

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Maxine Brown-Roberts, AICP, Project Manager  
 Joel Lawson, Associate Director Development Review  
**DATE:** September 24, 2013  
**SUBJECT:** BZA 18621 – 901 16<sup>th</sup> Street, NW

**I. OFFICE OF PLANNING RECOMMENDATION**

The Laborers International Union of North America (LIUNA) (applicant) proposes to convert the lower penthouse of their existing 8-story, office building at 901 16<sup>th</sup> Street, NW (Square 199, Lot 824) into habitable space to be used during meetings and events as accessory to the roof deck. Additionally, the applicant is the owner of the adjacent vacant lot (Square 199, Lot 61) and proposes to develop an addition to the existing building with a 9-story building into which the office use can expand. The floors of the addition would align with the floors of the existing building and would operate as one building. Additionally, a portion of the new building on Lot 61 would extend across the property and zoning lines at the ninth floor of the existing building to provide a connection to the roof top space. To accommodate the proposal, the applicant proposes several special exceptions and variances.

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

- § 530 1, Height of Building (90 feet allowed, 107 91 feet proposed<sup>1</sup>).
- § 531 1, FAR (3 5 FAR (commercial use) allowed<sup>2</sup>, 7.7 FAR proposed).

**BOARD OF ZONING ADJUSTMENT**  
 District of Columbia  
 CASE NO. 18621  
 EXHIBIT NO. 26

OP recommends **approval** of the following requested special exceptions

- § 2514.2, Zone District Boundary Line Crossing a Lot (35 feet proposed)
- § 508 1, Construction of new office space in the SP-2 (3,840 square feet)
- § 774 2, Waiver of the rear yard requirement of § 774 1 (no rear yard proposed)
- § 411 5, Roof Structure Enclosure required by § 537 1 and § 777 1 (Varying heights of 8-feet, 12-feet and 18-feet proposed)

**II. LOCATION AND SITE DESCRIPTION**

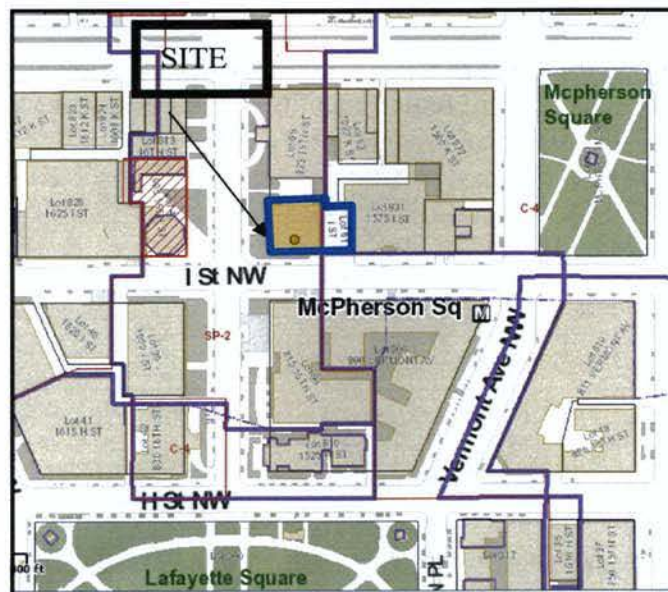
|                   |                                 |
|-------------------|---------------------------------|
| Address           | 901 16 <sup>th</sup> Street, NW |
| Legal Description | Square 199, Lots 824 and 61     |
| Ward/ANC          | 2/ANC-2B                        |

<sup>1</sup> The height of the existing building would be increased to 107 91 feet. However, the overall building height with the addition is 110 feet.

<sup>2</sup> The building is non-conforming to FAR as it is a wholly commercial building at 7 3 FAR.



|                                    |                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lot Characteristics                | The subject property is located in the northwestern quadrant of the intersection of 16 <sup>th</sup> Street, NW and Eye Street NW. The property consists of two lots combining for an area of 15,821 square feet (Lot 824: 10,400 sq. ft. in the SP-2 zone and Lot 61: 5,421 sq. ft.) in the C-4 zone. A 24-foot wide public alley abuts the northern portion of Lot 61.          |
| Zoning                             | Split zoned SP-2(Special Purpose ) and C-4 (Central Business District)<br><br>SP-2: medium-high density development including all kinds of residential uses, and limited offices for non-profit organizations, trade associations and professionals.<br><br>C-4: downtown core areas with the retail and office use centers, high-density residential and mixed use developments. |
| Existing Development               | Lot 824 is developed with an 8-story office building, built in 1959. Lot 61 is undeveloped and is currently used as a parking lot.                                                                                                                                                                                                                                                |
| Historic District                  | 16 <sup>th</sup> Street Historic District – the building on Lot 824 is a contributing building.                                                                                                                                                                                                                                                                                   |
| Adjacent Properties                | To the east of the site is the 11-story office building in the C-4 district; to the south is the 8-story, ALF-CIO building; to the west is the Church of Christ building which is to be replaced with an 8-story office building; and to the north is the 8-story St. Regis Hotel.                                                                                                |
| Surrounding Neighborhood Character | The neighborhood is characterized by a mixture of office, commercial, residential and institutional uses. The McPherson Square Metrorail station is located approximately 300 feet from the property.                                                                                                                                                                             |



Site Location



Front of existing Building



Rear and Side of existing building and undeveloped Lot 61

### III. APPLICATION IN BRIEF

First, the proposal is to convert the lower penthouse of the existing building into habitable space to be used during meetings and events as accessory to the roof deck. The conversion would include the introduction of windows into the façade to allow light into the space. Second, the vacant lot would be developed with a 9-story building as an addition to the existing building as the floors of the new building would align with the floors of the existing building and would operate as one building. Additionally, a portion of the new building on Lot 61 would extend across the property and zoning lines at the ninth floor to provide a connection to the roof top space.

The conversion of the lower penthouse to habitable use results in an additional floor/height and creating additional FAR to the existing building. The existing building has a height of 89.91 feet and the 18-foot high penthouse would increase the height to 107.91 feet. The maximum height permitted in the SP-2 district is 90-feet. The FAR would be increased from 7.3 to 7.7 FAR. To accommodate the extra height and FAR variances are required. Further, creating additional office use in the SP-2 district requires special exception review under § 508.1

The addition on Lot 61 proposes to extend the addition the allowed 35 feet into the SP-2 portion of the property. The extension would allow 1,956 square feet of space at the 9<sup>th</sup> floor. The extension of the C-4 building into the SP-2 portion of the property requires special exception review under § 2514.4.

The new building is required to provide a 22.9-foot rear yard. However, the applicant has requested not to provide the required rear yard as § 774. 2 allows for a waiver of the requirements if specified requirements are met.

§ 537.1 and § 777.1 requires roof structures meet the requirements of § 411. However, the applicant has requested a waiver from the requirements of § 411.5 (enclosing walls from roof level shall be of equal height) to have roof structures of varying height of 8-feet, 12-feet and 18-feet.

It should be noted that the plans show a bay projection into public space which will have to be reviewed and approved by DDOT's Public Space Committee.

#### IV. ZONING REQUIREMENTS and REQUESTED RELIEF

| C-3-C/SP-1 Zone        | Requirement                       | Existing                              | Proposed                             | Relief                                             |
|------------------------|-----------------------------------|---------------------------------------|--------------------------------------|----------------------------------------------------|
| Height                 | C-4 130 ft max.<br>SP-2 90ft max  | C-4 0<br>SP-2 89 9 ft                 | C-4 110 ft.<br>SP-2 107 91 ft        | Relief required                                    |
| Lot Width              | NA                                | NA                                    | NA                                   | None required                                      |
| Lot Area               | NA                                | C-4 10,400 sq ft<br>SP-2: 5 421 sq ft | C-4 10,400 sq ft<br>SP-2 5 421 sq ft | None required                                      |
| Floor Area Ratio       | C-4 10 0 max<br>SP-2 3 5 max      | C-4 0<br>SP-2 7 3                     | C-4 9 2<br>SP-2 7 7                  | SP-2 Relief required                               |
| Lot Occupancy          | C-4 100%<br>SP-2 100%             | C-4 0%<br>SP-2 92%                    | C-4 98%<br>SP-2 92%                  | None required                                      |
| Rear Yard              | C-4 12 ft min<br>SP-2 22 9 ft min | C-4 N/A<br>SP-2. 0 ft.                | C-4 0 ft max<br>SP-2 0ft.            | C-4 Relief required<br>SP-2 Existing nonconformity |
| Side Yard              | NA                                | NA                                    | NA                                   | None required                                      |
| Zone Boundary § 2514 2 | NA                                | NA                                    | NA                                   | Relief required                                    |

#### V. OFFICE OF PLANNING ANALYSIS

##### Variances

**Conversion of penthouse to habitable space, § 530.1, Height; § 531.1, FAR;**

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

With the renovation of the existing building and a new core area in the proposed addition, much of the area within the existing penthouse would be rendered obsolete and unnecessary. The applicant states that there would be no practical use for the space and yet would have to be maintained as the penthouse is considered a significant feature of this historic resource that is not constructed as a typical mechanical penthouse. It is constructed with high quality materials and with has unique features and therefore cannot be removed. Any other functional use of the penthouse to support the office use results in the creation of habitable space which is an exceptional situation that is practically difficult to overcome.

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

Granting the requested relief would not result in a substantial detriment to the public good. The relief would facilitate the productive use of the space. The height and square footage currently exist and the change is limited to the utilization of the space. There would be no perceived expansion of the space.

since the penthouse is an existing structure The surrounding commercial buildings would not be affected by the internal use of the space

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

Granting the variance would not cause substantial detriment to the zoning regulations as the proposed use of the space would not be creating a new structure but would be maintaining the existing penthouse footprint and height

### **Special Exceptions**

#### **Modify a Zone Boundary Line, § 2514.2**

Section 2514.2 authorizes the Board to approve as a special exception the extension of the regulations governing use, height, and bulk applicable in a less restrictive zoning district into a more restrictive zoning district, provided the following conditions are satisfied

- (a) The extension shall be limited to that portion of the lot in the more restrictive use zone district but not exceeding thirty-five feet (35 ft.),*

The proposed addition would not extend into the SP-2 district more than 35 feet The extension would be necessary to connect the addition to the roof of the existing building The height and density that would be transferred to the SP-2 lot could be accommodated entirely on the C-4 and not exceed the height and density allowed in the C-4 district

- (b) In authorizing an extension, the Board shall require compliance with § 2514 1(d);*

Section 2514 1(d) relates to the permitted use and bulk of a structure located on a lot or a portion of which is located in an R-1, R-2, R-3, or R-4 District. As such, the provision does not apply to this application because no portion of the lot is in the referenced residential zones

- (c) The extension shall have no adverse effect upon the present character and future development of the neighborhood, and*

The extension would have no adverse effect upon the present character and future development of the neighborhood The proposed extension is setbacks from the building's edge along I Street and is sufficiently recessed to limit its impact as seen from adjacent streets The proposed design relates in form and roofline to the underlying building.

- (d) The Board may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property*

OP makes no recommendation pertaining to design, appearance, screening, and location of structures or lighting

### **Creation of Office Space in the SP-2 zone, § 508.1**

The construction of a new office building or construction of an addition to a building for office use, or conversion of an existing building to office use is permitted in the SP District if approved by the BZA as a special exception under § 3104, subject to the following provisions

*508 3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property*

The proposed office use on the upper floor of the existing building would be similar to that in the existing building. The building is a historic resource and HPRB has reviewed the addition and the conversion of the mechanical space as being compatible with the height, bulk and design of the historic resource as well as with the surrounding neighborhood. The applicant would continue to work with HPRB for final approval.

*508 4 The use shall not create dangerous or other objectionable traffic conditions*

The proposal has been reviewed by DDOT who has stated that the development would not create any dangerous or other objectionable traffic conditions. The full DDOT report is submitted under separate cover.

*508 5 The Board may require special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it deems necessary to protect the value of neighboring property*

OP does not deem that any additional steps are needed to protect the value of neighboring property.

### **Waiver of Rear Yard Requirement, § 774.1 and § 774.2 to § 774.6**

Section 774.2 authorizes the Board to waive the rear yard requirements pertaining to C-3-A, C-3-B, C-3-C, and C-4 Districts provided, that the standards in §§ 774.3 through 774.6 are met.

*774 3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants*

The building is not adjacent to an apartment building. However, the addition has been designed to allow maximum light and air into the offices. Unfortunately, the adjacent office building has windows which are "at risk" and would be lost by the addition. However, the building has been designed to preserve some of the windows on the upper floors.

*774 4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms*

As stated above, there are no windows facing each other and the closest building with windows is across the alley.

*774 5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points*

The proposal would include 67 parking spaces in a below grade garage where 54 spaces is required. The development is not required to provide loading facility since the existing building is a historic resource and the addition is not sufficient to require a loading facility. However, the applicant is providing a loading bay at the rear of the building, off the alley.

*774 6 Upon receiving an application for an approval under § 774 2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer*

The Department of Transportation (DDOT) will submit a report under separate cover. The development is not adjacent to any residential buildings. The proposal was reviewed by the State Historic Preservation Officer and the Historic Preservation Review Board (HPRB). HPRB supported the concept for the new construction and addition with specified areas identified for further review as detailed in the applicant's September 17, 2013, Tab B, submission.

#### **Roof Structures, § 411, § 537.1, § 777.1 and § 3104.1**

*411 5 Enclosing walls from roof level shall be of equal height, and shall rise vertically to a roof, except as provided in § 411 6*

§ 537 1 and § 777 1 require roof structures meet the requirements of § 411. However, the applicant has requested a waiver from the requirements of § 411 5 (enclosing walls from roof level shall be of equal height) to have roof structures of varying heights of 8-feet, 12-feet and 18-feet. The applicant states that the varying heights are an effort to minimize the heights of the roof structures so they do not intrude or overshadow the historic character of the building and that the Historic Preservation Review Board is in support of the reductions.

#### **Special Exception Standards, § 3104.1**

The general standards by which the BZA should review special exceptions are set forth in Section 3104 1 and listed below:

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

The zoning regulations specifically provide a mechanism for property owners burdened by split zoning to request adjustment to the applicable use regulations subject to certain conditions. The primary purpose of the SP district is "to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is compatible in use, scale, and design with

the transitional function of this zone district” The additional office space on the SP-2 building provides access to the roof for both buildings as well as reduces the height of the new building to make it more compatible in height and scale to the historic resource

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

The special exceptions would not adversely affect the use of neighboring properties The internal use of the penthouse would not affect the neighboring properties The reduced rear yard would allow for the preservation of some of the at risk windows on the adjacent property, while the unequal height of the roof structure would enhance the historic resource, and allow views and light and air to neighboring buildings

**VI. AGENCY COMMENTS**

The proposal was reviewed by the HPRB and on August 1, 2013 was granted concept approval with the recommended that the applicant return when the elevations are further developed and the street level addressed

**VII. COMMUNITY COMMENTS**

The property is within ANC 2B, which voted unanimously to support the application at its public meeting on September 11, 2013