

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Anne Fothergill, Case Manager
 Joel Lawson, Associate Director Development Review

DATE: June 30, 2015

SUBJECT: **BZA Case 19026**— request for special exception and area variance relief for a 4-story residential building with ground floor retail proposed on property located at 1300 H Street, NE

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (“OP”) **recommends approval** of the following relief requested by the Applicant:

Special Exception pursuant to:

- § 1320.4 (f), H Street NE Neighborhood Commercial Overlay District (“HS”), new construction on a lot having more than 6,000 SF;
- § 1324.10, no primary residential entrance on H Street NE; and

Area Variance Relief from:

- § 2101.1 (minimum 30 parking spaces area required, 8 are proposed)

subject to the transportation demand management (TDM) measures included in the applicant’s submission.

II. LOCATION AND SITE DESCRIPTION

Address:	1300 H Street, NE
Legal Description:	Square 1026, Lots 0097-0103
Ward:	6
Lot Characteristics:	The rectangular lot is 10,800 SF and is located on the northeast corner of H Street and 13 th Street, NE. Abutting the site at the north is a 25-foot public alley.
Zoning:	HS-A/C-2-A – residential and commercial buildings are allowed in this district. This property and surrounding properties were placed within the H Street Northeast Neighborhood Commercial Overlay in 2011 (ZC Case 10-19) at the request of Advisory Neighborhood Commission (ANC) 6A.
Existing Development:	The subject property is improved with a vacant non-historic library building, which will be razed.

Board of Zoning Adjustment

District of Columbia

Historic District:	None
Adjacent Properties:	The subject property is a corner property with a one-story dry cleaning facility to the east.

III. PROJECT DESCRIPTION-IN-BRIEF

Applicant	1300 H Street NE LLC (Christine Shiker, Attorney)
Proposal:	A 4-story/55' tall building with 36 residential units and 6,614 SF of ground floor retail. 30 parking spaces are required and 8 are provided.
Relief Sought:	§ 1320.4(f) – special exception to allow construction on a lot larger than 6,000 square feet; § 1324.10 - special exception to provide no primary residential entrance on H Street NE § 2101.1- area variance to allow 8 on-site parking spaces (30 required)

IV. ZONING REQUIREMENTS

HS-A/C-2-A District	Regulation	Proposed ¹	Relief
Height (ft.) § 1324.13 ²	55 feet	55 feet	None
Floor Area Ratio § 1324.13	3.0	3.0	None
Number of Residential units	not regulated	36	None
Lot Occupancy § 772/ §2604	75% residential/100% commercial	72%/83%	None
Rear Yard (ft.) § 774	15 feet	19 feet	None
Side Yard (ft.) § 775	0	0	None
Open Court § 776	4 in. width/vert. foot (min. 15 feet)	15' open / 17.3' closed	None
Roof Structures § 770.6	Equal height above roof level	Equal height above roof level	None
Lot Area § 1320.4 (f)	Review required for any lot greater than 6,000 SF	10,800 SF existing	Required
Parking, Bicycle § 2119	Commercial: 5% of required vehicle parking (2) Residential: 1 per 3 dwelling units (12)	27	None
Parking, Vehicle § 2101	1 space/2 dwellings and 1 space/300 SF over 3,000 sf of retail = 30 required (18 residential and 12 retail)	8 residential off-street and 0 retail	Required

¹ Information provided by applicant.

² C-2-A height limit is 50'. Per HS-A Overlay, buildings providing 14' clear floor-to-ceiling heights that front H Street are granted 5 additional feet of height.

HS-A/C-2-A District	Regulation	Proposed ¹	Relief
Loading § 2201	1 loading berth @ 30 feet deep (retail) 1 loading platform @100 SF	1 berth @ 30' deep; 1 platform @ 100 SF	None
Green Area Ratio	.30	.30	None
Ground floor program	>50% needs to be commercially programmed	6,614 SF (>50%)	None
Primary residential entrance § 1324.10	At least one primary residential entrance on H Street NE	None	Required
Inclusionary Zoning § 2603.1	75% of bonus density = 4,050 SF	4,050 SF ½ 50% AMI ½ 80% AMI	None

V. OP ANALYSIS

Special Exception relief:

1) Applicable H Street Regulations

Both §§ 1325.1 (a) and 1325.4 require demonstration that a project is consistent with the intent of the design guidelines under Section 1324 and in the H Street N.E. Strategic Development Plan.

1320.4: The following buildings, structures, and uses are permitted only by special exception if approved by the Board of Zoning Adjustment, in accordance with the standards specified in § 3104 and 1325 of this Title... (f): Construction of a new building or enlargement of the gross floor area of an existing building by fifty (50%) or more, if located on a lot that has six thousand sf (6,000 sf) or more of land area.

- The subject property is 10,800 SF and, as such, a special exception is required in order to construct a new building on the site. The redevelopment of this site by the District was intended for the existing 10,800 SF site and the construction of a building on this site would be compatible and appropriate for this location and would not have an adverse impact on the area. OP supports the requested relief.

1325.1: The buildings, structures, and uses listed in § 1320.4 and exceptions from the requirements of the H Street Overlay District shall be permitted as a special exception if approved by the Board of Zoning Adjustment after public hearing, based on § 3104, provided the following criteria and the requirements of § 1304 are met:

- (a) *The project is consistent with the design intent of the design requirements of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan;*
- The guidelines of the H Street N.E. Strategic Plan were established to provide development guidelines and architectural standards to guide the redevelopment, rehabilitation or development of new properties within the H Street corridor. The subject property is identified in the Plan as a “Type II” development which typically occurs as a rehabilitation of small lots and/or new infill

development of small or assembled lots. The Guidelines for Type II Development encourage small development, at a distinctively similar scale as existing H Street fabric so as to help to retain and enhance the characteristics of the historic corridor. The Guidelines recommend that Type II Development should continue to promote active uses at the ground floor and living space or office space above with parking located behind and/or below the building. The proposal is consistent with § 1324 and the H Street N.E. Strategic Plan.

- (b) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board shall include review by the State Historic Preservation Officer and a status of the project's review by the Historic Preservation Review Board;*
- The architectural design of this building is appropriate for a new residential and commercial building at this highly visible corner. The height and massing are consistent with the zoning and development guidelines for H Street. The ground floor retail with ample glazing and multiple entrances is consistent with the H Street Plan recommendations in terms of first floor height and retail presence and will help to activate the streetscape on H Street. The property is not within a historic district nor is it historic landmark.
- (c) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;*
- Vehicular access and egress to the property will be off the public alley at the rear (north of the site). Pedestrians will be able to safely access the building from the sidewalks on H Street and 13th Street where there will not be vehicular conflict.
- (d) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;*
- This property is conveniently located to public transit including the future streetcar (with a stop directly in front of the proposed building) and bus lines along H Street. The applicant expects that the retail patrons will arrive by foot, bike, or public transportation. The residents of the building will not have residential parking permits for street parking. The proposed use should not adversely affect adjacent or nearby residences.
- (e) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and*
- Multiple dwelling buildings are allowable uses in this district. Outdoor gatherings on-site would be limited to small balconies on some individual units. Any mechanical equipment located on the roof will be screened so that noise will not affect adjacent properties. The closest residential use to the site is across the 25 foot alley at the rear of the site. The proposed project, therefore, is not anticipated to adversely impact neighboring residential or commercial properties.
- (f) The size, type, scale, and location of signs shall be compatible with the surrounding corridor and consistent the design guidelines of the H Street N.E. Strategic Development Plan.*

- The proposed signage will be compatible with the size, type, scale and location found in the H Street N.E. corridor and consistent with the guidelines.

1325.2: *An applicant may demonstrate compliance with § 1325.1(f) by demonstrating that the signage will be exclusively located on upper facades, awnings, and transom windows, constructed of durable materials, and sensitively designed; and will not affect more than twenty percent (20%) of display windows, consist of backlit box signs or neon product advertisements, block visibility into a store, or be overly obtrusive.*

- The proposed plans demonstrate that the building's signage will be in compliance with § 1325.1(f).

1325.3: *The Board may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the H Street Overlay District.*

- OP does not recommend that the Board impose additional requirements to achieve the purposes of the H Street Overlay District.

1325.4: *Applicants shall demonstrate that projects requiring a special exception shall be consistent with the design intent of the design requirements, of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan.*

- OP finds that this project, which requires a special exception, would be consistent with § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan.

1324.1: *The design requirements of §§ 1324.2 through 1324.16 shall apply to any lot in the HS Overlay District for which a building permit was applied after October 25, 2004.*

1324.2: *Buildings shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than twenty-five feet (25 ft.) shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to both property lines abutting public streets.*

- The proposal is in compliance with this requirement as more than 75% of the street wall abuts the property line.

1324.3: *New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR above the total density permitted in the underlying zone district for residential uses.*

- Not applicable.

1324.4: *In C-2 Districts within the HS Overlay District, seventy percent (70%) residential lot occupancy shall be permitted.*

- The property is zoned HS/C-2-A and the proposed lot occupancy is 72% with the IZ bonus density (75% allowed).

1324.5: *For the purposes of this Section, the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.*

- Lot occupancy has been calculated at the second level, which is the lowest level of residential use.

1324.6: *For the purposes of § 1324.5, "residential uses" includes single-family dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities.*

1324.7: *Parking structures with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street N.E., or 15th Street, N.E. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.*

- Not applicable as the project does not include a parking structure.

1324.8: *Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows having clear or clear/low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.*

The ground floor retail element of project meets this requirement as approximately 73% of the surface area of the streetwall(s) at the ground level has display windows with clear or clear/low-emissivity glass on H Street.

1324.9: *Security grilles shall have no less than seventy percent (70%) transparency.*

- Security grilles shall have no less than seventy percent (70%) transparency.

1324.10: *Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street N.E., 14th Street, N.E., or 15th Street, N.E. shall have an individual public entrance directly accessible from the public sidewalk. Multiple-dwellings shall have at least one (1) primary entrance on H Street directly accessible from the sidewalk.*

- The proposed commercial use will have public entrances on both H and 13th Street. The residential entrance, which will be designed to be distinct from the retail entrances, will not be accessed from H Street but from 13th Street and the applicants have requested relief from this zoning requirement. The ground level retail will activate the streetscape and the residential entry on 13th Street will not have an adverse impact on the area. OP supports this requested relief.

1324.11: *Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average, for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.*

- The design of the building will not preclude an entrance every forty feet (40 ft.) for the linear frontage of the building.

1324.12: *The ground floor level of each new building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.) if the building: (a) Fronts H Street, N.E.; or (b) Fronts Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. and would have ground floor space occupied by one (1) or more service, retail, or office uses permitted as a matter of right in the underlying zone.*

- The ground floor level of the new building will have a minimum ceiling height of 14 feet.

1324.13: *Buildings subject to § 1324.12 shall be permitted an additional 5 feet (5 ft.) of building height over that permitted in the underlying zone.*

- The Applicant is taking advantage of the additional five feet of height provided by this section.

1324.14: *Projection signs shall have a minimum clearance of eight feet (8 ft.) above a sidewalk and fourteen feet (14 ft.) above a driveway, project no more than three feet, six inches (3 ft., 6 in.) from the face of the building, and end a minimum of one foot (1 ft.) behind the curbline or extension of the curbline.*

- Proposed signage will meet the requirements.

1324.15: *Façade panel signs shall not be placed so as to interrupt windows or doors and shall project no more than twelve inches (12 in.) from the face of the building.*

- Proposed signage will meet the requirements.

1324.16: *Roof signs are prohibited.*

- Roof signs are not proposed.

2.) Section 1304 (Neighborhood Commercial Overlay Districts)

Section 1304.1 provides that exceptions to the requirements of the H Street Overlay are permitted by special exception subject to the following requirements:

(a) The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC Overlay District and the particular NC Overlay District, and will not adversely affect the neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;

The NC Overlay was “established to preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services.” Further, it aims to “encourage a scale of development, a mixture of building uses, and other attributes, such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be generally required by the Comprehensive Plan.” The proposed building, in terms of its design, scale and uses, is in keeping with the goals and purposes of the NC overlay district. The proposed building would be located along a commercial corridor with limited surface parking in the rear and convenient access to transit, bikeshare and other transportation options. The proposed use should not adversely affect neighboring property nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity.

(b) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver;

The applicant has demonstrated that the size and shape and environmental contamination of the property justify the parking relief as well as the residential entrance relief due to the importance of ground level retail along H Street in this visible corner location.

3.) Section 3104

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

The proposal is consistent and compatible with the C-2-A zone and would not substantially impair the intent, purpose and integrity of the Zoning Regulations.

b. Would the proposal appear to tend to affect adversely the use of neighboring property?

The proposal would not have an adverse effect on the use of neighboring properties.

Area Variance Relief:

Per §2101.1, the retail parking space requirement is based on 1 space per 300 feet GFA over 3,000 SF of retail GFA and the residential parking requirement is 1 per 2 dwelling units. In this building, the applicant proposes 6,614 SF of retail space, which would require 12 parking spaces. Additionally, the proposed residential units would require 18 spaces for a total of 30 spaces. The applicant is proposing 8 surface parking spaces located at the rear of the building to be accessed off the public alley.

The Applicant seeks area variance relief from these parking requirements. Pursuant to §3103, variances from the zoning regulations can be authorized by the Board of Zoning Adjustment, so long as certain exceptions exist, those exceptions result in a practical difficulty in meeting the regulations, and detriment to the public good or zoning regulations do not result.

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions, and does the extraordinary or exceptional situation impose a practical difficulty, which is unnecessarily burdensome to the applicant?***

The proposed building is located adjacent to an active dry cleaning facility and on the site of a former coal yard and filling station. The applicant provided information showing that the remediation of environmental contamination would make it cost prohibitive to excavate the site to provide below-grade parking. The applicant submitted cost estimates and plans for parking with 1, 2, and 2 ½ levels of below grade parking (Exhibit 29H). Because of the contamination, the below-grade parking expense would be more than 5 times more than the average cost of an underground parking space in D.C. (Exhibit 29I). Additionally, the site is irregularly shaped and in order to locate the parking underground with DDOT-required access off the alley, the design and programming of the interior space would be adversely impacted. This exceptional situation poses a practical difficulty to providing underground parking at this site.

- 2. Can the relief be granted without substantial detriment to the public good?***

The requested relief from parking should not result in a substantial detriment to the public good. The property's location is well-served by alternative transportation modes, which would be available to both residents and visitors. The retail is proposed to be neighborhood-serving and not destination retail and the patrons are expected to arrive on foot or by bike or transit. The applicant has attempted to mitigate the potential impact to the neighborhood's on-street parking supply with a proposed TDM plan that includes:

- secure on-site bicycle parking for 27 bikes
- on-site bicycle repair facility within the 245 SF bike room
- Residential Parking Permit and Visitor Parking Pass restrictions recorded as a covenant
- residents will be offered for five years:
 - \$100 SmartTrip card; or
 - annual bikeshare membership; or
 - annual car share membership

3. *Can the relief be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?*

As proposed, the relief can be granted without substantial impairment to the intent, purpose and integrity of the Zoning Regulations and Map.

VI. AGENCY COMMENTS

A report from the District Department of Transportation ("DDOT") has not been filed at the time of this staff report but DDOT has indicated to OP that they support the relief that has been requested.

VII. COMMUNITY COMMENTS

ANC 6-A supports the requested relief (Exhibit 29J). The ANC has requested two conditions of approval for the parking relief:

1. A covenant be recorded in the land records requiring that each lease or contract for sale of a residential unit prohibit the tenant or owner of the unit from obtaining a residential parking permit; and
2. The applicant for all purposes treat the building as fronting on H Street N.E., including assigning or causing the District to assign an H Street, N.E. address to the building and each of its units.

The applicant has stated that they agree to the first condition and will work with DCRA to achieve the second condition.

LOCATION MAP AND SITE PHOTO

