GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

BZA
Case No. 17167
Exhibit No. 30

DATE: June 8, 2004

SUBJECT: BZA Application #17167 (Welch Family Limited Partnership Sixteen /FDC-Development LLC)
901 M Street, N.W. (Square 369, Lots 834, 861, 862, 865, 866, 872, 873, and 876)

APPLICATION

The application by FDC-Development LLC (Applicant) requests, a number of variances and special exceptions to accommodate the construction of a residential building. The application was amended and pursuant to 11 DCMR 3103.2, variances from the following sections of the Zoning Regulations are request:

1. Section 772.1, Lot occupancy;
2. Section 774.1, Rear yard
3. Section 776.3, Width of Court;
4. Section 1706.15, Building Setback;
5. Section 2514.2; Extension of the DD/C-2-C District into the C-2-A District portion of a spit zoned lot by 40-feet instead of 35-feet.

Special Exceptions to allow the following:

1. Sections 411.2 and 770.6, Roof structure setback;
2. Section 411.3, Multiple Roof Structures;
3. Section 411.5, Roof structure enclosure;
4. Section 2514.2; Extension of the DD/C-2-C District into the C-2-A District portion of a spit zoned lot

SUMMARY RECOMMENDATION

The Office of Planning supports the variance and special exception to allow the construction of residential building. The applicant has demonstrated that these requests will be consistent with the intent and purpose of the Zoning Regulations and will not be detrimental to the community. The Office of Planning therefore recommends **approval** of the requested variances and special exceptions.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17167
EXHIBIT NO. 30

#30

SITE AND AREA DESCRIPTION

The subject property, 910 M Street, N.W. (Square 369, Lots 834, 861, 862, 865, 866, 872, 873, and 876), is an "L" shaped lot between 9th and 10 Streets. The 29,940 square feet lot is currently undeveloped and used as a temporary parking lot (Attachment 1).

To the north of the site, across M Street, are residential apartments units in the R-4 district; to the east are undeveloped properties and a commercial building in the DD/C-2-A district at the intersection of M and 10th streets. Across 10th Street is the Convention Center. To the south of the site are other residential and commercial uses; to the west of the site is the Mount Vernon Plaza Apartments.

PROPOSAL

The applicant proposes to construct a 212-apartment building with 208 underground parking spaces.

HISTORIC PRESERVATION

The subject site is within the Shaw Historic District and was reviewed by the Historic Preservation Review Board (HPRB) on March 25, 2004. The HPRB adopted the recommendations of Historic Preservation Office staff and the applicant continues to work with them to refine the façade of the building. The HPRB approval includes the height and bulk represented in this application.

ZONING REQUIREMENTS

The subject site has a base zoning of C-2-A and C-2-C and is within the Downtown Development (DD) Overlay District. The C-2-A district is designed to provide facilities for shopping, business, housing, and mixed uses. The C-2-C district is to serve commercial and residential functions or a mixture of uses similar to those in the C-2-A district. The property is also within Housing Priority Area A of the DD Overlay District that encourages the construction of new housing that will help to accomplish a "Living Downtown."

The following table outlines the deviations from the requirements of the C-2-C and DD Overlay Districts:

Table 1

	Allowed/Required	Provided	Variance/Special Exception
Lot Occupancy	80%	85%.	5%
Rear Yard	15 feet	0	15 feet
Open Court	4" per ft of height or 108.7'x 36.67'	4" per ft of height or 108.7'x 15'	2.36" per foot of height or 21.67"
Setback (DD District)	40 feet	4-feet intrusion into setback area	4 feet

ANALYSIS

The subject property is a split zoned, "L" shaped lot with the base potion, the widest portion of the site (185-feet wide) fronting on M Street. The long and narrower portion of the site (76.25-feet) extends south parallel to 9th and 10th Streets. On the western portion of the site is an existing easement that occupies 20-feet of the 21-feet wide Lot 876. The applicant is not allowed to build over this easement area.

The DD Overlay district has design standards that must be met such as the requirement that buildings along M Street have a maximum height of 60-feet for a depth of 40-feet from the lot line. The remainder of the lot can have a height of up to 110-feet. Further, Section 1701.3 requires that not less than 75% of the streetwall to a height of not less than 15-feet should be constructed to or is within 4 feet of the property line between the lot and the abutting street. Therefore no less than 138.75-feet of the proposed building must be constructed to or within 4-feet of the property line along M Street.

SPECIAL EXCEPTION

The subject property is split zoned and the applicant is requesting that the DD/C-2-C district be extended to the portion of the site in the DD/C-2-A district (Lots 865 and 866). Section 2514.2 of the Zoning Regulations allows for the least restrictive portion of a lot to be extended into a more restrictive portion for up to 35 feet in split-zoned lots. The lots combine for a total of 40-feet so the applicant has also requested a variance to extend the line an additional 5-feet. The additional 5-foot extension will allow the building to be designed under one set of zoning regulations and not allow a 5-foot recessed area on the east side of the building. Additionally, if this small 5-foot area was not included then the operations, structural configuration, and functioning of the building could be negatively affected.

The application meets the requirements of Section 2514.2 as follows:

2514.2 ***If approved by the Board of Zoning Adjustment as a special exception under § 3104, the regulations applicable to that portion of a lot located in a lesser restrictive use zone district that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone district; provided:***

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

The requested extension will be from the lesser restrictive DD/C-2-C district to the more restrictive properties in the DD/C-2-A district. However, the applicant is requesting a variance to allow an extension be of 40-feet instead of the allowed 35-feet.

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

Section 2514.1(d) is not applicable because the subject property is not within any of the identified residential districts.

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

(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.

The extension of the zoning district line will not affect adjacent lots as the proposed design and appearance will be compatible with buildings in the area and is consistent with the appearance within the Shaw Historic District. The extension will not affect the development of adjacent properties in the DD/C-2-A district and additional screening is not required. The applicant has provided a shadow study that demonstrates that the additional shadow that would result because of the variances would be minimal.

VARIANCES

5-Foot Extension

As stated in the special exception request analysis above, the subject property is split zoned and the applicant is requesting that the DD/C-2-C district be extended to the portion of the site in the DD/C-2-A district. Section 2514.2 of the Zoning Regulations allows for the least restrictive portion of a lot to be extended into a more restrictive portion for up to 35 feet in split-zoned lots. The lots combine for a total of 40-feet so the applicant is requesting a variance to extend the line an additional 5-feet. The additional 5-foot extension will allow the building to be designed under one set of zoning regulations and not allow a 5-foot recessed area on the east side of the building. Additionally, if this small 5-foot area was not included then the operations, structural configuration, and functioning of the building could be negatively affected.

The following demonstrates how these variance requirements are met:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The subject property is unique because of its "L" shape and the requirement that a portion of the site accommodates a 20-foot easement that the applicant is unable to build over. Additionally, an exceptional situation is that the property is split zoned.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

Section 2514.2 allows for the extension of the least restrictive portion of the lot to be extended into the more restrictive portion for up to 35 feet. As demonstrated the property meets the requirements of the special exception to extend the C-2-C portion onto the C-2-A portion of the property. However, there is still 5-feet left over that the applicant is requesting to include in the C-2-C district. If the additional 5-feet were not included then the there would be practical difficulties relating to the operations, structural configuration, and functioning of the building.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Granting the 5-foot extension will allow the building to be operated more efficiently as the operational and structural systems will be consistent throughout the building. Because the height requirements for the DD/C-2-C district are different from the requirements of the DD/C-2-A it would cause the design of the building to be different with a small 5-foot portion of the building lower than the remainder of the building. Granting the variance will provide a better designed building and will not impair the intent of the Zoning Regulations.

Rear Yard

The applicant is requesting a variance from the required 15-feet rear yard setback as required in Section 774.1.

The following demonstrates how these variance requirements are met:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The subject property is unique because of its "L" shape and the requirement that a portion of the site accommodates a 20-foot easement that the applicant is unable to build over. In addition, most of the development is concentrated away from M Street to the rear of the property. Theses factors combine to affect the overall buildable area on the property.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

Because of the shape of the property and the limitations on the easement area the mass of the building is pushed onto the south side of the building. Providing the additional setback would limit the overall development and make operation of the building due the location of the elevator core and corridor loading less efficient.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Not providing a rear yard will not be detrimental to the public good or impair the intent of the Zoning Regulations and Map. The rear yard setback is intended to provide sufficient light and air to the proposed and adjacent buildings. Adequate light and air to the buildings will be provided as the site abuts two 30-foot alleys and will provide an open court area. As demonstrated, by the applicant in a Shadow Study, the building will not cast shadows on other buildings as a result of the elimination of the rear yard.

Lot Occupancy

Section 772.1 of the Zoning Regulations allows maximum lot occupancy of 80% for developments in the C-2-C District. The applicant is requesting an additional 5% of lot occupancy for a total of 85% lot occupancy.

The following demonstrates how these variance requirements are met:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The subject property is unique because of it shape and the requirement that a portion of the site accommodates an easement that the applicant is unable to build over. In addition, most of the development is concentrated away from M Street to the rear of the property. Theses factors combine to affect the overall buildable area on the property.

> **By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.**

The lot occupancy variance is tied to and results from the rear yard variance. The above stated uniqueness of the property presents practical difficulty to development. The applicant has requested the elimination of the of the rear yard requirement and in effect this has led to an increase in the lot occupancy.

> **The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.**

The lot occupancy requirement is aimed at preventing overcrowding and density of providing light and air to buildings. However, the unique location of the lot adjacent to two wide alleys, and the 20-foot easement precludes circulation and the overlay call for residential use.

Court

Section 776.3 requires that when a court is provided at any elevation it should measure 4 inches per foot of height. A court of 108.76' x 36.67' is required but the court provided is 108.76' x 15'. The reduction in the court width is required because it affects the building design, location of corridor, rear facing units, smaller roof area, and difficulty in the location of mechanical equipment on the roof.

The following demonstrates how the requested variances meet these standards of Section 3103.3:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

As outlined before, the subject property is unique due to its shape and the need to an unbuildable easement area.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

Due to the shape of the property and the requirement under the DD Overlay district that limits the proposed building to a maximum height of 60-feet for a depth of 40-feet from the lot line along M Street. The provision of the court from floors 6-11 would create a staggered tier structure along the rear of the building that would affect the location and functioning of mechanical, electrical, plumbing and structural equipment. The 40-foot setback requires shifting the corridor at the 7th floor which results n an inefficient single loaded corridor that would be further reduced if the court area was provided. The court would further reduce the size of the roof area that would also affect additional egress from the roof due to the rooftop residential space. The applicant has provided an illustration showing how this court requirement cuts through the floor plates and results in exceptional practical difficulty.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Granting the variances from the court requirement on the upper floors would not impair the intent, purpose, and integrity of the Zoning Regulations. Not having the court will allow for a more efficient and practical building and will meet all Building Code requirements. Additionally, since the court is to provide light and air to the units and the variance only affects the upper floors the purpose of the requirement will be provided.

Setback requirement of the DD Overlay District

Section 1760.5 requires buildings along M Street be set back a minimum of 40 feet from the lot line and a height of 60 maximum. The applicant is proposing projections to extend 4-ft. into the 40-ft setback area. These projections are articulations (bay windows) designed to break up the façade and make it the building more interesting.

The following demonstrates how the requested variance meets the standards of Section 3103.3:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

As outlined before, the subject property is unique due to its shape and the need to an unbuildable easement area.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

The shape of the property along with the long frontage along M Street coupled with other design constraints presents a challenge to the applicant to design a building. Additionally, the project is within a historic district and is required to be consistent with the architectural style of the area as required by HPRB. This is an exceptional practical difficulty for the applicant because if they were not provided the project could lose support from HPRB.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The granting of the extension of the bay windows into the setback area along M Street will not be detrimental to the Zoning Regulations and map. The projections are compatible to the character of the historic district and are typical components of buildings throughout the City. Additionally, if the building were to be located along the property line, projections would be possible into the public space.

SPECIAL EXCEPTION

Roof Structure Setback

The applicant is requesting special exception relief from the roof structure requirements. The applicant is requesting relief from Section 411.2 that requires roof structures to be setback from the building wall a distance at least equal to the height of the structure above the roof. The applicant is proposing two enclosures; one for stair/mechanical equipment and the second to enclose stair, penthouse, and mechanical equipment. Both enclosures meet the maximum height of 18-feet 6-inches. The enclosure for the stair and mechanical equipment do not meet the setback requirement on one side. This is due to the narrowness of the roof (45-feet). If the required setback were to be provided then the enclosure would be smaller and not accommodate the equipment and stair. If the requirements were to be met than it would require shifting the stairs that would not align with the internal configuration of the building. Additionally, the applicant states that shifting the stair tower would not meet the Building Code requirement that the stair tower be located at the extreme end of a corridor.

Multiple enclosures

Section 411.3 requires that all penthouses and mechanical equipment be in one enclosure. The applicant is proposing two enclosures. The applicant is proposing residential recreational space on the roof which requires that separate stairwell leading to the bottom floor of the building be located on the roof and that the stairs be located near the end of a corridor. The second penthouse is necessary for elevator overrides and mechanical equipment and the applicant has proposed two enclosures. The two enclosures will meet the Building Code requirements and will break-up the massing on the roof.

Under Section 411.11, the Board my grant relief from the strict requirements of Section 411 if the deviations does not impair the structure and light and air of adjacent building adversely. The location of the roof structures will minimize visibility of the structures and reduce the overall massing on the roof. Therefore, the intent and purpose of the Zoning Regulations will not be adversely affected.

COMMUNITY COMMENTS

On April 7, 2004, ANC-2F voted to support the requested special exceptions and variances.

SUMMARY AND RECOMMENDATION

The Office of Planning supports the variances and special exceptions to allow the construction of the residential building. The property is limited by a variety of factors the most significant being the shape of the property and an easement on the property over which the applicant cannot build. However, it has been demonstrated that these requests will be consistent with the intent and purpose of the Zoning Regulations and will not be detrimental to the community. The Office of Planning therefore recommends approval of the requested variances and special exceptions.

ATTACHMENT

1. Site and Surrounding Area

AA/mbr



Zoning and Land Use
BZA 17167
910 M Street, N.W.

N

Feet

0 100 200

★ ★ ★ **Government of the District of Columbia**
Anthony A. Williams, Mayor

Office of Planning ~ May 24, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

Land Use Legend

- Single-Family Detached
- Single-Family Semi-Detached
- Store
- Office
- Bank
- Motor Vehicle Sales and Service
- Light Industrial
- Warehouse
- Educational
- Public Service
- Vacant
- Vacant w/Commercial Improvements



Note: Land Use Info based on OTR records.

Attachment 1