

**To: BZA**

**Date: 3 March 2016**

**Subject: BZA Case 19101 (Darryl) O.A. Sulekoiki 2112-2126 3<sup>rd</sup> St NE**

Regarding the Applicant's Special Exemption for Parking Location Relief for Lot 42, the District must follow federal and local law and policy regarding the impact of increased stormwater pollution and runoff, and public space encroachment.

First, regarding stormwater, the District is bound by the federal Clean Water Act and specifically the District's MS4 permit with the United States Environmental Protection Agency to comply with federal stormwater control requirements and enforce a stormwater management program (40 C.F.R. Part 122). Use of public space adjacent to Lot 42 on Rhode Island Avenue NE as permanent impervious surface for parking must be reviewed and accounted for by DDOE as a small but marked step away from its stormwater runoff volume and pollutant legal obligations (See Rule 10-A619 Policy E-4.2.3: Control of Urban Runoff). The present asphalted impervious area is substantially sloped to the Rhode Island Avenue NE sidewalk so all vehicle pollutants and stormwater runoff flow into the road gutter and street catchment basin (see Google image below). Per DCMR 24-104.1.6 and 24-104.1.7, without the written authority of the Mayor, no person shall pave or cover any portion of a public parking (i.e. the Public Space behind the sidewalk).



Second, the specific parking relief options requested by the applicant are not appropriate for public space per District code and policy, including the following:

- “Driveway shall not be located within sixteen feet (16') of another driveway or alley” DCMR 24-1110.2(e). The proposed driveway and existing curb cut abuts the alley entrance.
- “Driveways shall be designed to avoid vehicle backing and vehicle waiting within the street” DCMR 24-1110.2(g). The proposed configurations require vehicle backing into the busy street.

- “Where feasible, access to loading and parking facilities shall be from an alley” DCMR 24-1110.1(b). The adjacent alley provides adequate access to parking in configurations not mentioned by applicant.
- Parking on public space on gateway streets is generally not permitted (Parking in Public Space application FAQ [http://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/pub\\_parking.pdf](http://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/pub_parking.pdf). Accessed 3/2/16). Rhode Island Avenue, or U.S. Route 1, is a gateway street.

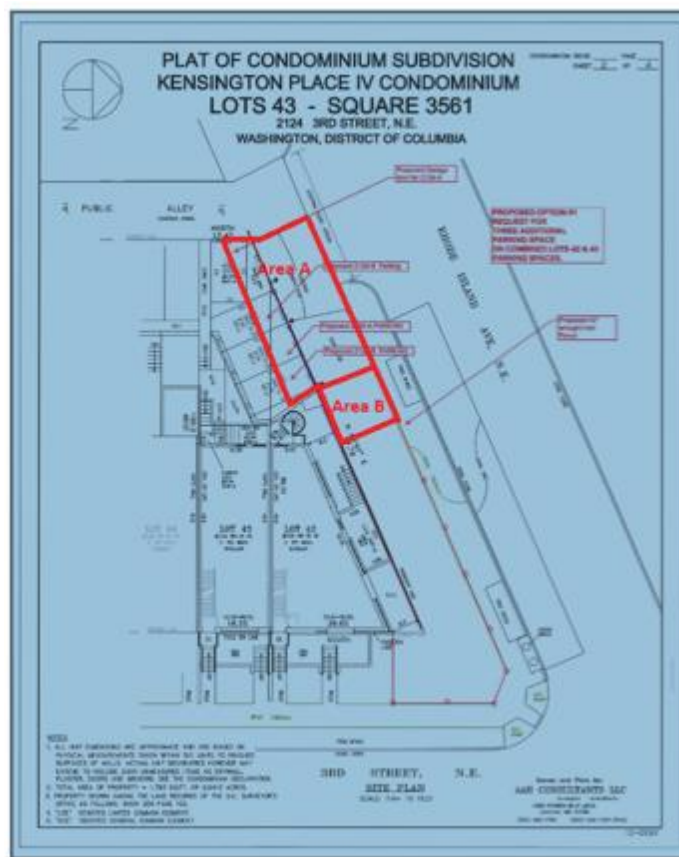
Given the above law and policy, which seem to have been well adhered to so far, in the 3.7 miles and hundreds of homes along Rhode Island Avenue from 14<sup>th</sup> Street NW to South Dakota Avenue NE, there are just a handful of residential driveways with direct access to Rhode Island Avenue. Exceptions I saw on my drive are 6 Rhode Island Avenue NW, Rhode Island Avenue and New Jersey Avenue (1740 New Jersey NW; property under construction, approved plan unknown to me), 136 Rhode Island Avenue NE, 1016 Rhode Island Avenue NE, 1018 Rhode Island Avenue NE, and 1206 Rhode Island Avenue NE (possibly also a business). None of the properties above appear to include parking area that is in public space; all parking areas are within lot boundaries beside and/or behind residence. None of the parking areas or driveways along the 3.7 mile stretch of street that I reviewed have privacy fencing along Rhode Island Avenue or overhead doors as the applicant would have. The applicant’s requested parking and driveway does not comport with District law, policy or the streetscape on Rhode Island Avenue.

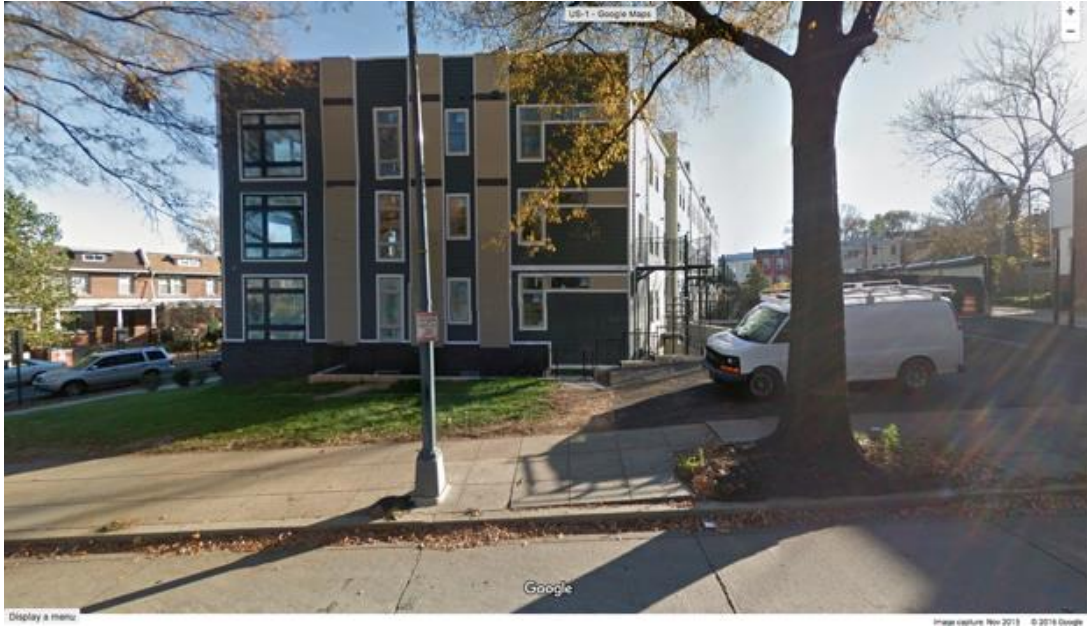
Prior to the applicant’s development and, even now, personal and construction vehicles have regularly parked in public space adjacent to Rhode Island Avenue NE and the public alley where the applicant requests parking relief. Use of that space as parking is not grandfathered and must be assessed by the Public Space Committee. DDOT’s website advises: “A permit is needed for any parking in Public Space which is defined as the space outside the property line” (<http://ddot.dc.gov/node/482122>. Accessed 3/2/16). As to the claim that the parking spaces were previously approved, DC Rule 12-A3202 states, “approval of projections shall be issued with the understanding and agreement by the applicant that any and all such projections shall be promptly removed upon notice from the code official.”

In fact, the applicant could achieve the required parking for the flats on Lot 42 by requesting approval of one parking spot at the adjacent Lot 43 within the property’s lines and accessible via the public alley. The required parking for the flats on Lot 43 could be achieved by requesting approval of one parking spot of the two available at adjacent Lot 44, also accessible by public alley. In that solution, which does serve the public interest, Lots 42, 43, 44 would each have one parking spot per the requirement (see modified plan image below). The developer subdivided the three lots into eight, and then built without leaving adequate space to comply with requirements without imposing onto public space. The solution proposed here serves the public interest by not encroaching into public space, adheres to well-considered District law and policy, and there are no attendant DOEE stormwater runoff concerns.



Finally, I note that the asphalt installed in public space at present does not follow either the initial approved drawings, nor the drawings in the applicant's exhibits. The asphalted area in actuality (below, outlined as Area A + Area B on plan image; also Google street view image) is larger than the plan proposed (Area A only).





In addition, there are newly installed two utility boxes and two security bollards (see Google image below) in the public space adjacent to Lot 24 which do not appear to be approved. I surmise this may be a reason why the applicant has not included current photos of the site in his application and exhibits.



Sincerely,

*Sarah Heaton*

Sarah Heaton  
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