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MEMORANDUM

TO: District Board of Zoning Adjustment

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

DATE: September 11, 2012

SUBJECT: BZA No. 18397 - Request for multiple area variances and special exceptions to construct a mixed-use building at 800 Florida Avenue NW.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the following area variance and special exception relief to construct a mixed-use building at 800 Florida Avenue NW (Square 393, Lots 41, 44, 45, 46, and 826):

Area variances

- § 772.1, maximum lot occupancy (excessive on floors 2-4 for 3.7% to 7.3%)
- § 2101.1, minimum number of vehicle spaces (deficient by 4 spaces)
- § 2201.1, minimum number of loading berths, platforms, and loading spaces (deficient by one 30' and one 55' deep loading berth, one 100 square foot platform, and one 20' loading space)

Special exceptions

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

The OP approval is conditioned on the adoption of the Applicant's Transportation Management Plan (TMP), in particular the installation of a new traffic signal at the intersection of 8th Street NW and Florida Avenue, the Applicant addressing how it intends to handle future construction management issues, and Council approval of the alley realignment.

II. AREA AND SITE DESCRIPTION

BOARD OF ZONING ADJUSTMENT
District of Columbia

Address:	800 Florida Avenue NW	CASE NO. <u>18397</u>
Legal Description:	Square 393, Lots 41, 44, 45, 46, and 826 (hereinafter, the "Property")	EXHIBIT NO. <u>29</u>
Ward/ANC:	1/1B	
Lot Characteristics:	The Property is irregular in shape with ~210' of frontage along Florida Avenue, ~195' of frontage along 8 th Street NW, and ~139' of frontage along 9 th Street NW. The total lot area measures 32,494 square feet. Along 8 th Street, the width of public space is about 35', compared to approximately 12' along Florida Avenue and 14' along 9 th Street. The Property borders a 10' wide alley north-south alley with access points on Florida Avenue, T Street NW, and 8 th Street. Metro tunnels run beneath a portion of the site.	
Zoning:	ARTS/C-2-B: ARTS: Uptown Arts Mixed-use Overlay District C-2-B: High density mixed-use and residential	



Existing Development:	The Property is largely unimproved. Two adjoining historic row buildings (which are internally connected as a single structure) are located along 9 th Street and there are surface parking lots accessible from 8 th and 9 th Streets. A flea market will continue to operate on the site through the end of October.
Historic District:	Greater U Street Historic District
Adjacent Properties:	<p>The Property abuts commercial and residential uses. To the south of the Property along 8th Street are single and multi-family residential row dwellings ranging from 2 to 4 stories in height. To the south of the Property along 9th Street are low scale commercial uses in mostly 2-story buildings.</p> <p>To the east, across 8th Street, the site faces a large unimproved lot recently approved for a six-story mixed-use development.¹ To the north, across Florida Avenue, is a three-story District building (the DC Housing Finance Agency) and two-story commercial buildings. To the west, across 9th Street, are low scale commercial buildings and, closer to T Street, residential row dwellings (some of which are zoned R-4).</p>
Surrounding Neighborhood Character:	The neighborhood has 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 three blocks northeast of the site. Two metro stations are located within three blocks of the site.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	Florida Avenue Residential, LLC
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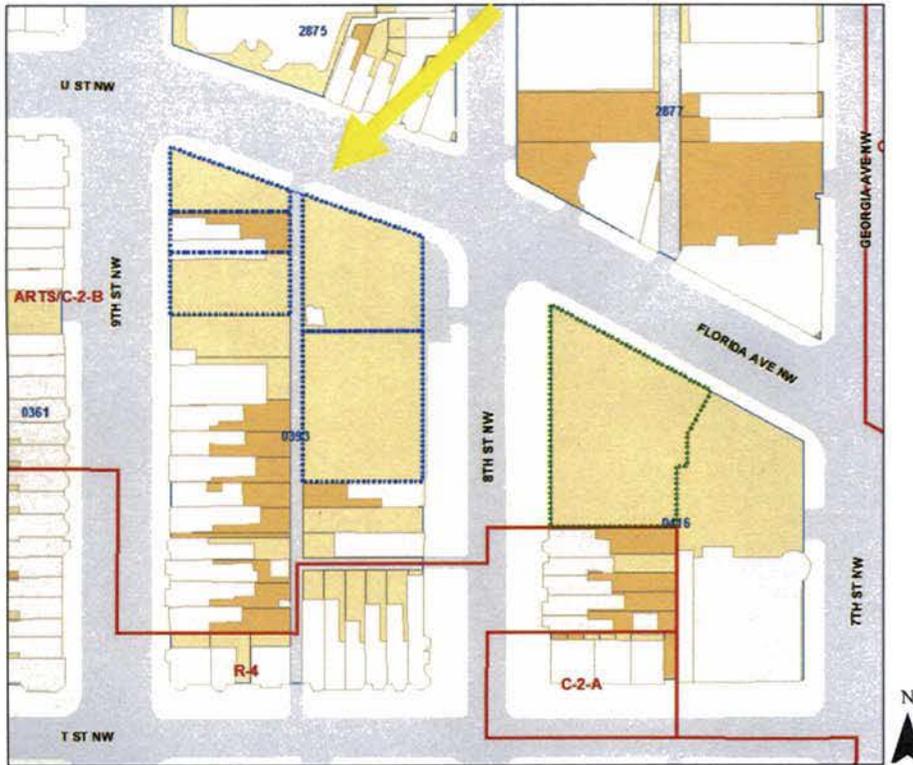
¹ The proposal was approved at a special public meeting of the BZA on July 24, 2012.

Proposal:	<p>The Applicant proposes a new six-story, 70' tall residential development with ground floor retail uses. It would contain 153,822 square feet (4.73 FAR), including 20,238 square feet of ground floor retail fronting Florida Avenue and 8th and 9th Streets. The main residential entrance would open onto 8th Street. The project would provide an estimated 157 residential units featuring mostly one-bedroom layouts.</p> <p>The building would wrap around the corner of 9th Street, Florida Avenue, and 8th Street. The proposed façade would have a varied rhythm to break-up the massing. The project would transition to a lower scale on its southern edges with a relocation of two historic buildings along 9th Street and setbacks beginning on the fifth floor on the building's 8th Street side. The building also would be set back approximately 6' from Florida Avenue to provide 10' clear and a 6' tree box zone.</p> <p>The proposal is coordinated with an alley closing that would reroute the northern terminus of the alley. Rather than connect to Florida Avenue, the northern section of the alley would be redirected to 9th Street and widened to 20'.² The Applicant also would dedicate 5' of the Property to an access easement and another 5' from building setback to widen a portion of the remaining north-south alley as it borders the site.³ According to the Applicant, the alley closing application is expected to be considered by the Council next month.</p> <p>The project would provide 72 vehicle parking spaces and 60 bicycle spaces on a single underground level accessed from the alley. The project also would include one 30' deep loading berth, one 100 and one 200 square foot platform, and one 20' deep loading space. The loading would take place at-grade internal to the site and accessible from the alley. Trash pick-up would also occur from the alley.</p> <p>The project has proceeded before the Historic Preservation Review Board and received conceptual approval at the July 26, 2012 meeting.</p>
Relief Sought:	§ 772.1, maximum lot occupancy (area variance) § 2101.1, minimum number of parking 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

² OP notes that an existing approximately 15' wide curb cut along 9th Street leading to a surface parking lot on the site would be closed. In addition, an existing curb cut to a surface parking lot along the site's 8th Street side also would be closed.

³ The Applicant indicates that the additional 5' set back accommodated PEPCO vaults and DDOT preference. No PEPCO vaults are proposed in public space.



Aerial view of the subject site (highlighted in blue and identified with arrow); approved companion development (BZA Case No. 18375) 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.

ARTS/C-2-B Zoning	Restriction	Existing	Proposed	Relief
Lot area (sq. ft.)	N/A	32,494	32,494	Conforms
Lot occupancy (building area/lot area) § 771.1	No restriction (commercial); 80% max. (residential)	N/A	95.3% (ground floor commercial); 76.6% to 87.3% (residential floors 2-6).	Relief needed: between 3.7% to 7.3% excessive floors 2 to 4.
Floor area ratio (sq. ft./lot) § 771.2 & 1904	5.0 max.	N/A	4.73	Conforms ⁴
Rear Yard (ft.) §§ 774.1 and 774.11	15' min	N/A	>15'	Conforms
Height (ft.) §§ 770.1 & 2604.2	70' building	N/A	70' building	Conforms ⁵
Parking (number) § 2101.1	76 min: Retail: 23 Residential: 53	N/A	72 total	Relief needed: 4 spaces deficient ⁶

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, 2101.1, and 2201.1)

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. First, it is a relatively large, irregularly shaped Property which consolidates 5 lots and borders three streets. Second, the Green Line metro trains, which are relatively shallow, run beneath the site.⁷ According to the application, the tunnels run 27' below the surface and encroach into the site on the Property's Florida Avenue and 8th Street sides. The Washington Metropolitan Transit Authority (WMATA) also has a "no-build" 10' easement surrounding the tunnels. According to engineers who have examined the site, these particular tunnels "are the most sensitive to adjacent construction."⁸ The tunnels contribute both a design and cost burden on site development. Third, the application indicates that in coordination with the proposal the Square's alley system would be reconfigured and

⁴ The Applicant shared with OP 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. The ZA letter provided an additive breakdown of permissible base C-2-B zoning, IZ bonus, preferred use bonus, and residential use bonuses.

⁵ The inclusionary zoning regulations permit a height of 70' for buildings achieving bonus density.

⁶ The Applicant is allowed to provide up to 40% of the spaces as compact spaces. The Applicant here proposes that approximately 29% of the spaces would be compact. See § 2115.2. OP notes that the Applicant informally indicated to OP that, based on more refined project designs, the amount of parking relief may increase from 4 to 6 spaces. OP encourages the Applicant to clarify the amount of relief needed at the hearing.

⁷ See Pre-Hearing Submission dated September 4, 2012, Exhibit C, Letter from SK&A Structural Engineers to Lauren Jezienicki, the JBG Companies, May 14, 2012.

⁸ *Id.* at p. 2.

widened through the site to improve the alley's functionality and access for emergency vehicles.⁹ Fourth, the site contains two historic structures which would be relocated and incorporated into the project. Lastly, the overall design and massing of the proposal reflects feedback and suggestions from HPRB over the course of three public meetings.¹⁰

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 (76) 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 72 spaces total. 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 location of the metro tunnels makes it practically difficult to provide a full complement of loading facilities. The project offers one 30' loading berth, one 100 square foot and 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. Due to the limited depth to excavate underground, providing the full complement of required loading facilities would erode potential Florida Avenue retail space and hinder the creation of an active retail frontage for little appreciable gain.¹¹

• **Lot occupancy** (§ 772.1)

The exceptional site conditions make it practically difficult for the project to comply with the residential lot occupancy limitation. First, building proximate to the shallow metro tunnels contributes to higher site development costs. Due to the inability to go more than one level below grade, potential retail square footage must be devoted to above-grade loading internal to the site. The widening of the alley through the site also constrains the amount of ground floor retail space included in the project. As a result, the Applicant indicates that the project must "recoup the loss of valuable retail space" by increasing the square footage lot coverage slightly on floors 2 to 4.¹² Second, due to the impact of the site constraints on the building design, the Applicant has indicated that complying with the 80% lot occupancy would result in "inefficient layouts and a reduced unit count" detrimental to the project. According to an example provided by the Applicant, strict compliance with the lot occupancy regulation would lead to a substantial increase in the number of studio units at the expense of 1 and 2-bedroom units for little gain to the Applicant.¹³ OP anticipates that the Applicant will supplement the record with additional testimony at the hearing concerning the costs, design, and programmatic consequences of compliance with the lot occupancy limit.

Overall, due to the site constraints, the Applicant proposes slightly excessive residential lot occupancy coverage on the 2nd floor (87.3%) and 3rd and 4th floors (83.7%). Floors 1, 5, and 6 would be compliant.

⁹ OP notes that the Fire Department, among other agencies, reviews alley closing applications.

¹⁰ The Pre-Hearing Submission dated September 4, 2012, indicates that the project was considered by HPRB at public meetings on March 22nd, May 31st, and July 26th, 2012.

¹¹ A curb cut likely would not be permitted along Florida Avenue.

¹² The Pre-Hearing Submission dated September 4, 2012, pages 15 and 16, discusses increased costs associated with building proximate to the metro tunnels and reduced retail space.

¹³ See Pre-Hearing Submission dated September 4, 2012, Exhibit D.

In spite of the additional square footage gained, OP notes that the project only proposes a density (4.73 FAR) that is below the achievable density (5.0 FAR) in the zone. OP further estimates that gained square footage from the excessive lot coverage only amounts to 4,771 square feet or 3% of the project's total floor area ratio.

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 3 blocks from 2 metro stations and is served by several Metrobus lines. Fourteen car-share vehicles and 3 Capital Bikeshare stations are located within close proximity to 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 new traffic signal at 8th Street and Florida Avenue. 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.

• **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 indicates that tenant move-ins will be managed by property management staff to ensure smooth coordination.

• **Lot occupancy**

The restrained amount of lot occupancy relief should not detrimentally impact the zone plan or the public good.

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 approximately 10' in height and the elevator penthouse 15'8" in height. The Applicant indicates that the elevator penthouse requires relief for a substandard setback from the alley of 12'8" where 15'8" is required. Due to the reserved sizes and heights of the penthouses as well as roof locations

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

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 lines along 8th and 9th Streets. 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', which OP encourages the Applicant to confirm at the hearing. The proposed street frontage design should enhance, rather than detract, from the pedestrian experience and ground level activity along Florida Avenue.

VII. ANC/COMMUNITY COMMENTS

As reflected in a letter dated August 17, 2012, ANC 1B voted unanimously to support the application. OP is aware that there is opposition to the subject case from some area property owners. One of the concerns identified by neighboring commercial property owners involves the utility of the alley during construction. Although the Applicant has indicated that measures related to construction management will be addressed in conjunction with the alley closing process, OP encourages the Applicant to further reference such steps at the hearing and continue to work with the ANC to establish a construction management agreement.

VIII. HISTORIC PRESERVATION

The project has been reviewed at multiple HPRB hearings. At the July 26, 2012 meeting, HPRB approved the project in concept.

IX. OTHER DISTRICT AGENCIES

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

¹⁵ See also special exception standards pursuant to § 1906.