

EMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Stephen Cochran, Case Manager

JS Joel Lawson, Associate Director Development Review

DATE: November 3, 2015

SUBJECT: BZA No. 19103 – Area Variance and Special Exception relief requested for construction of a new building at 901 5th Street, NW – Square 516, Lot 59

I. OFFICE OF PLANNING RECOMMENDATION

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

- Area Variances
 - § 774.1, Minimum Rear Yard Depth: (15 ft. required; 0 provided);
 - § 776, Closed Court Area: (882 SF required; 24.3 SF provided);
 - § 2101, Minimum Amount of Parking: (127 spaces required; 86 spaces provided)
 - § 2117, Parking Access: (continuous driveway from street or alley required; car lift provided)
- Special Exceptions
 - §§ 770.6 (a) and 411.3: [Single penthouse permitted; two penthouses (same roof level, no separate elevator core) proposed];
 - § 770.6 (b) and 411.3 :(Required --Penthouse setback at a ratio of 1 foot of setback from an exterior wall for each one foot of penthouse height above adjacent roof; Proposed –No setback for a portion of northern penthouse from a wall determined by the Zoning Administrator to be not an exterior wall).

The applicant also filed an additional special exception request on August 11, 2015 to permit the use of a portion of the penthouse as a bar/cocktail lounge/restaurant¹. The regulations that would permit such uses by special exception had not been given final approval in Zoning Commission case 14-13 as of November 3, 2015, so the requested relief could not be evaluated. OP can provide an update at the public hearing regarding the proposed changes to the regulations which may permit this request.

¹ If the Zoning Commission approves case 14-13, the approximately 5,000 square feet of proposed habitable space uses atop the roof would be permitted by special exception and the space would generate an affordable housing linkage requirement. To provide such uses the applicant would need to request such a special exception under what would be new regulations permitting such conditional uses are adopted in case 14-13. If the Commission does not approve the habitable space provisions, or approves amendments that would not allow the space as proposed by special exception, then elimination or alteration of the penthouse would be needed to make it conform, or a separate additional BZA case would be needed. However, this would not impact the requested setback relief in the subject BZA case.

The site is within the Mount Vernon Triangle historic district and subject to additional review by the Historic Preservation Review Board (HPRB). Any necessary adjustments to the final design of the building's façade to respond HPRB comments are not, at this time, anticipated to require additional zoning relief.

II. LOCATION AND SITE DESCRIPTION:

Address:	901 5 th Street, NW.	Legal Description:	Square 516, Lot 59	Ward, ANC:	6, 6E
Lot Characteristics:	The irregularly-shaped, level, 20,614 square foot lot is on the northeast corner of the intersection of 5 th and I Streets, N.W., in the central employment area. The lot's northern boundary includes a six-foot deep by four-foot wide "bump-out" from that lot line into the neighboring property. Square 516 has an alley system comprising a central east-west 30-foot wide alley accessed from the north and south by a 15-foot side alley. There is a 20-foot wide n/s alley stub providing access to the subject property. The applicant has indicated that prior use of the site has led to some soil contamination that will require remediation.				
Zoning:	DD/C-2-C/ MVT/ HPA-A – High-Density commercial and/or residential buildings in the central employment area, within the Mount Vernon Triangle sub-area and within Housing Priority Area A.				
Existing Building(s):	None. Leased by District government as surface parking				
Historic District:	Mount Vernon Triangle				
Adjacent and Nearby Properties	A surface parking lot is to the northwest and the alley system is to the northeast. A one story commercial property is to the east on a site that has been assembled for larger-scale development under previous approvals by the HPRB and the BZA. To the south is a District "bow-tie" park reservation, adjacent to Massachusetts Avenue. To the west is a 12 story building apartment-hotel. The nearby area contains several recent 12 and 13-story apartment buildings and some similarly-sized office buildings. The Gallery Place metro station is 3 blocks to the southwest.				

III. PROJECT DESCRIPTION IN BRIEF

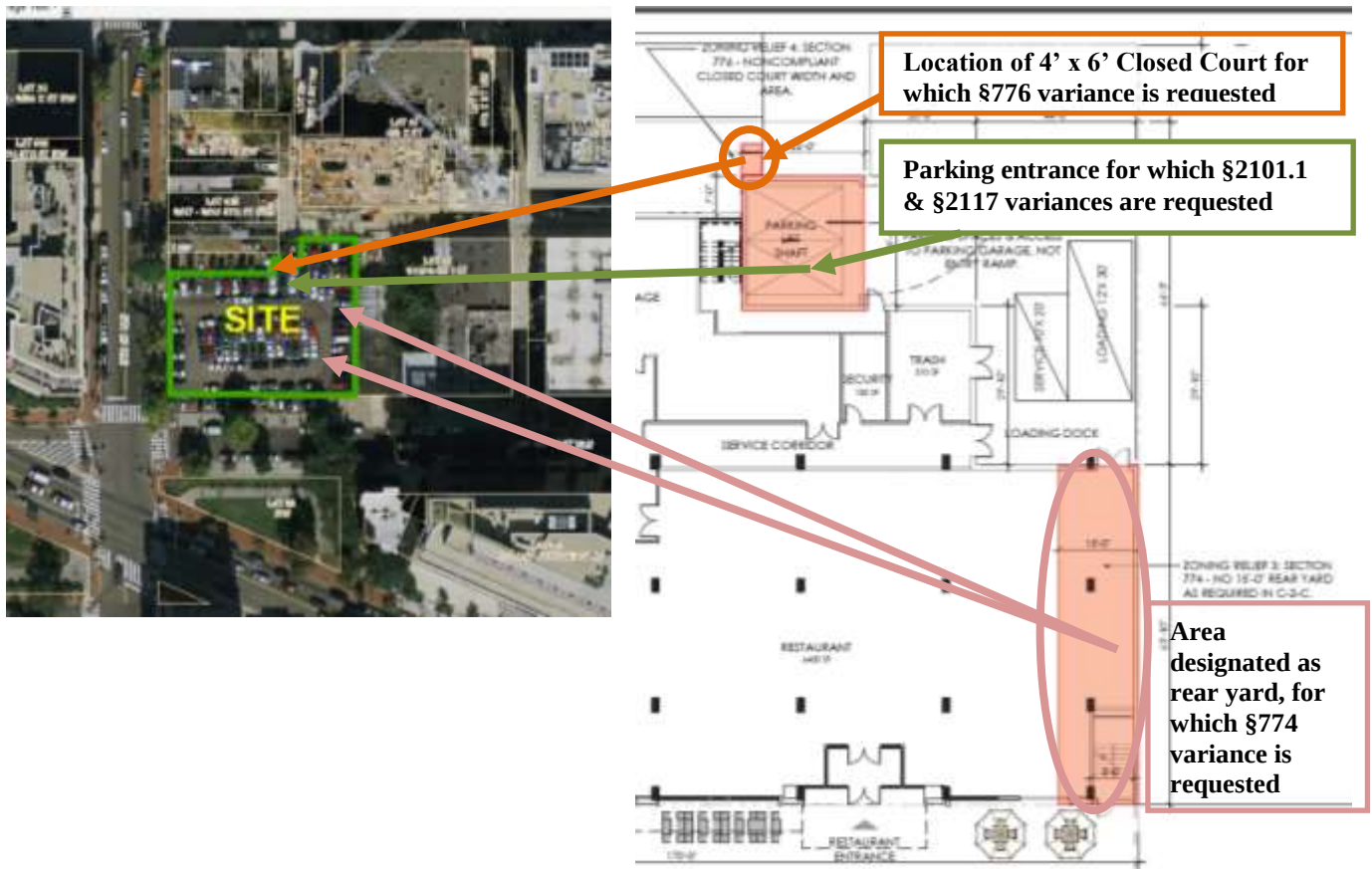
The site is a District-owned property for which the applicant has been selected as the owner/developer in a competitive public process. The applicant proposes to construct a 130 foot high, 12-story building with an 8.4 FAR. This is consistent with the maximum 8.5 FAR achievable within the DD/C-2-C Housing Priority Area. In this zone the proposed height is permitted by the building's fronting across a federal reservation from the 160-foot wide Massachusetts Avenue.

The 175, 219 square foot building would have 86 parking spaces located in three levels below-grade that would be devoted to hotel uses and accessed via vehicular elevator. The hotel's meeting and back of house spaces would occupy two below-grade levels. The hotel lobby and an approximately 6,000

square foot restaurant opening onto I Street would be on the ground level, and 153 hotel sleeping rooms would occupy the first eight above-grade floors. There would be 52 apartments on floors 9-12.

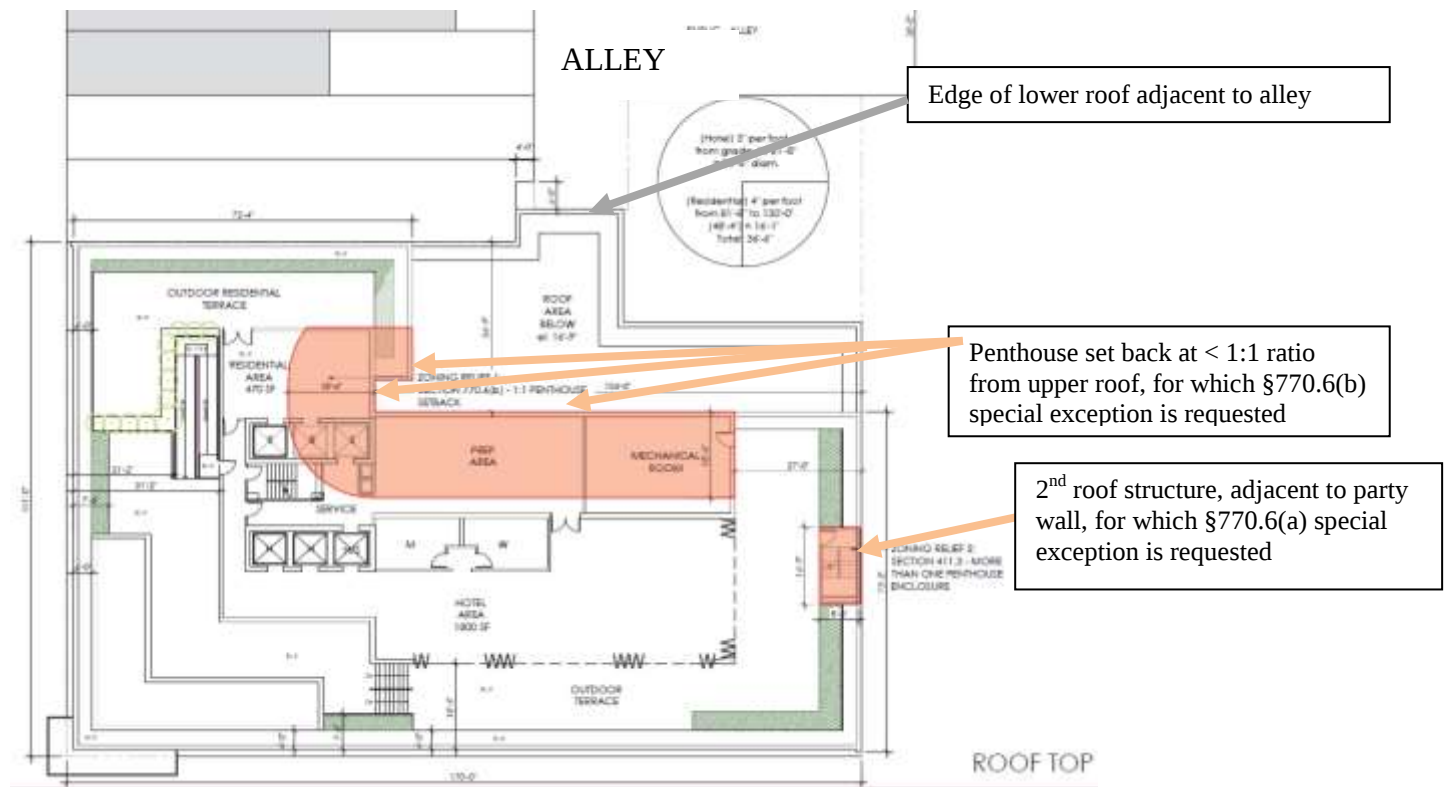
There would be two penthouse structures, each 18' 6" heights. The smaller structure would contain only secondary egress stairs for the uses on the roof. Portions of the northern penthouse wall would not be set back from the edge of the nearest building wall. The rooftop would contain a pool and its associated facilities as well as residential recreation space. The applicant has also requested zoning relief to include hotel dining/drinking uses within a portion of the penthouse but, as noted on page 1 of this report, consideration of such uses was not yet permitted by the Zoning Regulations at the time OP submitted this report.

The Housing Priority Area residential requirement would be met through both Combined Lot Development and off-site affordable housing development.



Figures 1 and 2. Site and locations for which Closed Court; Rear Yard, and Parking variances are requested

Figure 3. Roof Structure Relief



IV. ZONING REQUIREMENTS

Item	Reg.	Existing	Required / Permitted	Proposed	Relief
Lot Area	n/a	20,614 sf	n/a	Same	Conforming
Lot Occ.	772.1	n/a	80%	80%	Conforming
FAR	1706.4, 1706.7	n/a	8.5, of which 4.5 must be residential located on-site, or achieved through CLDs and, optionally for up to 1.35 FAR, through effecting affordable housing.	8.4	Conforming
Height	770.1 1701.7	n/a.	130', based on 160'-wide Massachusetts Ave.	130 ft.	Conforming

[illegible]

² See footnote 1.

Item	Reg.	Existing	Required / Permitted	Proposed	Relief
Rear Yard	774.1	n/a	15 feet	none	Variance of 15 feet requested
Side Yard	775.5	n/a	Not required	None provided	Conforming
Open Court	776.1	n/a	<u>Width:</u> <i>Non-Residential:</i> 21 feet (3 in./ ft. of height) <i>Residential:</i> 15' 5" (4 in./ft. of height)	52 feet	Conforming
Closed Court (non-res.)	776.1 776.2		<u>Width: same as above; i.e., 21 ft.</u> <u>Area: 882 sf³</u> [2 X the square of the required width, but at least 250 SF; i.e. (21ft ² x 2)]	<u>Width: 4 ft.</u> <u>Area: 24.3 sf</u>	Variance of 17' requested Variance of 225.7 sf requested; variance of 857.7 sf required²
GAR		n/a	0.2	0.23	Conforming

IV. OP ANALYSIS OF REQUESTED RELIEF

A. Variances

§ 774.1 -- Rear Yard

Unusual or Exceptional Conditions or Situations Leading to Practical Difficulties if Zoning Regulations Were Strictly Applied

The applicant has demonstrated that the site's relatively small size for a downtown location and its irregular northern boundary results in a practical difficulty in meeting the requirement to provide a rear yard on this lot, particularly given the core-factor requirement for the desired mixed use development.

No Substantial Detriment to the Public Good or Impairment of the Zone Plan.

The applicant has demonstrated that with 5th Street being considered the front of the building, the provision of a rear yard to the east would result in a 15 foot wide and 130 foot tall gap in the streetwall on I Street. The site is a corner property within the Mount Vernon Triangle historic district (the historic district) and the Mount Vernon Triangle sub-area of the Downtown

³ Application lists 250 sf as minimum required, seemingly based on 2 x the square of the provided court width , rather than on 2x the square of the required width of the court.

Development District (the Triangle). Such a gap would be inconsistent with the traditional building pattern in the historic district. OP notes that if I Street, rather than 5th Street, were to be considered the front of the building the provision of a rear yard to the north would result in a 15 ft. gap in the 5th Street streetwall. This would be inconsistent with not only the historic district pattern but also with the Triangle's design principles which, as codified in 11DCMR § 1722, stress the importance of continuous ground floor frontages on 5th Street.

§ 776.1 and 776.2 Width and Area of Closed Court

Unusual or Exceptional Conditions or Situations Leading to Practical Difficulties if Zoning Regulations Were Strictly Applied

The applicant has demonstrated that the unusual shape of the northern lot line would lead to a practical difficulty in meeting the closed court regulations were strictly applied. For a 4 foot wide section of the northern lot line, the boundary jogs 6 feet deep into the lot to the north. It would be impractical to fill in this 24 square foot area to the building's height of 130 feet. It would result in either a solid block of construction material or an unusable interior space that would be approximately 2 feet wide, 5 feet deep and 130 feet high. The alternative -- provision of an 884 square foot, 130 foot high closed court open to the air -- would negatively impact the interior layout of the ground floor open air and would create an unusable and difficult to maintain exterior space when the property to the north is developed and an additional wall is created for the court.

No Substantial Detriment to the Public Good or Impairment of the Zone Plan.

The applicant has demonstrated that there would be no substantial detriment to the public or the zone plan if the requested relief were granted.

§ 2117 Continuous Access to Parking Spaces from a Public Street

Unusual or Exceptional Conditions or Situations Leading to Practical Difficulties if Zoning Regulations Were Strictly Applied

As is evident from page 20 of the submitted architectural drawings, the combination of the location of the site's alley-access, the turning radii required for vehicles, and the required ramp and aisle widths would significantly reduce the number of vehicles that could be parked on any below-grade level.

No Substantial Detriment to the Public Good or Impairment of the Zone Plan.

Page 11 of Exhibit 29L (prehearing statement Tab L) indicates that the combination of the valet parking, two vehicular elevators and the parking space lift detailed in Exhibit 29K (prehearing statement Tab K) would enable the applicant to provide more parking spaces on a given level than could otherwise be provided with a conforming ramping system and would enable vehicle entry and exiting to be achieved at a rate that would accommodate peak hour operations. Accordingly, it is likely that granting the requested parking access relief would not result in any substantial detriment to the public good or the zone plan.

§ 2101.1 Number of Parking Spaces

Unusual or Exceptional Conditions or Situations Leading to Practical Difficulties if Zoning Regulations Were Strictly Applied

The geotechnical engineering and groundwater investigation reports submitted as Exhibits 29I and 29J (prehearing statement Tab I) demonstrate the presence of below-grade soil contaminants and infiltrating groundwater at the prospective third below-grade level, with such infiltration increasing at a fourth below-grade level. The combination of the two would require disproportionately greater construction-mitigation and operating expenses for each below-grade level.

3. No Substantial Detriment to the Public Good or Impairment of the Zone Plan.

The transportation and parking statement submitted as Exhibit 29K (prehearing statement Tab K) indicates that the site is well-served by MetroRail and by MetroBus, by bicycle and car-sharing services, and that, should demand exceed the capacity of the proposed on-site parking, there are six structured parking facilities in the area that the consultant determined to be capable of absorbing additional parking needs. Coupled with existing metered parking and nearby residential parking restrictions that extend to 10 p.m., it does not appear likely that the granting of the requested parking relief would result in a substantial detriment to the public good or impairment of the zone plan for this downtown site.

B. Special Exceptions

§§ 411 and 770.6(s): Number of Roof Structures

Would operating difficulties, lot size, or other building or surrounding area conditions tend to make full compliance unduly restrictive, prohibitively costly or unreasonable?

Yes. The applicant has demonstrated that the additional roof structure is necessary to meet code requirements for secondary egress from a roof deck providing access for recreational or other purposes and that requiring it to be connected to the principal roof structure would result in the loss of green roof and in an increased mass for the roof structure.

Would the light and air of adjacent buildings be adversely affected and would the special exception tend to adversely affect the use of neighboring property?

No. Granting the requested relief for the addition would not impact the light and air of adjacent buildings. There are currently no immediately adjacent buildings and proposed adjacent buildings would be share party walls with the applicant's proposed building.

Would the intent and purpose of the zoning regulations be materially impaired?

No. The relief would be consistent with overall intent of minimizing the visibility or roof structures.

§§ 411 and 770.6(b): Roof Structure Setback

Would operating difficulties, lot size, or other building or surrounding area conditions tend to make full compliance unduly restrictive, prohibitively costly or unreasonable?

Yes, the applicant has demonstrated that full compliance would result in operating difficulties and unreasonable modifications to the building plans. The applicant's architectural drawings illustrate that providing a 1:1 setback from the northern wall of the top story of the building would require the relocation of the elevator core, which would negatively impact corridor widths and parking aisle widths on the western side of the building, reducing the number of hotel rooms and parking spaces that could be provided, and potentially reducing the number of two-bedroom units.

Would the light and air of adjacent buildings be adversely affected and would the special exception tend to adversely affect the use of neighboring property?

No. Granting the requested relief for the addition would not impact the light and air of adjacent buildings. The side property line of the nearest building to the north would be at least 37 feet from the edge of the proposed roof structure.

Would the intent and purpose of the zoning regulations be materially impaired?

No. The Zoning Administrator has determined that the exterior walls on the north side of the building consist of the walls that are closest to, but removed from, the northern property line. These walls are located in the northwestern portion of the site and are illustrated on pages 13 and 14 of the architectural drawings submitted with the applicant's pre-hearing statement. The walls from which the applicant has requested setback relief are approximately 37 feet back from these exterior walls. Granting setback relief from what the Zoning Administrator has determined, under the current regulations, to be non-exterior walls would not materially impair the intent and purpose of the zoning regulations and would further the efficient layout and use of the proposed building.

V. OTHER GOVERNMENT AGENCY COMMENTS

The applicant has met with the District Department of Transportation (DDOT) about the project and has modified its private and public space plans accordingly. DDOT is expected to file a report with the Office of Zoning in a timely manner.

The design of the proposed building has been reviewed by the Historic Preservation Review Board (HPRB). The design has been given generally favorable review, but the applicant has been asked to refine the façade design to better integrate different elements. None of the changes requested by the HPRB would affect the BZA application.

No other government agency reports had been filed at the time this OP report was completed.

VI. COMMUNITY COMMENTS

ANC 6E had not submitted a filing for the record at the time OP completed this report. However, it is OP's understanding that the full ANC voted to oppose the application, due at least in part to its request for a reduction in the number of required parking spaces.

No other community comments had been filed at the time this OP report was completed.