

**MEMORANDUM**

TO: District of Columbia Board of Zoning Adjustment

FROM: Arthur Jackson, Case Manager

Joel Lawson, Associate Director Development Review

DATE: September 9, 2014

SUBJECT: **BZA Case 18814** - request for special exception relief from §§ 411.11, 774.1, 1403.1 and 2514.2 to allow the construction of a 20-unit apartment building on a split-zoned property located at 2341 Ontario Road NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the special relief from:

- § 411.11 (minimum 1:1 roof structure setback is required, less is proposed);
- § 2514.2 (to extend RC/C-2-B District provisions covering a portion of the subject property a distance of 35 feet onto the balance of the property zoned RC/R-5-B); and
- § 1403.1 (a maximum height of 40 feet is allowed on the balance of the site in the RC/R-5-B District, a height of 43.7 feet is proposed).

The September 2, 2014, Pre-hearing Statement submitted by the applicant included modified development plans for this project. Accordingly, the OP analysis below is based on that revised plan set dated August 28, 2014 for a 14-unit apartment building.

II. LOCATION AND SITE DESCRIPTION:

Address:	2341 Ontario NW
Legal Description:	Square 2566, Lot 0841
Ward:	1C
Lot Characteristics:	The 6,272 square-foot (0.14 acre) interior lot is a polygon with five sides and frontage along Ontario Road NW to the west and developed properties bordering the other four sides (refer to Figure 2).
Zoning:	According to the annotated plat submitted with the application, the depth of the subject split-zoned lot is approximately 103 feet from the Ontario Road frontage to the eastern corner: <i>RC/R-5-B</i> – approximately 70 feet and 82% of the lot is under this zone district which allows moderate density residential development in accordance with the applicable provisions of the RC Overlay; and <i>RC/C-2-B</i> – the remaining 33 feet and 18% of the lot falls under this district with allows higher density residential, commercial and mixed use development, also subject to the limitations of the RC Overlay.



Existing Development:	The lot is entirely developed with a paved parking area surrounded by sections of gated chain link fence and the exterior masonry walls of buildings on the abutting properties. A curb cut located near in the middle of the street frontage allows vehicular access onto the site (refer to Figure 1).
Historic District:	None
Adjacent Properties:	A child care center parking lot and commercial buildings.

III. PROJECT DESCRIPTION IN BRIEF

Applicant:	2341 Ontario Road LLC, owner of record
Proposal:	The revised proposal would replace the existing 20-space parking lot with a new 3-story, 14-unit apartment building with cellar-level apartments and parking for 7 vehicles. Third-floor units would feature bedrooms on a mezzanine level and separate circular stairs from the mezzanine up to a small individual roof terraces. The existing curb cut along Ontario Road would be shifted to the southwest corner of the property to provide vehicle access to a driveway and ramp to the cellar parking.
Relief Sought:	The original proposal was modified to reduce the proposed building height and floor area in response to community concerns, resulting in the submission of modified plans with the Pre-hearing Statement, but the types of required relief remains unchanged. Special exception relief is requested from §§ 411.11 (required setback of a roof structure from an exterior building wall), 2514.2 (to extend RC/C-2-B District provisions a distance of 35 feet onto the rest of the lot zoned RC/R-5-B) and 1403.1 (to increase the allowable building height on the remaining site zoned RC/R-5-B).

IV. ZONING REQUIREMENTS

Requirement	Proposed	RC/R-5-B Standard ¹	RC/C-2-B Standard	Relief Required?
<i>Lot Width</i>	73.4 feet	N/A	N/A	None
<i>Lot Area</i>	6,280 sq. ft.	N/A	N/A	None
<i>Height</i>	43 feet	40 feet, no story limit	50 feet, no story limit ¹	Yes
<i>Height (roof structure)</i>	14.5 feet	18.5 feet	18.5 feet	None
<i>Unit count</i>	14 apartments	--	--	--
<i>Floor area ratio ²</i>	3.22	2.16	4.20	Yes
<i>Floor area</i>	20,284 sq. ft.	13,545 sq. ft.	26,376 sq. ft.	Yes
<i>Lot Occupancy</i>	71.8%	60.0%	80.0%	Yes
<i>Rear Yard</i>	15 feet	N/A	15 feet	No

¹ The proposed apartment building would be entirely located in the RC/R-5-B portion of property.

² With the inclusionary zoning bonus

Parking	7 spaces	1 space per 2 dwellings (7 spaces)	1 space per 3 dwellings (5 spaces)	None
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Regulations require mechanical penthouses to set back a distance at least equal to the height of this roof structure from all exterior walls. As noted above, the proposed 14-foot tall enclosure on the roof would only set back approximately 9 feet from one exterior wall.

Although the R-5-B District permits a maximum height of 50 feet, the RC Overlay District restricts the maximum height to 40 feet. The district, however, provides for a special exception from its requirements in order to fulfill the stated objectives of the RC Overlay and in compliance with the standards set forth in §§1403.1(a) through 1403.1(g) of the Zoning Regulations. This special exception relief includes increases to height as long as the relief does exceed the 50 foot height limit applicable in the underlying R-5-B District.³

Figure 1



V. OP ANALYSIS

Compliance with § 3104

Section 3104.1 grants the FMBZA the authority “to grant special exceptions where in the judgment of the Board, those 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.” Relief was requested in the application to provide the additional flexibility needed under the current RC\R-5-B District to construct the proposed multiple-dwelling.

Relief in accordance with § 411:

411.1 To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1920 (36 Stat. 452; D.C. Official Code, §§ 6-601.01 to 6-601.09, on apartment building roofs, penthouses for (a) storage, showers, and lavatories incidental and

³ Reference Board of Zoning Adjustment Order No. 18330 and the above Zoning Requirements table.

accessory to roof swimming pools or communal recreation space located on that roof; and (b) other enclosed areas, within the area permitted as a roof structure, used for recreational uses accessory to communal rooftop recreation space, shall be subject to conditions and variable floor area ratio credit specified in this section.

- 411.2 *When located below, at the same roof level with, or above the top story of any building or structure, penthouses (as outlined in § 411.1) shall be subject to the provisions of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3 when applicable, and to the conditions and variable floor area ratio specified in this section.*

Referenced § 770.6 requires that roof structures set back from all exterior walls a distance equal to its height above the roof.

- 411.3 *All penthouses and mechanical equipment shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material, and color.*

The proposed single enclosure would be consistent with this standard.

- 411.4 *When roof levels vary by one (1) floor or more or when separate elevator cores are required, there may be one (1) enclosure for each elevator core at each roof level.*

This standard is not applicable to this case.

- 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.*

The proposed enclosure would be consistent with this standard.

- 411.6 *When consisting solely of mechanical equipment, the equipment shall be enclosed fully as prescribed in §§ 411.3 and 411.5, except that louvers may be provided. A roof over a cooling tower need not be provided when the tower is located at or totally below the top of enclosing walls.*

This standard is not applicable to this case.

- 411.7 *Solely for the uses designated in this section, an increase of allowable floor area ratio of not more than thirty-seven hundredths (0.37) shall be permitted.*

This proposal conforms to this requirement.

- 411.8 *Roof structures shall not exceed one-third (1/3) of the total roof area for those districts where there is a limitation on the number of stories.*

There is no limitation on the number of stories in RC/R-5-B, so this section is not applicable.

- 411.9 *In addition to the floor area ratio allowed by § 411.7, mechanical equipment owned and operated as a roof structure by a fixed right-of-way public mass transit system shall be permitted in addition to roof structures permitted in this section. ...*

This standard is not applicable to this case.

- 411.11 *Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; provided, that*

the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

The proximity of the roof structure may impact the open court, driveway and ramp in the southwest corner of the subject property, but it would not impact the air and light available to buildings on the neighboring properties.

411.12 *For purposes of this section, the rules of interpretation provided in §§ 411.13 through 411.17 shall be applicable.*

411.13 *In computing the floor area ratio of a roof structure, the aggregate square footage of all levels or floors contained within a roof structure measuring six and one-half feet (6 1/2 ft.) or more in height shall be included in the total floor area ratio permitted.*

The proposed roof structure would consist of one level with HVAC equipment on the roof.

411.14 *Areas within curtain walls without a roof used where needed to give the appearance of one (1) structure shall not be counted in floor area ratio, but shall be computed as a roof structure to determine if they comply with § 411.8.*

This standard is not applicable in this case.

411.15 *For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure. Antenna equipment cabinets and antenna equipment shelters shall be regulated by chapter 27 of this title.*

This standard is not applicable in this case.

411.16 *For purposes of this section, skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, and plumbing vent stacks shall not be considered as roof structures.*

This standard is not applicable in this case.

411.17 *Roof structures less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.*

This standard is not applicable in this case.

Relief in accordance with § 2514:

To extend less-restrictive regulations to a more restrictive zoning district, the following requirements must be met:

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

The Pre-hearing Statement confirmed that this proposal would extend the area and bulk standards of the RC/C-2-B District a distance of 35 feet onto the portion of the property in an RC/R-5-B District.

- (b) *In authorizing an extension, the Board shall require compliance with § 2514.1(d);*

This provision refers to R-1 through R-4 zone districts and does not apply in this case.

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

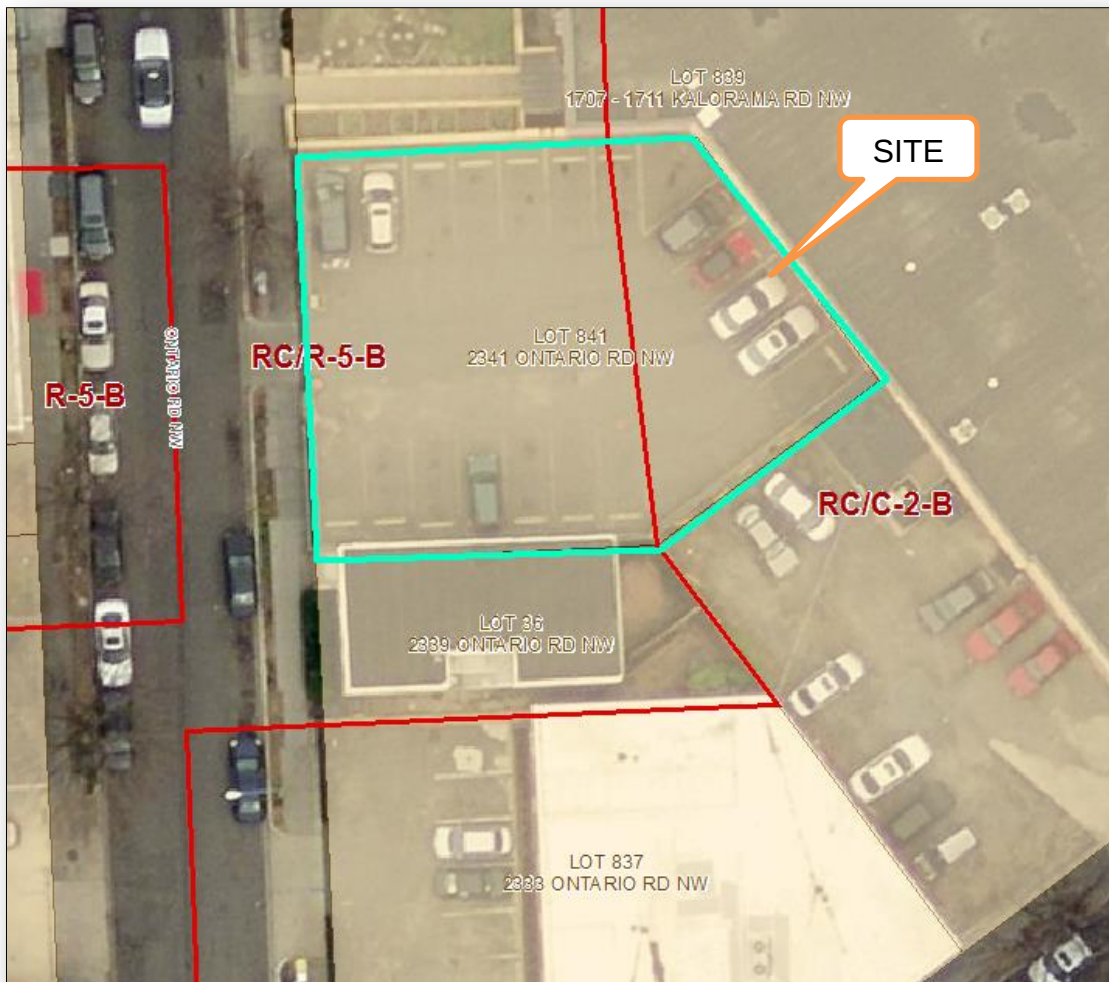
Extending the building height allowed in a RC\C-2-B District into a RC\R-5-B as allowed would not have an adverse impact on the air and light available to neighboring properties. The modest 3.60-foot increase in the building height allowed in the RC Overlay District would barely be noticeable from the street frontage.

- (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.*

No such requirements appear to be necessary.

Section 2514.3 (b) and (c) also list R-5-B and C-2-B zone districts in adjacent groupings of zone districts with decreasing use restrictions between zones.

Figure 2



Relief in accordance with § 1403.1

An exception from the requirements of this chapter, to allow an increase in the maximum height from 40 feet to 43.6 feet on the rest of the subject property zoned RC/C-2-B, can be permitted only if granted by the BZA as a special exception pursuant to § 3104 after a public hearing, and subject to the following criteria:

- (a) *The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the RC Overlay District;*

The modest overall increase in the allowable ceiling height to a consistent 43.6 feet would allow development of new housing opportunities with floor to ceiling heights that would be comparable to other multi-family dwellings the area. The height of the original proposal was also reduced to eliminate perceived negative impacts.

- (b) *Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition;*

Vehicular access and circulation onsite would be not be affected by this proposed increase in the allowable height.

- (c) *Adequate off-street parking shall be provided for employees and for trucks and other service vehicles;*

The required parking would still be provided onsite.

- (d) *If located within a C-2-B District, the use shall not be within twenty-five feet (25 ft.) of a Residence District, unless separated there from by a street or alley;*

This standard is not applicable in this case.

- (e) *Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences;*

The proposed overall height increase is not anticipated to generate additional noise.

- (f) *No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted; and*

No outdoor storage or processes are associated with this proposal.

- (g) *The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.*

This proposal would not be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

Based on the above findings and pending comments from the District Department of Transportation, the modified application meets the approval standards for the requested special exception relief.

VI. COMMUNITY COMMENTS

To date no resolution on this application from Advisory Neighborhood Commission 1B has been added to the case record file.