

MEMORANDUM

TO: District Board of Zoning Adjustment

FROM:  Paul Goldstein, Case Manager
Joel Lawson, Associate Director Development Review

DATE: July 3, 2012

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18375

EXHIBIT NO. 28

SUBJECT: BZA No. 18375 - Request for multiple area variances and special exceptions to construct a mixed-use building at 710 Florida Avenue NW.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the following area variance relief and special exception relief to construct a mixed-use building at 710 Florida Avenue NW (Square 416, Lot 31):

Area variance

- § 774.1, minimum rear yard (deficient by 15')
- § 2101.1, minimum number of vehicle spaces (deficient by 11 spaces)
- § 2201.1, minimum number of loading berths, platforms, and loading spaces (deficient by one 55' loading berth and one 100 square foot platform)

Special exception

- § 770.6, roof structures (multiple roof structures and heights and substandard setback)
- §§ 1903.3 & 1906, minimum street frontage design (less than 75% of the building along the property line)

While OP does not object to the proposed building lot coverage in concept, OP is **not able to support** the request for lot occupancy relief based on the materials provided. OP encourages the Applicant to more fully demonstrate how the variance test has been met for the following:

- § 772.1, maximum lot occupancy (excessive on floors 2-5 from 2.6% to 10%)

II. AREA AND SITE DESCRIPTION

Address:	710 Florida Avenue NW
Legal Description:	Square 416, Lot 31 (hereinafter, the "Property")
Ward/ANC:	1/1B
Lot Characteristics:	The Property is roughly trapezoidal in shape with approximately 124' frontage along Florida Avenue NW and about 140' frontage along 8 th Street NW. The total lot area measures 15,956 square feet. Along Florida Avenue, the width of public space measures approximately 12' compared to about 35' along 8 th Street. The Property does not border an alley. Metro tunnels run beneath the site.
Zoning:	ARTS/C-2-B: ARTS: Uptown Arts Mixed-use Overlay District C-2-B: High density mixed-use and residential

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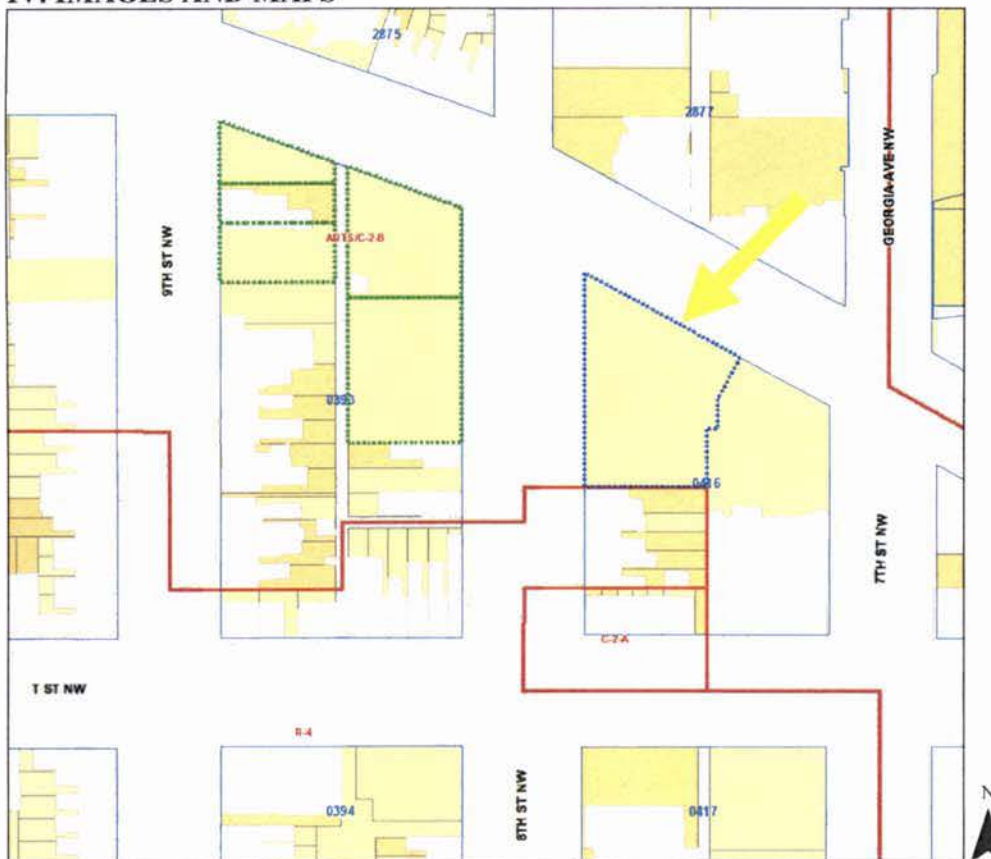


Existing Development:	The Property presently is unimproved.
Historic District:	Greater U Street Historic District
Adjacent Properties:	The Property abuts commercial and residential uses. The east of the site is a surface parking lot accessory to a one-story pharmacy. To the south of the site are a series of two-story row dwellings. To the west, across 8 th Street, the site faces a large unimproved lot (which is the subject of a companion BZA case scheduled for September 2012) and residential buildings of various scales. To the north, across Florida Avenue, are commercial buildings ranging from one to three-stories.
Surrounding Neighborhood Character:	The surrounding neighborhood is a mix of uses. Nearby moderate scale commercial corridors include stretches of Florida Avenue, 9 th Street, and 7 th Street NW. South and Southwest of the site are concentrations of row dwellings. Howard University is located approximately two blocks northeast of the site. The Shaw-Howard University Metro Station is approximately two blocks southeast of the site.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	Florida Avenue Residential LLC/JBG
Proposal:	The Applicant proposes a new six-story, 70' tall residential development with ground floor retail uses. It would contain 79,732 square feet or 5.0 FAR, including 8,421 square feet of ground floor retail uses fronting Florida Avenue and 8th Street. It would provide an estimated 91 residential units featuring a majority of one-bedroom layouts. The new building would be organized with a central bar running parallel to Florida Avenue and a secondary wing extending south on 8th Street. The design of the primary Florida Avenue bar of the building would consist of a slightly recessed first floor to provide greater width to the narrow sidewalk on this block of Florida Avenue. The upper floors would project to the property line, with a slight overhang above the retail bases. Abutting the southern property line, the fifth floor of the building would be set back 10' and a portion of the sixth floor would be set back 20'. An 18' wide closed court would be located at the southeast side of the Property beginning at the second floor. The Applicant proposes a new curb cut along 8th Street for loading and parking access. The project would provide 29 spaces on a single underground level, 11 of which would be compact size. It would include one 30' deep loading berth, one 200 square foot platform, and one 20' deep loading space.
Relief Sought:	§ 772.1, maximum lot occupancy (area variance) § 774.1, minimum rear yard (area variance) § 2101.1, minimum number of spaces (area variance) § 2201.1, minimum number of loading berths, platforms, and loading spaces (area variance) §§ 770.6, roof structures (special exception) §§ 1903.3 & 1906, minimum street frontage design (special exception)

IV. IMAGES AND MAPS



Aerial view of the subject site (highlighted in blue and identified with arrow); future companion development (BZA Case No. 18397) highlighted in green.



View of the subject block looking south across Florida Avenue (Property identified)

V. ZONING REQUIREMENTS

The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested.

C-2-B Zoning	Restriction	Existing	Proposed	Relief
Lot area (sq. ft.)	N/A	15,956	15,956	Conforms ¹
Lot occupancy (building area/lot area) § 771.1	80%	N/A	80 to 90% on floors 2 -5	Relief needed: between 2.6 and 10% excessive ²
Floor area ratio (sq. ft./lot) § 771.2 & 1904	5.0 max.	N/A	5.0	Conforms ³
Rear Yard (ft.) § 774.1	15' min	N/A	0'	Relief needed: 15' deficient
Height (ft.) §§ 770.1 & 2604.2	70' building	N/A	70' building	Conforms ⁴
Closed court §§ 776.3 & 776.4	4 in./ft. height (17'8" min.), but no less than 15'; minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 350 ft. ²	N/A	18' width; > min. sq. of width of court	Conforms
Parking (number) § 2101.1	40 min	N/A	29 total: 16 standard 11 compact 2 accessible	Relief needed: 11 spaces deficient ⁵

VI. RELIEF REQUESTED & OP ANALYSIS

The application proposes a mixed-use residential and retail building, which are permitted uses in this zone. The Applicant must demonstrate at the time of permitting that the project includes certain preferred uses in order to achieve the claimed bonus density. The specific area variance and special exception relief requests are discussed below:

Area Variance Relief (§§ 772.1, 774.1, 2101.1, and 2201.1)

¹ The Applicant informed OP that the application misidentified that the lot area was decreasing and incorrectly asserted that relief may be needed. The Applicant intends to update the record at the hearing.

² The building's ground floor, which is devoted overwhelmingly to commercial use, is not restricted by lot occupancy limitations.

³ The Applicant has submitted a letter from the Zoning Administrator, dated October 11, 2011, confirming that the project can achieve a 5.0 FAR subject to the satisfaction of bonus density provisions. See Pre-hearing submission, Exhibit C. The ZA letter provides an additive breakdown of permissible base C-2-B zoning, IZ bonus, preferred use bonus, and residential use bonuses.

⁴ The inclusionary zoning regulations permit a height of 70' for buildings achieving bonus density.

⁵ The Applicant is allowed to provide up to 40% of the spaces as compact spaces. The Applicant here proposes that 38% of the spaces would be compact. See § 2115.2.

1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?

The Property exhibits a specific uniqueness due to a confluence of conditions. It is a relatively large, irregular corner lot. Of significance, the Green Line metro trains, which are relatively shallow, run beneath the site.⁶ According to the application, the tunnels run diagonally underneath the site 27' below the surface. The Washington Metropolitan Transit Authority (WMATA) also has a "no-build" 10' easement surrounding the tunnels. In addition, according to engineers who have examined the site, these particular tunnels "are the most sensitive to adjacent construction."⁷ The tunnels contribute both a design and cost constraint on site development.

2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?

- **Parking** (§ 2101.1)

The location of the metro tunnels makes it practically difficult to provide the required number of parking spaces (40) for the site. The application states that the maximum excavation depth for the site is approximately 17' below grade, and that the proposed development would sit about 14' below grade. The proposal is designed to efficiently provide parking on the single underground level, yielding 29 spaces total (16 standard spaces, 11 compact spaces, and 2 handicap accessible spaces). No additional underground garage excavation appears to be feasible. OP also would not be supportive of any above-grade parking due to its potentially deleterious impact on the building's retail design and adjacent streetscape.

- **Loading** (§ 2201.1)

The site constraints create a practical difficulty in providing a full complement of loading facilities. The project offers one 30' loading berth, one 200 square foot platform, and one 20' loading space, but would not provide an additional 55' loading berth and 100 square foot platform. The residential and retail uses would share the facilities. In order to provide all of the required loading facilities, the application indicates that the 8th Street retail space would be reduced in size and contain shallower depths less appealing to a range of retailers.⁸

- **Rear yard** (§ 774.1)

The irregular site shape and prominent corner location create a practical difficulty in providing the required rear yards. All structures located in C-2-B commercial districts are required to provide a minimum 15' deep rear yards but no side yards.⁹ At the same time, commercial uses are permitted 100% lot occupancy in the zone.¹⁰ The Zoning Regulations allow the Applicant to select the "street frontage" of a property where a lot abuts more than one street.¹¹ The rear lot line can then be determined to be the rear lot line opposite the frontage. As such, the proposed project could provide the required 15' deep rear yard on either its Florida Avenue or 8th Street side. The required rear yards likely would be perceived from the street as side yards.

⁶ See Pre-Hearing Submission, Exhibit D.

⁷ See Prehearing Submission, Exhibit E, Letter from SK&A Structural Engineers to Lauren Jezienicki, the JBG Companies, May 14, 2012.

⁸ A curb cut likely would not be permitted along Florida Avenue.

⁹ See § 775.5.

¹⁰ See § 772.1. Due to the conflict of the rear yard requirement and the commercial use lot occupancy requirement, it appears that commercial uses on a property with no alley access cannot achieve the permitted 100% lot occupancy.

¹¹ See § 199.1.

At the proposed location, meeting the rear yard requirement would create an awkward gap in the street face along either of the adjacent streets for little apparent benefit. Along the east property line intersecting Florida Avenue, a setback would create an oddly angled rear yard in response to the irregular lot configuration. Along the south property line intersecting with 8th Street, a rear yard would alter the uninterrupted pattern of row dwellings. Strict compliance with the rear yard requirement would disrupt the building's residential, retail, and parking/loading design, test the project's ability to encourage lively retail and pedestrian activity consistent with the stated goals of the Arts Overlay, and deny the project the ability to achieve the permitted 100% lot occupancy for the commercial uses on the site. While not conforming to the rear yard requirements, the project would provide an 18' wide closed court beginning at the second floor (mostly spanning the Property's east side) and setbacks along the Property's south side beginning at the fifth floor.¹²

- **Lot occupancy** (§ 772.1)

The application indicates that the location of the metro tunnels 27' below site grade contribute to enhanced site development costs. Due to such expenses, lot occupancy relief is requested to fully accommodate the residential square footage permitted under zoning. OP does note that the degree of lot occupancy relief requested is comparatively restrained. While the residential use is limited to 80% lot occupancy, the application requests relief for the proposed 90% lot coverage for floors 2 through 4, and 82.6% coverage on floor 5. Floor 1, which is commercial, is permitted to cover the proposed 100% of the lot, and residential floor 6 would occupy a conforming 79.5%.

Nonetheless, OP has repeatedly requested that the Applicant more specifically address how these financial challenges cause a practical difficulty in complying with the lot occupancy standards. OP has also suggested that the Applicant provide more information as to how the location of the tunnels influenced architectural designs, such as the location of columns and floor plans.

3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

- **Parking**

The Applicant provided a traffic impact study and proposed mitigation strategies. The traffic impact study notes that the site is located on a principal arterial roadway less than 2 blocks from 2 metro stations and is served by several Metrobus lines. Fourteen car-share vehicles and 3 Capital Bikeshare stations are located within 3 blocks of the site. Parking near the site consists of a combination of residential permit parking (RPP) and standard on-street metered parking. The Applicant provided a Transportation Management Plan (TMP) which aims to minimize the impact of site traffic and to mitigate the effects of the proposed parking reduction. The TMP offers strategies such as identifying a TDM Leader, unbundling parking costs, providing an on-site business center, and hosting a transportation mobility fair. The Applicant also is committing to install a Capital Bikeshare station or a new traffic signal at 8th Street and Florida Avenue subject to discussions with DDOT. Such a commitment should be specifically identified as a condition of approval in addition to other mitigation offerings contained in the traffic impact study.

OP does not anticipate that the reduction in required parking, along with robust TMP strategies, would be detrimental to the public good or substantially impair the intent, purpose and integrity of the Zoning Regulations and map. The Applicant should continue to work with the DDOT to determine whether the proposed mitigation strategies found in the recently submitted traffic study are appropriate given the parking relief requested.

¹² It also appears that the building depth would align with the adjacent row dwelling to the south along the shared south lot line based on the Prehearing submission, drawing A-502e.

- **Loading**

The minor loading relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map. The Applicant proposes head-first in/out loading (as seen in the truck turning diagrams) and the Applicant's transportation impact study concluded that the proposed loading configuration would sufficiently support the building's demand.¹³

- **Rear yard**

The rear yard relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map. While the Applicant would not provide a conforming rear yard, an 18' closed court would begin at the second floor along the Property's southeast side and setbacks would be provided on the building's south side on the fifth and sixth floors. The building design would create a strong street presence consistent with Arts Overlay objectives and should not detrimentally impact neighboring properties.

- **Lot occupancy**

The Applicant has not yet demonstrated that an extraordinary or exceptional situation imposes a practical difficulty which is unnecessarily burdensome to the Applicant. As such, OP cannot assess whether granting the relief would substantially impair the intent, purpose and integrity of the Zoning Regulations and Map.

Special Exception Relief (§§ 770.6, 1903.3, 1906 & 3104)

- **Roof structures**

The roof structure regulations require that "all penthouses and mechanical equipment shall be placed in one (1) enclosure ...", "enclosing walls from roof level shall be of equal height, and shall rise vertically to a roof", and that roof structures must be "set back from all exterior walls a distance at least equal to its height above the roof upon which it is located".¹⁴ The Applicant proposes two-stair towers, each separated from each other and the elevator penthouse. The stair towers would be 10' in height and the elevator penthouse 15'8" in height. Stair D, near the south side of the building, would be setback about 8' where 10' is required. The Applicant indicates that Stair E, on the building's east edge, is not required to set back from the adjacent property line. Due to the restrained sizes and heights of the penthouses as well as roof locations sufficiently set back from adjacent streets, OP believes that the proposal likely makes the penthouses less intrusive than a consolidated larger and taller penthouse design that would comply with § 770.6.

- **Street frontage design**

Section 1903.3 of the Arts Overlay District requires that a building fronting Florida Avenue between 7th and 9th Streets shall be built so that "not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than fifteen (15 ft.) shall be constructed to the property line between the subject lot and the abutting street right of way."¹⁵ In this case, the proposal intends to set back the building by approximately 6' to create wider tree boxes and sidewalk spaces. The street wall would largely be built to the property line along 8th Street. The application also states that a 10' sidewalk width, in addition to a 6' tree box, is consistent with DDOT and OP public realm design guidance. It further appears that the street wall height would measure 17'. While OP supports the setback in concept, OP does encourage the

¹³ See Prehearing Submission, drawings page G-004 and Exhibit F, page 17.

¹⁴ Sections 411.3, 411.5, and 770.6(b).

¹⁵ See also special exception standards pursuant to § 1906.

Applicant to estimate how much relief from the provision is required and to further clarify the dimensions of the proposed sidewalk and tree boxes along Florida Avenue.

VII. ANC/COMMUNITY COMMENTS

The Applicant indicates that ANC 1B voted unanimously to support the application at its June 7, 2011 meeting. To date, OP has not received an official ANC submission. OP is aware that there is opposition to the subject case (and the companion case) from some area property owners. OP has not received any communications from adjacent neighbors to the east or south.

VIII. HISTORIC PRESERVATION

The project has been reviewed at multiple HPRB hearings. At the May 24, 2012 meeting, HPRB directed the Applicant to continue studying the compatibility of the design.

IX. OTHER DISTRICT AGENCIES

OP anticipates that DDOT will file a memorandum under separate cover.