GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16815 of Adams Alley LLC, pursuant to 11 DCMR § 3103.2 for a variance from the floor area ratio requirements under section 402, a variance from the nonconforming structure provisions for a building not meeting the lot occupancy requirements under Sections 403 and 2001.3, a variance from the off-street parking requirements of Section 2101, and a variance from the restrictions governing the use of alley lots under Section 2507, to allow the construction of an addition to an existing structure for a mixed-use (residential, office, and private club) building in a RC/R-5-B District at premises 2412 Rear 17th Street, N.W. (Square 2566, Lot 95).

HEARING DATE(S): January 15, March 12, May 21, and May 29, 2002
DECISION DATE: June 11, 2002

DECISION AND ORDER

Preliminary Matters

The Applicant in this case is Adams Alley LLC ("Adams Alley" or "Applicant"), the owner of the property that is the subject of the application. The original application submitted by the Applicant requested a special exception to construct a building height in excess of that permitted as a matter of right in the Reed-Cooke Overlay District, and variance relief from the maximum permitted floor area ratio ("FAR") in the R-5-B District, from lot occupancy requirements, and from the restrictions on the use of an alley lot.

After numerous meetings and discussions with members of the Reed-Cooke and Adams Morgan community, various changes were made to the project that modified the necessary zoning relief. As a result of these changes, the Applicant no longer sought special exception approval to exceed the 40-foot height restriction of the Reed-Cooke Overlay District but requested the following relief: variance relief from the floor area ratio requirements of § 402; variance relief to allow an addition to a structure that exceeds the permitted lot occupancy under § 2001.3; variance relief from the restrictions on the use of an alley lot under § 2507; and variance relief from the off-street parking requirements under § 2101. The application was self-certified. By letter dated February 22, 2002, the Zoning Administrator stated that the Applicant had requested the appropriate zoning relief to construct the project that is the subject of this Application. (Applicant's Pre-Hearing Statement at p. 1, Exhibit 36, and Letter of the Zoning Administrator, Exhibit 42.)

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EXHIBIT NO.58

The initial application was scheduled for a public hearing on January 15, 2002. As a result of on-going discussions between the Applicant and members of the surrounding community, the public hearing was rescheduled to March 15, 2002 and eventually to May 21 and May 29, 2002. The postponements of the originally scheduled public hearing dates were supported by Advisory Neighborhood Commission ("ANC") 1C. (Exhibits 24 and 34.)

ANC 1C was automatically a party to this proceeding. At the March 15, 2002 public hearing, the Board granted requests for party status by Ruth Eisenberg and Simi Batra. Both parties reside in the 1700 block of Euclid Street, near the site of the proposed project, and both parties were in opposition to the Application.

Applicant's Case. The Applicant stated that the requested zoning relief was necessary for the adaptation of a former industrial building to a mixed-use development containing residential and community-oriented uses consistent with the purposes of the Reed-Cooke Overlay District. The Applicant offered testimony and evidence from John Holmes, representative of the Applicant; James Foster, project architect; Osborne George, transportation engineer; and Armando Lourenco, zoning and building code consultant.

Government Reports. The Office of Planning ("OP"), through a report dated May 14, 2002 and testimony presented at the May 29, 2002 public hearing, recommended approval of the application subject to conditions. Reports were also received from the Department of Transportation and from the Fire and Emergency Medical Services Department.

ANC Report. By letter dated May 21, 2002, ANC 1C reported its unanimous adoption of a resolution in support of the application.

Persons in Support. The Quality of Life Committee of ANC 1C submitted a resolution in support of the application. By letter dated May 16, 2002 and through testimony at the May 21, 2002 public hearing, the Reed-Cooke Neighborhood Association expressed its support for the Applicant's request for variances. The application was also supported by Ward 1 Councilmember Jim Graham, who, by letter dated May 21, 2002, stated that the transformation of the former industrial space into residential and other community-oriented uses would be a significant benefit to the immediate neighbors as well as to the larger Reed-Cooke neighborhood. Additional letters in support were received from the Patricia M. Sitar Center for the Arts and from seven members of the surrounding neighborhood.

Parties in opposition. Simi Batra filed a statement in opposition to the application on June 3, 2002. Mr. Batra stated that the Applicant had failed to address necessary issues

regarding the requested variances, and he opposed the recommendation of the Department of Transportation to create a one-way alley system in Square 2566. The other party in opposition, Ruth Eisenberg, did not provide a statement or testify at the public hearing.

Following the public hearing and a public meeting on June 11, 2002, the Board granted the application, subject to two conditions, by a vote of 3-0-2.

FINDINGS OF FACT

1. The subject property is located at 2412 Rear 17th Street, N.W. (Square 2566, Lot 95). The site is a large alley lot surrounded by public alleys and located in the square generally bounded by 17th Street to the east, Euclid Street to the north, Ontario Road to the west, and Kalorama Road to the south.

2. The lot area of the subject site is approximately 11,650 square feet. The subject property includes a grade change of approximately 12 feet from the northernmost point to the southern end of the lot.

3. Vehicular and pedestrian access to the subject property is achieved via a 20-foot-wide public alley at the southern end of the site and a 15-foot-wide public alley at the northern end of the site. Both public alleys are accessed from 17th Street. The alleys surrounding the subject site range from 10 to 17 feet wide.

4. The subject property is improved with a two-story building that occupies 90 percent of the lot. The building has a certificate of occupancy for office/warehouse use, and its appearance reflects its initial warehouse and storage purposes. The building was constructed to withstand heavy industrial uses, and is generally windowless along its eastern and western sides. The building includes a loading entrance at the southern end accessible from a portion of the 20-foot-wide alley. (Exhibit 26 at p. 3.)

5. The building on the subject property has previously been used for office, storage, and warehouse uses. One of the recent tenants of the building was the Colortone Printing Company, and the building is frequently called the Colortone Printing Building. Presently, a tenant, the Brass Knob, is using a portion of the building for warehouse use.

6. The subject property is surrounded by predominately residential uses, primarily two- and three-story rowhouses and apartment buildings.

7. The subject property is located in the Reed-Cooke RC/R-5-B zoning district. Previously, the area was zoned predominately C-M-2, and contained various industrial uses as well as residential uses. The existing building is a nonconforming structure that was built in accordance with requirements of the C-M-2.

8. The R-5 districts are designed to permit a flexibility of design by permitting all types of urban residential development that conform to applicable height, density, and area requirements. 11 DCMR § 350.1. Moderate height and density are permitted in the R-5-B district. 11 DCMR § 350.2. The R-5-B zone permits a maximum height of 50 feet, a maximum FAR of 1.8, and a maximum lot occupancy of 60 percent. 11 DCMR §§ 400.1, 402.4, 403.2.

9. The purposes of the Reed-Cooke overlay district include to protect current housing and provide for the development of new housing; to maintain heights and densities at appropriate levels; to encourage small-scale business development that will not adversely affect the residential community; to ensure that new non-residential uses serve the local community; and to protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts. 11 DCMR § 1400.2.

10. The Applicant proposes to construct a two-story addition to the existing building to create a mixed-use development containing a total gross floor area of 34,291 square feet. As planned, the existing building would be retained and converted to a parking garage on the first floor and space for offices and a private club on the second floor, with 12 residential condominiums constructed in the two-story addition. The project would have a total building height of 31 feet, six inches, and a total FAR of 2.94.

11. The proposed project would contain approximately 16,000 square feet of residential space; approximately 12,000 square feet of space to be occupied by the Patricia M. Sitar Center, a nonprofit organization that is classified as a private club for purposes of the Zoning Regulations; and approximately 3,500 square feet of gross floor area available for office/community organization use. (Exhibit 36 at p. 4.)

12. The residential portion of the proposed mixed-use development would contain 12 two-bedroom units with two floors, so as to increase natural light. The residences would have direct access to a roof terrace and to the parking garage level, separate from the non-residential access to the parking garage level. (Exhibit 36 at pp. 4-5.)

13. The Applicant proposes to rent a portion of the completed project, at below-market rates, to the Sitar Center, which provides music and arts education primarily to children living in the Adams Morgan and Reed-Cooke neighborhoods. The Sitar Center is presently located at 2525 Ontario Road, N.W., occupying 2,500 square feet of space. Current enrollment is 101 students (83 children and 18 adults), with a maximum of approximately 25-30 students attending classes at any one time. At its new location on the subject site, the Sitar Center expects to have a maximum of 50-60 students attending classes at any one time.

14. Because most students live in the surrounding neighborhood, the vast majority walk to the Sitar Center's current location and are expected to walk to the new location on the subject property. The Adams Alley project would include a walkway inside the building (along its eastern side) that would allow students to arrive at the Sitar Center without having to walk through the narrow north/south portion of the alley. The walkway would be utilized by all students to enter the building via the widest part of the alley system surrounding the subject property. (Exhibit 36 at p. 5.)

15. The proposed project would provide 24 parking spaces accessed from the southern end of the site via the widest portion of the alley system in Square 2566, at the lowest level of the existing building. Each residential unit would be assigned a parking space and the remaining 12 spaces would be provided for the non-residential uses (the Sitar Center and office/community organization uses). (Exhibit 36 at p. 6.)

16. The Applicant's traffic expert testified that 24 parking spaces would be sufficient to meet the demand for parking generated by the project, concluding that, based on the operational needs of the Sitar Center, the project's parking supply would exceed the needs created by the development. (Exhibit 36, p. 19 of Exhibit I.)

17. The proposed project originally included 32-36 parking spaces on two levels, but one level of parking was removed in response to community concerns regarding potential traffic and congestion. (Exhibit 36 at p. 6.)

18. The Applicant's traffic expert testified that the proposed project would have no adverse or potentially objectionable impacts on properties and land uses within its vicinity based on traffic generation and parking demand. According to the traffic expert, the prospective trip-making characteristics of the proposed project indicate that the number of vehicular trips created by the project would be low, the project's traffic impact would be negligible, and the project would have no

appreciable impact on future traffic conditions in the area. (Exhibit 36, Pre-Hearing Statement Exhibit I, pp. 3, 14.)

19. The Applicant's traffic expert also testified that service vehicles would be able to access the project adequately and efficiently in a vehicular turn-around area off the public alley at the southern edge of the subject property, and would not block access to the parking garage. The Applicant proposed that all vehicular access to and from the subject property would be via the 20-foot-wide, two-way southern alley. (Exhibit 36, Pre-Hearing Statement, Exhibit I, p. 3 of May 1, 2002 Technical Memorandum.)

20. To improve pedestrian access, the Applicant plans to work with the District Department of Transportation to create a four-foot striped pedestrian walkway in the southern alley to provide a space for pedestrians to walk to the building on the subject property.

21. The Applicant proposed eight conditions of approval for the project:
    a) The permitted private club use of the property would be limited to the Patricia M. Sitar Center or to a similar organization, or the Applicant would be required to seek ANC approval to substitute another use.

    b) The Sitar Center would provide an alley crossing guard at the southern alley entrance at peak times of its use. All students of the Sitar Center would be required to access the site via the southern alley entrance. Signage would be installed at the southern alley entrance noting the potential presence of children in the alley.

    c) The Applicant would work with the Sitar Center to provide the Reed-Cooke Neighborhood Association and other community organizations with appropriate meeting space for community meetings.

    d) No use on the subject property would seek the issuance of an Alcohol Beverage Control license.

    e) The Applicant would work with the community to rename the southern 20-foot-wide public alley "Reed-Cooke Plaza" with appropriate signage.

    f) The Applicant would place a plaque on the building noting the Colortone Printing Company's former use of the building and the building's relationship to the Reed-Cooke neighborhood.

g) The Applicant would work with ANC 1C to establish a construction management plan and construction staging plan.

h) The Applicant would work with the Department of Public Works, District Department of Transportation, and the Ward 1 Councilmember's Office to facilitate the repair and refurbishment of the existing alley system surrounding the subject property, with special attention to the creation of a paved alley on the western side of the site, where the alley is presently not paved and in poor condition.

(Exhibit 36, Pre-Hearing Statement, Exhibit L.)

22. The Office of Planning supported the development of residential and community service uses on the subject site and recommended approval of the application. OP testified that the proposed development is consistent with the Reed-Cooke Special Treatment Area provisions of the Comprehensive Plan, the Reed-Cooke Overlay District, and the District of Columbia's goals to develop a vibrant residential neighborhood and to provide community service uses on the site. (Exhibit 37, pp. 1-2, 9.)

23. OP testified that the existing warehouse building is not suitable for residential uses as it is lower than many of the surrounding buildings and lacks windows to provide sufficient light and air.

24. By memorandum dated May 13, 2002, the Department of Transportation expressed concern regarding pedestrian use of the alley and recommended one-way circulation in the alley with traffic entering the alley system through the southern 20-foot alley and existing through the northern 15-foot alley. (Exhibit 37, p. 4.)

25. The Applicant's traffic expert recommended against one-way circulation in the alley, on grounds that safety would be ensured in the alley system by the low traffic volume in the alley, its dispersal within the alley system, and the Applicant's proposal to have an alley crossing guard present during periods of peak activity at the Sitar Center.

26. By memorandum dated February 20, 2002, the Fire and Emergency Medical Services Department recommended approval of the project, provided that the Applicant agrees to install a fire sprinkler system in the entire building, including residential sprinklers in the residential portion of the building. The Fire and Emergency Medical Services Department stated that service and emergency vehicle access would continue as presently provided for in the alley system. (Exhibit 37, p. 4; Exhibit 53.)

27. ANC 1C submitted a letter, dated May 21, 2002, that evidenced the ANC's unanimous adoption of a resolution in support of the application. The resolution noted that the ANC had reviewed the plans for the proposed project and determined that the project would "bring active and vibrant residential and community-oriented uses to the area" and was appropriate in size and scale. (Exhibit 43.)

28. The Quality of Life Committee of ANC 1C submitted a resolution in support of the application, stating that the project would be a significant benefit to the neighborhood, in keeping with the size and scale of other buildings in the surrounding area, and would not cause adverse impacts on surrounding properties due to loss of light or air. (Exhibit 50.)

29. The Reed Cooke Neighborhood Association ("RCNA") unanimously adopted a resolution in favor of the requested variances, subject to certain conditions created with the Applicant following meetings between the Applicant, RCNA, and OP, which led to the resolution of several community concerns. (Exhibit 38.)

CONCLUSIONS OF LAW

The Applicant seeks variance relief from four sections of the Zoning Regulations: § 2507, concerning restrictions on the use of an alley lot; § 402, concerning the maximum allowable floor area ratio; § 2001.3, concerning an addition to a nonconforming structure; and § 2101, concerning off-street parking requirements. The Board is authorized to grant a variance from the strict application of the zoning regulations where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of the property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map. D.C. Official Code § 6-641.07(g)(3) (2001); 11 DCMR § 3103.2.

Use of an alley lot. The Applicant seeks use and area variances from § 2507 to permit the construction and use of a mixed-use development on an alley lot. The project requires a use variance from § 2507.1, which provides that a structure on an alley lot may not be constructed, altered, or repaired for human habitation except for use as a one-family dwelling. The Applicant proposes to construct a multifamily residential addition above the existing building, which would be devoted to private club, office, and parking uses.

A use variance cannot be granted absent a showing that the strict application of the Zoning Regulations would result in "exceptional and undue hardship upon the owner of the property," because a use variance "seeks a use ordinarily prohibited in the particular district" and thus would "alter the character" of that zone district. Palmer v. Board of Zoning Adjustment for the District of Columbia, 287 A.2d 535, 541 (D.C. 1972). "The Board generally cannot grant a variance just because the property makes it difficult for the owner to construct a particular building or to pursue a particular use without a variance if the owner could use or improve the land in other ways compatible with zoning restrictions." Draude v. District of Columbia Board of Zoning Adjustment, 527 A.2d 1242, 1255 (D.C. 1987), citing Palmer, 287 A.2d at 540 (use variance cannot be granted unless reasonable use cannot be made of the property in manner consistent with the Zoning Regulations; an inability to put property to more profitable use or loss of economic advantage is not sufficient to constitute hardship). To be granted a variance, the Applicant must show that strict application of the Zoning Regulations would preclude the use of the property for any purpose to which it may reasonably be adapted. Bernstein v. District of Columbia Board of Zoning Adjustment, 376 A.2d 816, 819 (D.C. 1979).

The Board concludes that the subject property is in an extraordinary or exceptional situation or condition such that the strict application of the zoning provision limiting conversion of the property to single-family dwelling would result in undue hardship to the owner of the property. The subject property is a relatively large lot that is bounded by public alleys, unlike most alley lots, which are generally smaller and front on only one alley. The site is developed with a two-story former warehouse building that is not suitable for residential use but is located in a residential zone district and is surrounded primarily by moderate-density residential uses. The Board is persuaded by the Applicant's testimony that redevelopment of the subject property as one-family dwellings would be infeasible due to the need to demolish the existing building to construct detached dwellings that the Applicant would very likely be unable to market, and that would require extensive zoning relief (for example, due to insufficient width of the alleys, insufficient depth for rear yard, excessive lot occupancy, and the inability to subdivide the lot due to its lack of street frontage).

The requested use variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map. Moderate-density multifamily residential use is not "a use ordinarily prohibited" in the RC/R-5-B district but is in fact consistent with the underlying R-5-B zone and with the purposes of the Reed-Cooke overlay. Private club use is permitted as a matter of right in the R-5-B district. 11 DCMR §§ 330.5(g), 350.4(a). The mix of uses proposed by the Applicant would not "alter the character" of the RC/R-5-B zone but would complement the surrounding predominately

residential land-use pattern. The Board notes that both OP and the ANC recommended approval of the use variance.

Conversion, height, and FAR. The proposed project requires area variances from §§ 2507.3 and 2507.4, which provide, respectively, that a nonresidential structure located an alley less than 30 feet wide shall not be converted, altered, or repaired for human habitation, regardless of cost; and that the height of a structure erected or constructed on an alley lot shall not exceed the distance from the opposite side of the abutting alley to the outside wall of the structure nearest the alley. In addition, the Applicant seeks an area variance to exceed the maximum FAR of 1.8 allowed as a matter of right in the R-5-B zone. 11 DCMR § 402.4. The mixed-use development proposed by the Applicant would add 12 residential units in a two-story addition above the existing building, resulting in a total FAR of 2.94.

As discussed above with respect to the requested variance relating to multifamily residential development on an alley lot, the Board concludes that the subject property is in an extraordinary or exceptional situation or condition such that the strict application of the provisions limiting the height, FAR, and residential use of a lot located on an alley less than 30 feet wide would result in peculiar and exceptional practical difficulties to the owner of the subject property. The project site is bounded by alleys ranging from 10 to 17 feet wide. None of the alleys can be enlarged because the site is surrounded by existing buildings. However, as previously noted, the subject property is unusual in that the site is bounded by alleys and, rather than fronting on one alley, has access to two public alleys, 15 and 20 feet wide, that together provide adequate vehicular and pedestrian access to and from 17th Street. The subject property is developed with a two-story, underused warehouse building that occupies 90 percent of the lot and has a FAR of 1.5. The property complied with its former industrial zone classification but is now residentially zoned and is surrounded primarily by moderate-density residential uses. The Board concurs that the existing building is not suitable for residential use, and finds that practical difficulties would result to the Applicant as a result of the strict application of the height and FAR limit, because only 0.3 FAR would otherwise be available for a residential addition to the existing building.

The requested area variances can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map. The Board is persuaded by the testimony of the Applicant's traffic expert and by the Fire and Emergency Medical Services Department that the proposed mixed-use development would not create adverse traffic impacts, and that service and emergency vehicle access could continue as presently provided for in the alley system. The Board credits OP's testimony that some uses permitted in R-5-B as a matter of right, which could be located on a site abutting an alley less than 30 feet wide, do not seem as appropriate or compatible with the residences

surrounding the subject property as the proposed mixed-use project. The planned mixed-use development, with multifamily dwellings constructed above the existing building and with space devoted to organizations serving the community, is an appropriate means to adapt and redevelop the subject site in a manner consistent with its current RC/R-5-B zoning designation. The Board notes that both OP and the ANC recommended approval of the variances, and that the additional height and FAR developed in the addition to the existing building will be devoted to residential uses, consistent with the purposes of the Reed-Cooke overlay and other relevant zoning provisions.

Addition to nonconforming structure. The Applicant seeks use and area variances from § 2001.3, concerning an addition to a nonconforming structure devoted to a conforming use. An enlargement or addition may be made to a nonconforming structure devoted to a conforming use provided that the structure will conform to lot occupancy requirements, and provided that the addition or enlargement itself will (1) conform to use and structure requirements, and (2) neither increase or extend any existing, nonconforming aspect of the structure nor (3) create any new nonconformity of structure and addition combined. 11 DCMR § 2001.3.

The existing building on the subject property, at 90 percent lot occupancy, exceeds the maximum 60 percent lot occupancy permitted in the R-5-B zone. The proposed addition, as a multifamily dwelling on an alley lot, would not conform to use requirements, and would create a new nonconformity, with respect to FAR. Accordingly, the Applicant seeks area variances with respect to lot occupancy and to the creation of a new nonconformity (that is, with respect to FAR), and a use variance in order to devote the two-story addition to multifamily residential use.

The Board concludes that the strict application of § 2001.3 would result in peculiar and exceptional practical difficulties to the owner of the property with respect to the lot occupancy and FAR provisions. The existing building complied with the lot occupancy limit of the former C-M-2 zoning, but could not conform to the 60 percent lot occupancy maximum under R-5-B zoning without removing a portion of the existing structure. The Board is persuaded by OP's testimony that the existing building is structurally sound and contributes to the character of the community. The Applicant seeks to construct an addition above the existing building, which would not increase the lot occupancy of the subject property. As discussed above, the Board concludes that FAR relief is warranted for the subject property.

The Board concludes further that the strict application of § 2001.3 would result in undue hardship to the owner of the property with respect to the restrictions on use of an alley lot. The Board is persuaded by the Applicant's testimony that redevelopment of the existing building in a manner consistent with the purposes of the Reed-Cooke overlay would be extremely difficult without an expansion, and that the undue hardship was not

created by the property owner but resulted from the rezoning of the property from C-M-2 to RC/R-5-B.

The requested variance relief from the provisions of § 2001.3 can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map. The Board notes that both OP and the ANC recommended approval of the FAR variance, and that the additional FAR will be devoted to residential uses, consistent with the purposes of the Reed-Cooke overlay and other relevant zoning provisions.

Parking. The Zoning Regulations specify that, in the case of a mixed-use project, the number of parking spaces required must be calculated by adding the parking requirements for the various individual uses computed separately in accordance with § 2101. Parking spaces for one use may not be considered as providing the required parking spaces for any other use. 11 DCMR § 2118.5.

The Applicant proposes to construct a mixed-use project containing 12 residential units, 12,000 square feet devoted to private club use, and 3,500 square feet of office space. Pursuant to § 2101.1, the following parking requirements generally apply to the Adams Alley project: (a) one space for each two dwelling units; that is, six spaces for the 12-unit residential component; (b) one space for each 600 square feet of gross floor area devoted to private club use; that is, 20 spaces for the private club component; and (c) 1 space for each additional 800 square feet of gross floor area devoted to office space in excess of 2,000 square feet; that is, two spaces for the office component.[1] Accordingly, the Adams Alley project is required under the Zoning Regulations to provide a total of 28 spaces: the sum of six for the residential component, 20 for the private club component, and two for the office component.

The proposed development would contain 24 parking spaces, and the Applicant has opted to allocate one parking space to each of the 12 residential units, although the Zoning Regulations would require only six parking spaces for the residences. The remaining 12 parking spaces would be allocated to the nonresidential uses, while the Zoning Regulations require 20 spaces for the private club use. The two spaces that otherwise would be required for the office space included in the mixed-use development are grandfathered, because the existing structure was constructed before the adoption of the zoning provisions governing parking. Thus, the Adams Alley project requires a parking variance of 8 spaces from the requirements set forth in § 2101; that is, the difference

[1] Section 2101 does not specify the number of parking spaces required for office space in the R-5-B zone, where general office use is not permitted as a matter of right. The standard of one space for each additional 800 square feet of office use in excess of 2,000 square feet is the requirement under the C-M zoning classification previously applied to the subject property.

between the 20 spaces required for the private club use less the 12 spaces allocated by the Applicant to the nonresidential portion of the mixed-use development.

For the reasons discussed above with respect to the other requested variances, the Board concludes that the strict application of § 2101 would result in exceptional practical difficulties to the Applicant. The Board is persuaded by the Applicant's testimony that most alley lots do not provide parking to serve the uses established on the alley lot itself, and that the subject property is unique due to the combination of the sloping topography of the site and the tight clearances imposed by the widths of the four surrounding alleys. The Board also notes that the Applicant originally planned to provide as many as 36 parking spaces on two levels in the Adams Alley project, but reduced that number in response to community concerns about the height of the addition and impacts on traffic and parking. The Applicant stated that 24 parking spaces could be provided within a single parking level, while the provision of additional spaces would entail a very costly excavation within the building or the loss of a substantial amount of space that would otherwise be allocated to the private club use.

The requested variance relief from the strict application of § 2101 can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map. Both OP and the ANC recommended approval of the parking variance. The Board concurs that the Applicant's plan to allocate one parking space to each residential unit, rather than devote only six to the residential uses as required by the strict application of § 2101, is likely to lessen adverse parking impacts of Adams Alley, in part because the proposed private club use is expected to serve primarily students who will walk to the site from the surrounding neighborhood and therefore will not create a large demand for parking.

Conditions. The Applicant proposed several conditions of approval of the application, and the District Department of Transportation ("DDOT") suggested that the alley system surrounding the subject property should be converted to a one-way circulation system if the application were approved. The Department of Transportation is empowered to manage and make improvements to the street system, including public alleys, to facilitate traffic flow, and therefore is authorized to convert the alleys surrounding the Adams Alley project to one-way circulation if DDOT determines that the one-way circulation is warranted. However, the Board concurs with the Applicant, as well as a party in opposition, that the current two-way circulation is preferable, given the configuration and size of the alleys surrounding the subject property, and that two-way traffic would likely have a calming effect on the vehicular flow in the alleys. Therefore, the Board declines to require the Applicant to seek DDOT approval of one-way circulation in the alleys as a condition of approval of the requested zoning relief.

With respect to the conditions proposed by the Applicant, the Board acknowledges the Applicant's efforts to communicate with and address concerns raised by residents of the surrounding community. The Board encourages the Applicant to carry out with all agreements reached with the community, especially its proposal to work with the ANC to establish construction management and construction staging plans. However, the proposed conditions proffered by the Applicant are not appropriate conditions for approval of the requested variance relief, and the Board therefore declines to adopt them as part of this Order. The Board concludes that two conditions are appropriate to ensure adequate exterior lighting on the building to enhance safety, and to ensure the provision and maintenance of appropriate landscaping around the Adams Alley project to enhance its appearance from the neighboring residences.

ANC 1C. The Board has accorded ANC 1C the "great weight" to which it is entitled. The record reflects that the affected ANC voted to recommend approval of the requested zoning relief necessary for construction of the Adams Alley mixed-use development. The Board credited the unique vantage point held by the ANC with respect to the effect of the requested variances on its constituents.

For the reasons stated above, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for variances from § 402, concerning the maximum allowable floor area ratio; § 2001.3, concerning an addition to a nonconforming structure; § 2101, concerning off-street parking requirements; and § 2507, concerning restrictions on the use of an alley lot. Accordingly, it is therefore **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS**:

1. The Applicant shall install and maintain adequate exterior lighting from dusk to dawn, mounted on the Adams Alley building in a downward direction, to enhance safety and visibility in the alleys serving the project; and

2. The Applicant shall provide and maintain appropriate landscaping around the Adams Alley project to enhance its appearance from the neighboring residences.

VOTE: **3-0-2** (Geoffrey H. Griffis, Anne M. Renshaw and David A. Zaidain to grant the application; Curtis L. Etherly, Jr. and Anthony J. Hood not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member approved the issuance of this order.

ATTESTED BY: Jerrily Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: NOV - 8 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16815

As Director of the Office of Zoning, I hereby certify and attest that on NOV - 8 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning