GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

# Memorandum

**TO:** Board of Zoning Adjustment

**FROM:** Andrew Altman, Director
Office of Planning

**DATE:** June 29, 2004

**SUBJECT:** BZA Application #17175 (Jemal's Wheel, LLC on behalf of FCD-Development LLC)
1701 Kalorama Road, N.W. (Square 2566, Lot 90)

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## APPLICATION

The application by FCD-Development LLC (Applicant) requests pursuant to 11 DCMR, a number of variances and special exceptions, to permit the development of an apartment house in the RC/C-2-B District. The applicant is requested the following relief from the Board:

1. A special exception from the roof structure requirements (§411);
2. A special exception to increase the proposed building's height to fifty feet pursuant to §1402.1;
3. A variance from the lot occupancy requirements (§772.1);
4. A variance from the residential recreational space requirements (§773.7);
5. A variance from the side yard requirements (§775.5 and 2001.3); and
6. A variance from the parking aisle width requirements (§2117.5)

## SUMMARY RECOMMENDATION

The Office of Planning supports the advancement of residential use in the Reed-Cooke area and on this site and recommends approval of the above stated special exceptions and variances.

## SITE AND AREA DESCRIPTION

The subject property, 1701 Kalorama Road, N.W. (Square 2566, Lot 90), is in the northwest quadrant of the intersection of Kalorama Road and 17th Street, N.W. The subject 22,428 square feet lot is developed with a 3-story, warehouse building, which is currently used for valet parking and storage purposes. (Attachment 1).

The subject site is surrounded by a variety of residential, commercial, retail, office, and other service uses. To the north of the site along Euclid Street, Ontario Road, and 17th Street are a mixture of apartment buildings and row houses. To the east, across 17th Street is a vacant building that formerly housed a roller rink. On the south side of Kaloroma Road are row houses. To the south, is a 2-story



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office building with row houses. To the west of the site is a one-story building those houses the United Way and the DC Superior Court Northeast Field Office.

**PROPOSAL**

The applicant proposes to convert an existing three-story warehouse building into to a four-story apartment house. There will be 48 residential units in the converted building. The first, or ground floor of the building will provide 3 surface parking spaces in the rear and 38 parking spaces in the garage. There will also be 6 residential units on the first floor. The second and third floors will contain 14 residential units on each floor. A new 4th floor will be added to the building, and will provide another 14 residential units. When the subject building is converted to residential use, will still be below the permitted FAR.

**ZONING REQUIREMENTS**

The subject site has a base zoning of C-2-B and is within the Reed-Cooke Overlay District (RC). The C-2-B is designed to serve commercial and residential functions with high-density residential and mixed uses. Generally, the purpose of the RC District is designed to protect existing housing, provide for new development, and encourage small-scale business development that does not affect the residential uses.

The Reed Cook Overlay District, adopted May 29, 1987 and amended April 26, 1991 (Zoning Commission Orders 523 and 523A), was to implement the objectives of the Reed-Cook Special Treatment Area of the Comprehensive Plan. At that time, the area was predominantly zoned R-5-B and C-M-2. There were many residential properties that were in the C-M-2 zones and many residences were being converted to commercial uses. Residents of the area felt that the residential character of their community was being lost by the commercial conversions. The overlay was adopted to protect these residences and introduce additional residences with community serving retail uses.

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

| | Existing | Allowed/ Required | Provided | Variance/Special Exception |
|---|---|---|---|---|
| | | | | |
| | | | | |
| **Lot Occupancy** | 96.5% | 80% | 96.5% | 16.5% |
| **Recreation Space Setback** | None | No dimension of less than 25 ft. | Sides of varying lengths less then 25 ft. | 25 ft. width dimension |
| **Parking Drive Aisle Width** | Various width | 20 ft. | Existing Column Locations:<br>A - 18'-4"<br>B - 19'-1"<br>C - 18'-8"<br>D - 19'-8" | Existing Column Locations:<br>A - 1'-8"<br>B – 0'-11"<br>C - 1-4"<br>D - 0'-4" |

| | | | | |
|---|---|---|---|---|
| **Roof Structure: Single enclosure; Walls of Equal Height; and Setback** | None | Walls of Equal Height, 1:1 Setback, single enclosure | | 2 enclosures, varying setback, unequal heights. |
| **Side Yard** | 4'-8" on northern side | 2" per 1- foot of height or a minimum of 6 ft. | 4'-8" on northern side | 3'-5" |
| **Height** | 40 feet | 40 ft. max. In the RC District and 50 ft. if SE) | 50 ft. | 10 ft. (SE) |

The proposed development will have a height of 50-feet. The underlying C-2-B District allows a height of 65-feet but the Overlay limits buildings in the C-2-B District to 40-feet, with the option of 50 feet if approved by the board.

## ANALYSIS

### SPECIAL EXCEPTION

Roof Top Structure

The applicant has requested two roof structures not enclosed by a single wall. One enclosure will be 15-feet high and will screen mechanical equipment that is outside of the penthouse and meets the setback requirements. The second roof structure will vary between 10 and 15 feet in height. The setback for these walls is greater than 15-feet and therefore meets the setback requirements of § 400. The separation is unavoidable as the penthouse is in the middle of the building and if moved the setback requirements would not be met.

Granting the special exception to allow 2 structures will not impair the intent of the roof structure requirements. Due to the limitation of having a small lot, and having to locate mechanical equipment and the elevator penthouse on the roof structures the required setback requirements cannot be met. The structures will not affect the light and air of adjacent buildings as the adjacent building to the north is taller than the subject building will be, even with the proposed additions. Additionally, the highest enclosure is located in the center of the building and therefore will not block the light and air of adjacent buildings and streets.

**Option 1 - Build two Sets of Roof Structures**

Section 411.5 of the Zoning Regulations requires the enclosing walls of a penthouse to be of equal height. The applicant has requested to have 2 sets of enclosed walls for the proposed roof structures. One enclosure will be 10 and 15 feet high. The 10-foot level would screen mechanical equipment that is outside of the penthouse. These walls will meet the setback requirements. The second roof structure will be 15-feet in height and will be located on the north wall of the roof, and will not be setback a distance equal to its height above the roof. The second roof structure would provide residents access to the roof, as required by Building Code, which provides that when residential recreational space is

located on the roof of a building, a separate stairwell that leads to the bottom floor of the building must also be located on the roof. The setback for these walls is greater than 15 feet and therefore meets the setback requirements.

Section 411.11 of the Zoning Regulations allows for deviations from the requirements of Section 411.5. Granting the special exception to allow the two enclosures to lessen the bulk of the roof structures will not impair the intent of the roof structure requirements. The enclosures will not affect the light and air of adjacent buildings as the height of the building and the fact that the enclosures will only be seen from other highpoints. Additionally, the highest enclosure is located in the center of the building and therefore will not block the light and air of adjacent buildings and streets.

**Option 2 - Eliminate Roof Structures in Combination with Recreation Space Variance**
Some members of the community have expressed concern regarding the height of the proposed roof structures and have requested that they be lowered. The applicant has responded by providing an option in which the residential recreational space would be eliminated and no access provided to the roof and the second egress would not be needed. If the two roof structures were not constructed, the only remaining items on the roof would be a roof hatch for maintenance, a vent hood for elevator ventilation, and mechanical condensing units for the apartment units. Each of these structures would measure less than 4 feet in height and would meet the set back requirements.

OP does not support the elimination of the residential recreational space and the applicant has demonstrated that this requirement can be met. The proposal to have two enclosures and a reduction in their heights minimizes the effect of the roof structures. Once the subject building has been converted to residential use, there should be residential recreation space provided that is safe, secure, and suitably equipped or landscaped for active or passive recreation use of the residents, consistent with the requirements in §773.3 of the Zoning Regulations.

Exception to the Height Requirement in the Reed-Cooke Overlay District

Section 1402.1 of the Zoning Regulations permits a maximum height in the Reed-Cooke Overlay District of 40-feet and allows a height of 50 feet, by special exception, subject to appropriate setbacks and the provisions of on-site low and moderate income households units, equal to fifty percent (50%) of the additional gross floor area made possible by this exception. The addition of a new 4$^{th}$ floor to the existing building will increase the height from 40 to 50 feet, and yield 14 additional dwelling units to the building.

The applicant proposes to convert the subject building into 48 residential units, by adding a new forth floor to the existing three-story warehouse structure. The new floor will be 16,589 square feet of gross area space. Fifty percent or 8,295 square feet will be used to create seven affordable units.

The applicant has agreed to provide the seven affordable units, however, there are differences between the applicant and the Office of Planning as to the appropriate location of the affordable units. Initially, the applicant proposed to locate all of the affordable units on the first/ground floor of the building. At a meeting with the applicant, OP expressed its position that the seven affordable units should not be clustered together, but should be distributed throughout the building. The applicant proposed to relocate two of the affordable units to the second floor and keep five on the ground floor. When the applicant presented the project to ANC 1C, the ANC conditioned its approval on the applicant redistributing the

affordable units to place four units on the ground floor and three elsewhere in the building. OP supports the position of the ANC.

Section 1403 of the Zoning Regulations requires that any exceptions to the requirements of the Reed-Cooke Overlay District meet the following conditions:

**(a) The use, building, or features at the size, intensity, and location proposed will substantially advance the stated purposes of the RC Overlay District;**

A purpose of the overlay is to maintain heights and densities at appropriate levels. The 40-foot height limit with the opportunity to be increased to 50-feet with approval of the BZA, specifically addresses this purpose. The request to increase the height 10-feet above the 40-foot limit would be within the height limits of the Reed-Cooke Overlay, and would not negatively impact on the neighborhood and result in the creation of seven affordable housing units, which is consistent with the RC Overlay.

**(b) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition;**

The main vehicular access to the building will utilize the existing curb cut off Kalorama Road into a 38-space parking garage. There will also be 3 surface parking spaces in the rear of the building, accessed from the existing public alleys.

**(c) Adequate off-street parking shall be provided for employees and for trucks and other service vehicles;**

The proposal is for residential use and therefore no employee parking is required. The applicant is providing adequate parking (41 spaces) to serve the residents of the building.

**(d) If located within a C-2-B District, the use shall not be within twenty- five feet (25ft.) of a Residence District, unless separated there from by a street or alley;**

The subject property is zoned C-2-B. However, the proposed development is for residential use and is similar and compatible with the surrounding residential developments and adjacent office uses.

**(e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences;**

The proposed residential use will not introduce any excessive noise into the area.

**(f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted; and**

The proposed residential use will not allow any outdoor storage, processing, repairs and fabrication on the site.

**(g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.**

The conversion of the subject building to residential includes construction of an additional floor, which will increase the building's height to 50 feet. The applicant proposes to provide two roof enclosures; one will be near the center of the roof and will meet the setback requirements. The second enclosure will be at the northern-edge of the roof and will not be setback a distance equal to its height above the roof. Further, the proposed height is comparable with a number of other buildings in the vicinity and, the increase in height is minimized by a change in topography. If this building is permitted at 50 feet, then it will be consistent with adjacent buildings the adjacent to the existing building to the east and north, but taller than some of the two-story row houses to the south and west.

VARIANCES

Lot Occupancy Variance

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 was originally developed as an industrial/commercial building prior to the adoption of the 1958 Zoning Regulations. The zoning of the property was changed to C-2-B in approximately 1989 and it became a nonconforming structure that does not meet the lot occupancy requirements.

Section 403.2 of the Zoning Regulations allows maximum lot occupancy of 80% for developments in the C-2-B District. The applicant's development plan for the subject property is constrained because there is a three-story vacant warehouse on the property. The existing structure already exceeds the lot occupancy requirements by occupying 96.5% of the subject lot. The lot occupancy is an existing condition, and the new 4th floor will not further increase the lot occupancy of 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.**

In order to meet the lot occupancy requirements, the existing building or portions of the existing building would have to be demolished. To demolish and reconstruct portions of the existing building would be an exceptional practical difficulty and the applicant has chosen to retain the entire building and therefore it is impossible to meet the lot occupancy requirement. The addition does not extend the non-conformity of the structure with respect to 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.**

Retaining the existing lot occupancy of the building will not be detrimental to the public good, as it has existed in this manner since it was constructed in 1934. The lot occupancy requirement is aimed at providing light and air to all buildings and the proposed additional 4th floor will not hinder light and air from adjacent buildings.

Residential Recreational Space Dimension

Section 773.7 of the Zoning Regulations requires that, if the roof area is used for recreational space then no portion of the area shall have a dimension less than 25-feet. The footprint of the subject building is 21,652 square feet. The applicant is proposing to provide the required 15% or 9,455 square feet of recreational space on the roof. The applicant is requesting a reduction in the 25-feet dimension in a number of places, because the shape of the existing building contours to the lot.
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 building was constructed prior to the 1958 Zoning Regulations. The subject roof is uniquely shaped having many angles that otherwise would not exist on a typical building. Because of the many angles of the roof, the applicant cannot provide the required recreational space without having dimensions of less than 25 feet in some areas.

**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 strict application of the Zoning Regulations would result in a practical difficulty upon the owner of the property. The surface of area of the roof is only 18, 018 square feet, which leaves little space to provide the required 9,455 square feet of recreation area without having dimensions of less than 25 feet. The applicant proposes to provide 9,455 square feet of residential recreational on the roof of the converted 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.**

The variance can be granted without substantial detriment to the public good or the Zoning Regulations since the converted building will ultimately provide the required residential recreation space on the roof.

Side Yard

The applicant requests a variance from the side yard requirements of Section 775.5 which provides that although side yards are not required in the C-2-B District, if they are provided, the side yard must be at least three inches (2 in.) wide for each foot of building's height, but no less than six feet (6 ft.). The subject building does have an existing side yard but it is only 4.8 feet in width. This is due to the existing building footprint and the presence of a 15-foot public alley just east of the side yard. If the applicant were to provide the required side yard, it would necessitate the demolition of a portion of the existing building. The existing side yard will serve as a small buffer between the subject build and the adjacent building across the alley. Demolition of a portion of the building would result in an exceptional practical difficulty to the owner.

The height of the subject building is forty feet (40 ft.). The proposed addition of a new 4th floor at the top of the building will increase the height of the building to fifty feet (50 ft.). Accordingly, the minimum side yard required when the proposed 4th floor is added will be 8.3 feet, which will create a variance of 3 feet – 5 inches.

Parking Drive Aisle

Section 2117.5 of the Zoning Regulations requires that parking aisles have a clear width of 20-feet. The applicant is requesting a variance to reduce the drive isle width to approximately 18-3/4 feet for a length of approximately 65-feet to serve 38 parking spaces. This reduction in aisle width is due to the location of three existing structural support columns.

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;**

The subject property is unique due to an exceptional situation because the building was constructed prior to 1958 as an industrial building with limitations on it ability to meet the zoning requirements for the recreational area dimension and the drive isle width for residential use without demolition. The drive aisle is an existing situation and is between two supports columns that cannot be moved to widen the entry.

> **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.**

Providing all the requirements of the C-2-B District in addition to the infrastructure requirements of the Building Code has created conflicts in trying to reconfigure the building to meet the twenty-foot width. It would be extremely difficult to move the existing columns. Therefore the regulations create practical difficulty for the owner.

**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 parking drive aisle width would not impair the intent, purpose, and integrity of the Zoning Regulations. The applicant has met the necessary parking and the reduction in dimension will not limit the use of the space. Regarding the drive isle width, the variance will not impair the intent of the Zoning Regulations as the reduction will only affect a few of the total number of spaces and it is not envisioned that all vehicles will be exiting at the same time. Therefore there will not be a detriment to the public good.

## COMMUNITY COMMENTS

On June 2, 2004, ANC-1C voted to support the application with two amendments to address specific concerns with the proposed project:

1. The Commission voted to make its support contingent upon the developer working with the ANC to develop a construction staging, parking, and transportation plan that minimizes the impact of their work on the community, and that the developer support the inclusion of this requirement in the BZA Order; and
2. The Commission approved an amendment making its support contingent upon the applicant redistributing the affordable housing units by placing four units on the ground floor and the remaining three units elsewhere in the building.

On June 8, 2004, the Reed-Cook Neighborhood Association voted to support the application, with two conditions:

1. The applicant should not cluster all of the affordable units on the first floor, but rather they should be disbursed throughout the building; and
2. The height of the building should be capped at fifty feet (50 ft.), including the roof structure.

## SUMMARY AND RECOMMENDATION

The Office of Planning supports the variance requests for lot occupancy, recreational space dimension, side yard requirements and parking drive isle width and the special exceptions to allow roof structures of unequal height, roof structure setback, and to increase the building's height to fifty feet. OP believes that the application can be approved without being detrimental to the public good and the project will be in harmony with the general purpose and intent of the Zoning Regulations as specified in the Reed-Cooke Overlay, and therefore the request should be granted.

OP is concerned about creating a stigma to the affordable units by clustering them together and supports the position of both the ANC and Reed-Cooke to distribute at least three of the units elsewhere in the building than on the ground floor.

## ATTACHMENT

1. Aerial of Site and Surrounding Area







BZA Application - 17175
Special Exceptions & Variances Apartment House
1701 Kalorama Rd., N.W.

