary Zoning (IZ) dimensional modifications to minimum lot width (18 feet required; 16 feet for IZ project allowed by Special Exception).

Condition:

- The Applicant must demonstrate that the proposed IZ unit satisfies the requirements of 11 DCMR, Subtitle C, Chapter 10.

The Office of Planning (OP) recommends **denial** of the following relief pursuant to X § 901, for special exceptions from the following:

- E § 205.5, rear yard (an addition may extend a maximum of 10 feet beyond adjoining properties; proposed flat at 2610 4<sup>th</sup> Street, NE would extend 12 feet 10 inches beyond the adjacent property).

The Applicant has not requested side yard relief from E § 307.1, which requires that a side yard be provided when a new dwelling or flat is erected that does not share a common division wall. OP believes this relief would be necessary. OP also believes that relief may be necessary from the front setback requirements of E § 305. The Applicant has not requested, or advertised, such relief so OP has not provided analysis. The Applicant has been advised to address this with the Office of the Zoning Administrator.

**II. LOCATION AND SITE DESCRIPTION**

Address	2610 4 <sup>th</sup> Street NE
Applicant	Martin Sullivan, Attorney on behalf of C&S Development, Applicant
Legal Description	Square 3551, Lot 801
Ward / ANC	Ward 5 / ANC 5E
Zone	RF-1 - The purpose of the RF-1 zone is to allow for detached, attached, semi-detached, single-family dwellings and flats.

Historic District or Resource	Not applicable.
Lot Characteristics	The Property is rectangular in shape and measures 50 feet in width and 106 feet 7.7 inches in depth. It is bound by 4 <sup>th</sup> Street, NE to the east, a detached dwelling to the north, a 15-foot improved public alley to the west, and adjoining row dwellings to the south.
Existing Development	The Property is improved with a two-story single-family detached dwelling.
Adjacent Properties	The adjacent property to the north is improved with a two-story single-family detached dwelling and the adjacent property to the south is improved with a two-story row dwelling.
Surrounding Neighborhood Character	The surrounding neighborhood is residential in character.
Proposed Development	The Applicant is proposing to demolish the existing single-family detached dwelling, subdivide the lot in to three lots, and build three new flats. The Applicant is proposing to opt in to the Inclusionary Zoning program.

**III. ZONING REQUIREMENTS and RELIEF REQUESTED**

<b>RF-1 Zone</b>	<b>Regulation</b>	<b>Address</b>	<b>Proposed</b>	<b>Relief:</b>
Height (ft.) E § 303.2	40 ft. max./ 3 stories	2610 4 <sup>th</sup>	36 ft. 6.25 in.	None required
		2612 4 <sup>th</sup>	36 ft. 6.25 in.	
		2614 4 <sup>th</sup>	36 ft. 6.25 in.	
Lot Width (ft.) E § 201	18 ft. min. 16 ft. (IZ)	2610 4 <sup>th</sup>	18 ft.	<b>Requested for 16 ft. (IZ) lots at 2612 and 2614 4<sup>th</sup> Street</b>
		2612 4 <sup>th</sup>	16 ft.	
		2614 4 <sup>th</sup>	16 ft.	
Lot Area (sq. ft.) E § 201	1,800 sq. ft. min. 1,500 sq. ft. (IZ)	2610 4 <sup>th</sup>	1,800 sq. ft.	None required
		2612 4 <sup>th</sup>	1,706.24 sq. ft.	
		2614 4 <sup>th</sup>	1,706.24 sq. ft.	
Lot Occupancy E § 304	60% max.	2610 4 <sup>th</sup>	60%	None required
		2612 4 <sup>th</sup>	59%	
		2614 4 <sup>th</sup>	60%	
Rear Yard (ft.) E § 306	20 ft. min.	2610 4 <sup>th</sup>	20 ft. +	None required
		2612 4 <sup>th</sup>	20 ft. +	
		2614 4 <sup>th</sup>	20 ft. +	
Rear Addition E § 205.4	10 ft.	2610 4 <sup>th</sup>	12 ft. 10 in	<b>Requested for 2610 4<sup>th</sup> Street</b>
		2612 4 <sup>th</sup>	N/A	
		2614 4 <sup>th</sup>	N/A	
Side Yard (ft.) E § 307	None required, but 5 ft. min. if provided	2610 4 <sup>th</sup>	0 ft.	<b>Required, but not requested for 2614 4<sup>th</sup> Street</b>
		2612 4 <sup>th</sup>	0 ft.	
		2614 4 <sup>th</sup>	0 ft.	
Parking C § 701	1 space required	2610 4 <sup>th</sup>	2 spaces	None required
		2612 4 <sup>th</sup>	1 space	

RF-1 Zone	Regulation	Address	Proposed	Relief:
		2614 4 <sup>th</sup>	1 space	
Front Setback E § 305	Within the range of existing front setbacks of all structures on the same side of the street in the block.	2610 4 <sup>th</sup>	Approximately 15 feet	<b>Appears to be required</b>
		2612 4 <sup>th</sup>		
		2614 4 <sup>th</sup>		

**IV. OFFICE OF PLANNING ANALYSIS**

**a. Special Exception Relief pursuant to X § 901 for IZ dimensional modifications to minimum lot width C § 1002.**

901.2 *The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:*

(a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The Applicant is requesting to subdivide Square 3551, Lot 801 into three separate record lots, two of which would not meet the 18-foot minimum lot width required in the RF-1 zone. The Applicant has requested Special Exception relief to permit the lots at 2612 and 2614 4<sup>th</sup> Street NE to measure 16 feet in width. In turn, the Applicant would opt into the IZ program and would provide one IZ unit, a 2-bedroom one level unit in the cellar of the middle of the three rowhouses. As such, it is considerably smaller than any of the other units. Construction of flats in the RF-1 zone is in harmony with the general purpose and intent of the Zoning Regulations.

(b) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

While the properties are zoned RF-1, which contemplates row dwellings, there are a variety of housing types present in the square, including a number of one- and two-story detached dwellings. The proposed development would attach to existing two-story row dwellings to the south. While E § 303.2 permits a height of 40 feet and three stories when three or more **new** row dwelling are constructed together, the Applicant should ensure that the scale of the proposed row dwellings is compatible with the surrounding neighborhood character (Exhibit 10, sheet A4.3).

(c) *Will meet such special conditions as may be specified in this title.*

The Applicant shows the proposed IZ unit as a 2-bedroom cellar unit. The Applicant should confirm that the IZ unit is consistent with the development standards regarding inclusionary units found at C § 1005.

**b. Special Exception Relief pursuant to X § 901 for a rear addition subject to E § 205.**

205.5 *A rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any principal residential building on an adjoining property if approved as a special exception pursuant to Subtitle X, Chapter 9 and as evaluated against the criteria of Subtitle E §§ 5201.3 through 5201.6.*

The Applicant is seeking a special exception to permit the rear wall of the proposed flat at 2610 4<sup>th</sup> Street NE to extend beyond the rear wall of the adjoining property at 2608 4<sup>th</sup> Street NE.

5201.3 *An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

*(a) The light and air available to neighboring properties shall not be unduly affected;*

The Applicant has requested 2 feet 10 inches of relief for the proposed flat at 2610 4<sup>th</sup> Street NE, which would be adjacent to the row dwelling at 2608 4<sup>th</sup> Street NE. Given the detached nature of the dwelling at 2616 4<sup>th</sup> Street with windows on the south façade and the Applicant's proposal to build to the northern property line, OP believes the proposed development could unduly affect the light and air available to neighboring properties.

*(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

The detached dwelling at 2616 4<sup>th</sup> Street NE, north of the subject site, has windows on the south façade that face the side yard of the property. The proposed flat at 2614 4<sup>th</sup> Street NE would not have windows on its north façade, but would have a deck at the rear of the property, as well as access stairs, that could compromise the privacy of use and enjoyment of the neighboring property.

*(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;*

The proposed flat at 2610 4<sup>th</sup> Street would extend 12 feet 10 inches beyond the rear wall of the adjoining property at 2608 4<sup>th</sup> Street where a 10-foot extension would be permitted. The portion of the proposed flat that would extend beyond the rear wall of the adjoining property would measure 36 feet 6.25 inches in height, which would visually intrude on the character, scale, and pattern of houses in the 2600 block of 4<sup>th</sup> Street NE.

*(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and*

The Applicant has not provided sufficient information to demonstrate compliance with paragraphs (a), (b) and (c) of this subsection, particularly for new construction. The Applicant should provide photo simulations showing the proposed development in the context of the 2600 block of 4<sup>th</sup> Street NE, from both the street and the alley. Finally, the Applicant should submit a shadow study.

*(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).*

The proposed lot occupancy would not exceed 60%, which is the maximum permitted as a matter-of-right in the RF-1 zone.

5201.4 *The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.*

The proposed flats would extend beyond the adjoining properties at 2608 4<sup>th</sup> Street and 2616 4<sup>th</sup> Street NE to the east (front setback) and to the west (rear yard). Given that the new construction would be visible, projecting beyond 2608 4<sup>th</sup> Street NE toward the street, the Applicant should use high quality construction materials on the south façade of 2610 4<sup>th</sup> Street NE. Additionally, because

the property at 2616 4<sup>th</sup> Street has south facing windows, the Applicant should use high quality construction materials on the north façade of 2614 4<sup>th</sup> Street NE. OP suggest the Applicant use brick or wood siding for these elevations.

*5201.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.*

The proposed construction of three flats would not permit the introduction of a nonconforming use.

*5201.6 This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.*

The proposed flats would measure three stories and approximately 36 feet 6.25 inches in height, which would not exceed the 40-foot maximum permitted in the RF-1 zone per E § 303.2.

## **V. COMMENTS OF OTHER DISTRICT AGENCIES**

The District Department of Transportation (DDOT) indicated that the proposed action would have no adverse impacts on the travel conditions of the District's transportation network. See Exhibit 30, dated January 23, 2018.

## **VI. COMMUNITY COMMENTS**

As of the date of this report, the ANC had not submitted a resolution to the record at the time this report was written.

One letter in opposition was filed in the record at Exhibit 29.

JL/emv

Attachments: Location Map

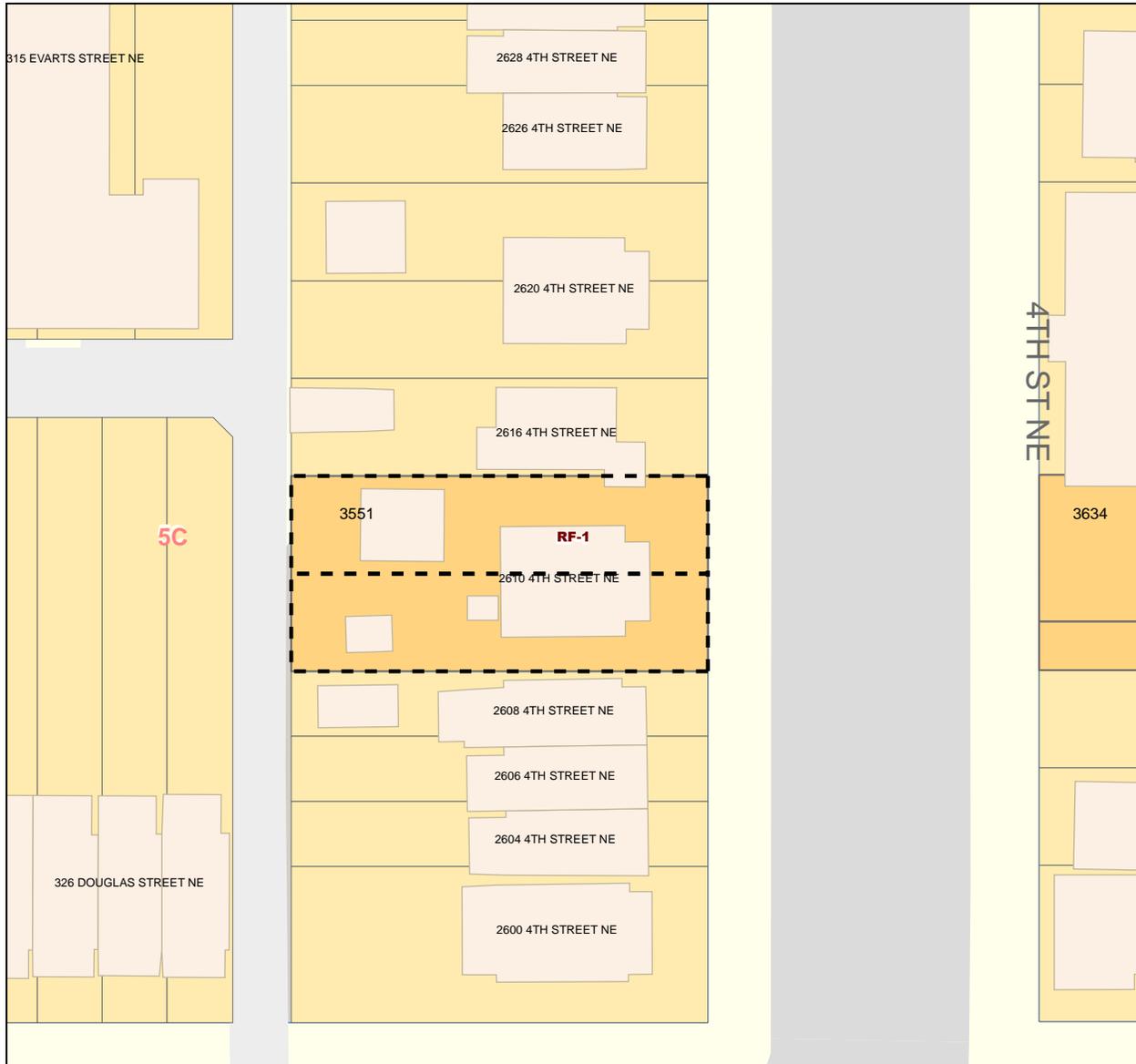


Figure 1: Location Map