



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment 2013 DEC 3 PM 3: 26

FROM: Maxine Brown-Roberts, Project Manager
Joel Lawson, Associate Director Development Review

DATE: December 3, 2013

SUBJECT: BZA 18672 – 1500 14th Street, NW

I. RECOMMENDATION

The application by Cavalier Apartments LP (applicant) request, pursuant to 11 DCMR § 3104.1, Special Exception review of the provision of § 2003.1, changing uses within structures; and § 2120.6, parking (3 spaces required, 0 spaces provided). The Office of Planning (OP) recommends **APPROVAL** of the requested special exceptions.

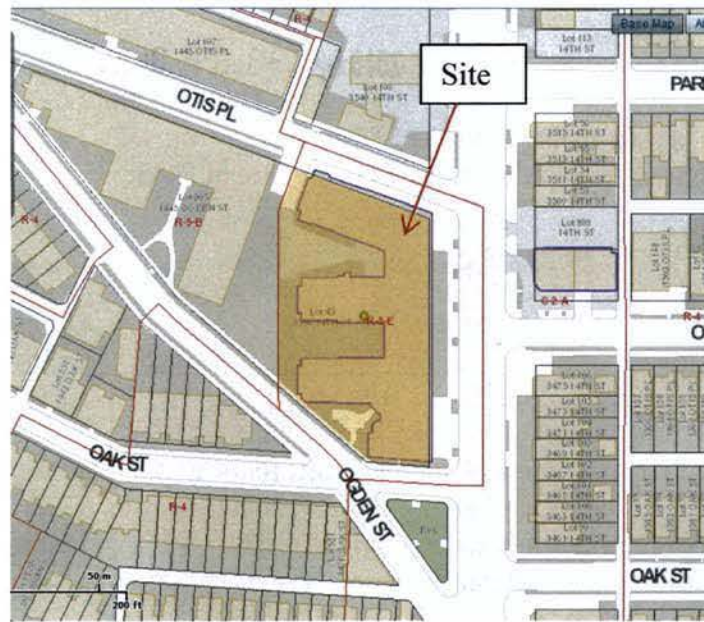
II. AREA AND SITE DESCRIPTION

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18672

EXHIBIT NO. 27

Address	3500 14 th Street, NW
Legal Description:	Square 2688, Lot 43
Ward/ANC:	1/ANC-1A
Lot Characteristics:	An irregular shaped lot that has an area of 42,598 square feet and fronts on 14 th Street, Oak Street and Otis Street, NW.
Existing Development:	The property is currently developed with an 8-story building having ground floor retail uses and residential use above.
Zoning:	R-5-E: The R-5-E district permits matter-of-right high density development of general residential uses, including apartments.
Adjacent Properties:	To the east are 2- and 3-story row houses, some with ground floor retail or office uses in the C-2-A zone; to the south and southwest is a small park and 1-story retail uses in the C-2-A and 3-story row houses in the R-4 zone; to the west is the 4-story Tivoli Apartments in the R-5-B zone; and to the north is a gas station in the C-2-A zone.
Surrounding Neighborhood Character:	The neighborhood is developed with the mixture of residential and commercial uses. The commercial uses are predominantly along 14 th Street on the ground floor of apartment buildings and row houses or in single story buildings.
Historic District	The property is not within a historic district but is a DC designated historic landmark, "The Cavalier" and is also listed on the National Register.



14th Street Elevation



Oak Street Elevation

Additionally, the applicant has requested special exception review under § 2120.6, for not providing the required parking spaces to serve the use.

Changing Uses Within Structures

2003.1 If approved by the Board of Zoning Adjustment, as authorized in §§ 3103 and 3104 for variances and special exceptions, a nonconforming use may be changed to a use that is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter of right, subject to the conditions set forth in this section.

The former office use is first permitted within the C-1 district, pursuant to § 701.6. The proposed retail variety and grocery with sale of pre-packaged items and prepared food are also first permitted within the C-1 zone under §§ 701.4(l), 701.4(z), and 701.4(aa) and are clearly incidental to a permitted use, in this case the residential use.

2003.2 The proposed use shall not adversely affect the present character or future development of the surrounding area in accordance with this title. The surrounding area shall be deemed to encompass the existing uses and structures within at least three hundred feet (300 ft.) in all directions from the nonconforming use.

The surrounding area includes a mixture of residential, commercial and institutional uses. This portion of the 14th Street corridor is envisioned for, and developed with a mixture of residences and small retail uses which are in close proximity to the residential community they serve. The building was designed to have commercial uses on the ground floor to serve both the residents of the building and the wider residential community. The replacement of the office use with retail use would continue the tradition and would not adversely affect the character or development of the area.

2003.3 The proposed use shall not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.

The proposed retail variety and grocery store would cater to the surrounding neighborhood and thereby minimize the amount of vehicular traffic generated by the use as most patrons would be expected to walk to the site. The retail and variety and grocery store would operate entirely indoors and would not affect the existing exterior of the building. All refuse would be collected and stored in a separate room inside the store. Between 6:00 pm and 8:00 pm daily, the refuse would be carted to the rear of the building to the dumpster which is used by all the commercial uses on the site.

2003.4 When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use.

The nonconforming use has never been changed to a conforming or more restrictive use and thus this section is not applicable to the current application.

III. APPLICATION

The subject property is developed with an 8-story building, constructed in 1927 with commercial uses on the ground floor and residential use (280 units) above. The ground floor uses currently include the Black Lion Market on the northern portion of the property; the George Shoe Repair shop near the middle of the floor; and on the south, space that was formerly occupied by the offices of the Latin American Youth Center on the south. With the office space vacated, the applicant proposes to fill the space with a retail variety and grocery with sale of pre-packaged items and prepared food. No tables or chairs would be provided.

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

In 1994, the property was rezoned from the C-2-A district to the R-5-E as a part of Comprehensive Zoning Consistency project (ZC Case 93-10Z, Order Number 753) that specifically identified the subject property to be downzoned from C-2-A to R-5-E as follows:

1. *Fourteenth Street, NW*
 - a. *(West side of 14th Street between Oak Street and Otis Place) Rezone Lot 43 in Square 2688 from C-2-A to R-5-E.*

The R-5-E requirements and how the proposal meets them are outlined in the table below.

R-5-E Zone	Regulation	Existing	Proposed¹	Relief
Height (ft.)	90 ft. max.	90 ft.	90 ft.	None required
Lot Width (ft.)	N/A	264.22 ft.	264.22 ft.	None required
Lot Area (sq. ft.)	N/A	42,598 sq. ft.	42,598 sq. ft.	None required
Floor Area Ratio	6.0	5.93	5.93	None required
Lot Occupancy	75% max.	74%	74%	None required
Rear Yard	3"/1' of building but not less than 12 ft. = 22.5 ft.	17.41 ft.	17.41 ft.	Existing non-conformity
Court, open	22.5 ft. min.	39.4 ft.	39.4 ft.	None required
Parking ²	3 spaces	0	0	Required
Loading	No regulation for retail use in a residential district	None	None	Existing non-conformity

V. OFFICE OF PLANNING ANALYSIS

Since the property is zoned R-5-E and commercial uses are not permitted by-right in this zone, the applicant has requested special exception review under § 2003.1, which allows for the change from a non-conforming uses to another non-conforming uses provided the provisions of § 2003.1 are met.

¹ Information provided by applicant and is for the building.

² Information is for the proposed use only.

2003.5 *In Residence Districts, the proposed use shall be either a dwelling, flat, apartment house, or a neighborhood facility.*

The proposed retail variety and grocery store would constitute a neighborhood facility. In prior cases³, the Board has determined that the characteristics that define a “neighborhood facility” include:

“ . . . that it is patronized by people who live and work close-by; the facility is not used to any one group, it is utilized by all members of the community; it is not exclusive; and, it is accessible by walking.” (BZA 16412)

The proposed retail variety and grocery store meet this definition because of its low intensity; it is designed to primarily be patronized by people who live and work in the immediate neighborhood; its hours of operation; and it would fit with the character of the area.

2003.6 *For the purpose of this section, the districts established by this title are listed in the following order of decreased use restriction:*

- (a) *W-0, R-1-A, R-1-B, R-2, R-3, R-5-A, R-4, R-5-B, R-5-C, R-5-D, and R-5-E;*
- (b) *SP-1 and SP-2;*
- (c) *C-1, C-2-A, C-2-B, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and C-5 (PAD);*
- (d) *W-1, W-2, and W-3;*
- (e) *CR; and*
- (f) *C-M-1, C-M-2, C-M-3, and M.*

Retail variety and grocery with sale of pre-packaged items and prepared food are uses first permitted within the C-1 district, the same as the former office use. Therefore, the application proposes converting the use of the space from one C-1 use to another.

2003.7 *The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it deems necessary to protect the value, utilization, or enjoyment of property in the neighborhood.*

The Office of Planning does not recommend any conditions as no screening is required; the area around the building is landscaped; there is existing lighting which is adequate; there is easy pedestrian access; parking would be accommodated on-street parking; and loading would be done from an existing area to the rear of the building or from the adjacent street. The hours of operation would be 7:00 a.m. to 10:00 p.m., Monday through Thursday and 7:00 a.m. to 11:00 p.m., Friday through Sunday, similar to other retail uses in the area.

³ BZA 16412 and BZA 17100-A

Parking

Using the most restrictive zone, C-1, which allows the former office use and the proposed retail use, the parking requirement would be 1 space/600 square feet in excess of 2,000 square feet of space or 3 spaces. Currently the site has 6 parking spaces which are used by building employees, delivery or contractor vehicles. No parking is provided for the ground floor commercial uses or the residential use. The building is a designated historic site and the change in use would not trigger any additional parking as the proposed retail uses would be less than 50% of the existing structure. Therefore, OP does not believe that the applicant has to address § 2120.6. However, in correspondence between the Zoning Administrator (ZA) and the applicant (Exhibit 8 in the applicant's submission) the ZA implies that no relief is necessary but that the determination should be made by the BZA.

The following demonstrates how the standards of § 2102.6 are met:

2120.6 The Board of Zoning Adjustment may grant relief from all or part of the parking requirements of this section if the owner of the property demonstrates that, as a result of the nature or location of the historic resource, providing the required parking will result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource. The Board shall grant only the amount of relief needed to alleviate the difficulty proved. The applicant shall also demonstrate compliance with the general special exception standard set forth in § 3104 and shall address each of the following criteria as part of its presentation to the Board:

To the rear of the proposed retail variety and grocery store is a patio area that is used by the residents of the building. To provide parking for the proposed use would require the removal of the patio and a new curb cut off Ogden Street. Such an action would be harmful to the residents as it would take away the only adult recreational space on the property. Placing the parking spaces underground would be impractical, uneconomical and would result in structural difficulty.

(a) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;

The applicant anticipates an average of 25 customers per hour although the number would vary dependent on the time of day. It is anticipated that most persons would use the store in the early morning, at lunchtime and in early evening.

(b) Amount of traffic congestion existing and/or that the redevelopment of the historic resource can reasonably be expected to add to the neighborhood;

The applicant states that based on experience with another store in the building and others along 14th Street, it is anticipated that most of the patrons will be from the building and the neighborhood. In addition, from the same experience, it is expected that most of the workers would access the site via walking and/or public transportation. Therefore, not providing on-site parking would not result in congestion on neighborhood streets.

- (c) Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the redevelopment is complete; and*

It is not envisioned that additional off-site parking in existing public, commercial, or private parking facilities would be needed as the patrons would be mainly residents of the building, persons living or working in the vicinity of the building and pedestrians walking by the building. Persons who drive to the retail variety and grocery would find on-street parking for the short periods they would be in the retail variety and grocery.

- (d) Proximity to public transportation, particularly Metrorail stations, and availability of either public transportation service in the area, or a ride sharing program approved by the District of Columbia Department of Transportation.*

The property is approximately three blocks from the Columbia Heights Metro Station and 14th Street is served by Metro and Circulator bus lines.

- 2120.7 Prior to taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.*

The District Department of Transportation's report will be submitted under separate cover.

§ 3104- Special Exception

The proposal is in compliance with the general Special Exception standard set forth in § 3104 as follows:

The Board . . . the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. . .

The proposed retail variety and grocery store is not expected to generate a large amount of traffic that would lead to traffic congestion or have patrons and staff parking on neighborhood residential streets. It is expected that most of the patrons and employees would walk or take public transportation to the site. Therefore, the proposed use would not adversely affect neighboring properties.

The proposed use is first permitted in the same zone district as the existing use, in harmony with the intent of the Zoning Regulations and the zoning of the property.

The proposed use would not tend to affect adversely the use of neighboring property. The change in use would continue the commercial use that would primarily serve the local community and minimize the amount of traffic generated to the site. Refuse would be removed from the store daily and stored and retrieved from the existing trash collection area that is currently being used by the other uses in the building.

VII. COMMUNITY COMMENTS

The subject property is within ANC-1A. The project was reviewed by the ANC on November 13, 2013 and recommended approval of the requested special exceptions.