GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: JLS for Andrew Altman, Director

DATE: October 19, 2004

SUBJECT: BZA Case #17224, Variance Request

I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning recommends approval of this application, with the condition that grocery store loading be limited to the AM period to minimize Pennsylvania Avenue traffic disruptions.

II. APPLICATION-IN-BRIEF

Location	Potomac Avenue SE and Pennsylvania Avenue SE Square 1045, Lots 132-137 & 834, 835, 838, 829; Ward 6B
Applicant:	Holland & Knight LLP for JPI Apartment Development LP & Father Flanagan's Boys Home Et Al
Zoning:	C-2-B Within the Capitol Hill Business Improvement District; the Potomac Avenue Metro Station Development Area; and the Pennsylvania Avenue SE Housing Opportunity Area
Proposal:	Construction of a new mixed residential / commercial project.
Relief Sought:	Variances from §772 lot occupancy and §773 residential recreation space requirements, pursuant to §3103.

III. EXECUTIVE SUMMARY

The applicant is proposing to replace most of the existing development on this site with a new 5 story building containing mostly commercial on the ground floor (including a new grocery supermarket) and over 250 residences above. A variance to lot occupancy and a variance to residential recreation space requirements are requested. OP feels that the proposal furthers planning initiatives for this location by providing an influx of new residential units as well as highly desirable retail space. The applicant has adequately met the variance tests, and requiring full conformity would not appear to provide any significant benefit to new residents or the surrounding neighborhood. As such, OP recommends approval, with minor conditions outlined at the end of this report.

IV. AREA AND SITE DESCRIPTION – Refer to Location Plan Attachment I, Site Plan Attachment II, and Context Photos Attachment III

The property is within the triangularly shaped Square 1045, bound by 13th Avenue SE to the west; Pennsylvania Avenue SE to the north; and Potomac Avenue SE to the south. Much of the square is

Board of Zoning Adjustment
District of Columbia
CASE NO. 17224
EXHIBIT NO. 27

BZA
Case No. 17224
Exhibit No. 27

developed with rowhouse dwellings, many of which contain commercial businesses. There are a number of 4 – 6 story apartment buildings in the vicinity. The square is adjacent to but not within the Capitol Hill Historic District, and within the Potomac Avenue Metro Development Area and the Capitol Hill Business Improvement District (BID). There is an elementary school directly across Potomac Avenue SE from the site.

The 95,000 square feet (2.2 acre) subject site is located at the intersection of Pennsylvania and Potomac Avenues. It is mainly currently undeveloped with buildings, although there are some rowhouses along Pennsylvania and new rowhouses along Potomac Avenue SE. Most of the existing development, other than two rowhouses currently occupied by commercial uses on Pennsylvania Avenue, would be demolished. The site is relatively flat, and roughly triangular in shape.

V. PROJECT DESCRIPTION

The owners propose to construct a new 5 story apartment building with 2 levels of underground parking; predominantly retail uses on the ground floor, including a new grocery store, parking, and loading facilities; and 256 residential units above. The residential units would face either the streets or an internal courtyard, located on top of ground floor retail and parking space. The highest point of the building at the corner of Pennsylvania and Potomac Avenues would have a height of 65 feet. Adjacent to existing rowhouses on Pennsylvania Avenue, the proposed building steps down to approximately 55 feet in height.

VI. AREA PLANNING

The site is within the Potomac Avenue Metro Station Development Area, and supports the Comprehensive Plan policy for the provision of "*mixed use development of designated Metrorail station areas outside the Central Employment Area at appropriate levels of intensity and use to make full use of the public transportation opportunities that the stations provide and to increase Metrorail ridership*" (Comp Plan §1136.1(a)). The site is also within the Pennsylvania Avenue SE Housing Opportunity Area and the Capitol Hill Business Improvement District, so a mixed retail / residential development as proposed is consistent with planning objectives for the general area. The site is adjacent to, but not within the Capitol Hill Historic District. The development is generally consistent with the Comprehensive Plan Generalized Land Use Map designation for the site as **moderate density residential** (row houses and garden apartments as predominant uses) with **moderate density commercial** (drug stores, grocery stores, personal service and specialty shops) along Pennsylvania Avenue SE.

VII. AREA ZONING – C-2-B

The property and the remainder of the square are zoned C-2-B, which permits a moderate density mixed commercial / residential development to a height of 65 feet. The proposed uses and density of development are consistent with this zoning.

VIII. REQUESTED VARIANCE RELIEF (refer to Project Profile, Attachment IV)

The applicant has requested the following variance relief pursuant to §3103:

	Zoning Regulation:	Proposed:
1.	**Lot Occupancy: (§772)** – 80% max.	**96% at ground level**; 72% for upper floors

The zone permits a maximum lot occupancy of 80% for a building or portion of a building devoted to a residential use. There is no lot occupancy requirement for a commercial building, so lot occupancy of 100% would be possible. In this case, development is proposed to be predominantly commercial on the ground floor (other than residential entry lobby and some recreation space), with residential above. However, the applicant is proposing as part of this redevelopment to retain two existing rowhouses along Pennsylvania Avenue, located directly adjacent to other off-site rowhouses, which could include residential on the ground floor.

The Zoning Regulations definition for "lot occupancy" states that "*...in the Waterfront and Mixed Use Districts* (which OP understands has been interpreted to include the commercial zones) ... *the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin*" (§199.1). As noted, the upper floors are proposed to be entirely devoted to residential uses and provide a lot occupancy of 72%, less than the maximum permitted. The ground floor is almost entirely commercial, but also includes two existing rowhouses on Pennsylvania Avenue at the north end of the site. Like most or all of the rowhouses on this section of the block, these buildings are currently used by commercial businesses, rather than as residential units, but they were originally designed as residential and could be utilized for that purpose again. Technically, then, as the development includes some potential residential on the ground floor, and the ground floor has a lot occupancy of 96%, greater than the maximum permitted, a variance is required. OP is of the opinion that, were the existing rowhouses to be utilized for commercial purposes on their ground floors (which is permitted under the C-2-B zoning), the lot occupancy variance would not be required as the ground floor would not include any residential living space, and the project as a whole would meet the definition for percentage of lot occupancy.

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

Yes. The property is irregularly shaped, with extensive frontage on two relatively major streets for which significant retail frontage directly on the street is desired. There is relatively limited "rear" area on this site. The applicant also notes that the proposed land use – a major grocery store – provides an additional exceptional condition in its need for loading areas and some ground level parking. Finally, the retention of the two rowhouses, which will help the development fit in with the existing streetscape, presents an additional unique circumstance, in that they disproportionately impact zoning requirements in terms of lot occupancy by decreasing lot occupancy from 100% to 80% maximum.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?

Yes. The irregular shape and extensive frontage on two relatively major streets creates a practical difficulty in that they collectively limit design and desired use options. To meet lot occupancy requirements, either the size of the ground floor would have to be significantly reduced, potentially eliminating the grocery store desired by the neighborhood, or the small amount of potential residential space on the ground floor would have to be eliminated. Significant retail frontage directly on the street is preferred, so on-site parking (which would be open, undeveloped space not counting in lot occupancy) adjacent to the street has been discouraged by OP and the neighborhood.

The retention of the two rowhouses disproportionately impacts zoning requirements in terms of lot occupancy, in that this mandates that the proposal conform to the 80% lot occupancy requirement on this level, creating additional practical difficulty.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Yes. The proposal furthers overall goals and objectives for this area, and conforms to zoning regulations in terms of use and building bulk. The residential component conforms to the lot occupancy requirement (even though it is above grade), while the overwhelmingly commercial ground floor conforms to the intent of zoning regulations, which permit 100% lot occupancy in this zone, in part to encourage a consistent streetscape and continuous retail and residential street-walls. The technical requirement for the lot occupancy variance is the result of addressing streetscape and neighborhood planning initiative issues, to a greater degree than a strict adherence to zoning regulations might do. Retention of the two rowhouses will help the new development fit in with the streetscape and minimize potential direct impacts of the new development on existing rowhouse owners and occupants.

	Zoning Regulation:	Proposed:
2.	**Residential Rec. Space** (§773) – 15% min. of residential area = 40,131 sq.ft.	**8.4%** (22,550 sq.ft. of which 17,815 sq.ft. is outdoor space)

The zone requires that an area equivalent to 15% of total residential area be devoted to residential recreation space. Of this, at least 50% is required to be outdoor space. The applicant is proposing just over half of this required amount, including recreation space as part of an entry lobby on the ground floor, which, if properly designed and programmed, would enliven the streetscape; some small enclosed areas and a portion of the courtyard area on the 1A and second levels (on top of the grocery store and parking); and three small terraces on the 4th floor, accessible to all residents.

The Office of Planning is currently in the process of drafting, for Zoning Commission consideration, changes to the residential recreation regulations at the request of the BZA and the Zoning Commission. While desirable in some locations, residential recreation space requirements can be seen to potentially work contrary to broader planning and neighborhood revitalization efforts, such as economic revitalization of neighborhoods; safe and vibrant streets though greater pedestrian activity; and increased use of existing recreations opportunities such as community centers, parks, libraries, etc. Although the exact circumstances differ for each case, the BZA has received numerous recent requests for recreation space relief, and has heard frequent testimony as part of these applications that such recreation space can limit opportunities for better uses within buildings (residential, retail, parking), and that the new residents often do not highly value or frequently use recreation space. The space is underutilized, but costly to construct and maintain. Preliminary OP analysis of past recreations space variance requests indicates that the proposed development provides a greater percentage of residential recreation space than the average for developments requesting a similar variance (5.8% provided on average as opposed to 8.4% proposed in this case).

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

Yes. The property is irregularly shaped, being roughly triangular. The commercial ground floor provides only very limited opportunities for either open or enclosed recreation space as it is almost entirely devoted to desired retail and the accompanying the loading and parking space.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?

Yes. The irregular shape and extensive frontage create a practical difficulty in that they limit design and desired use options. This difficulty is compounded by the commercial ground floor use, as encouraged by broader planning initiatives and the local community. Ground level space that might otherwise be available for recreation space is devoted to the provision of active ground floor retail (and the accompanying parking and loading requirements) with desirable street frontages. Also in conformance with broader area planning objectives, such as the Potomac Avenue Metro Development Area, the applicant is maximizing the amount of residential at this location, and additional recreation space would not appear to be readily possible without eliminating residential units. The applicant is not providing access to the roof, and is instead providing a sloped roof that is in design character with the moderate density residential area. As such, rooftop recreation space is not being provided. Given the location and the desire for an active streetscape and the presence of existing recreation opportunities in the area, the desirability or usability of additional recreation space is questionable, and its provision would be unnecessarily burdensome with little if any community benefit.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

The majority of the proposed recreation space is easily accessible and of a configuration which would have some appeal to new residents. The amenity space / entry shown on the ground floor will provide an elegant and defined sense of entry to the residential portion of the building. There are many recreation space opportunities in the general area, and, as noted above, OP is in the process of drafting a proposal to amend, and likely lessen, the recreation space requirements.

IX. COMMUNITY COMMENTS

The applicant notes that the ANC unanimously voted to support this application at its meeting of September 14, 2004.

X. OTHER AGENCY COMMENTS (refer to Attachment V)

The District Department of Transportation (DDOT) noted that they met with the applicant. The applicant agreed to a series of design modifications related to parking and loading access, and DDOT accepts the locations and configurations now proposed. DDOT further notes that the applicant has agreed to a delivery restriction, to limit grocery store deliveries to the AM period only, which should be incorporated into the final order. DDOT also recommends further discussion regarding the provision of a safer and more convenient off-site connection between the development and the Metro Station. The Fire and Emergency Medical Services Department (FEMS) notes concern with the locations of fire hydrants and access to the site; issues which will be reviewed as part of the Building Permit process. The Department of Employment Services (DOES) notes that a First Source Employment Agreement to ensure that District residents receive 51% of the jobs created by this project has not been signed by the applicant; while such a requirement is standard of a PUD, it is not

germane to the requested variances. The District Water and Sewer Authority notes that existing storm water, water and sanitary sewer services will require evaluation to evaluate impact of the new development on the capacity of these systems – upgrades may be necessary. This engineering evaluation normally occurs at the Building Permit stage.

OP has not received comments on this application from any other District agency.

XI. OP SUMMARY RECOMMENDATION

The proposal represents the provision of much needed additional housing and significant retail – particularly a new grocery store – to this part of the Capitol Hill neighborhood. OP believes that the proposal conforms to broader planning initiatives to a greater degree than would a solution that fully conformed to zoning regulations. The applicant has sufficiently met the variance tests. As such, OP recommends approval of this application.

OP further recommends the following condition be included in the Order:

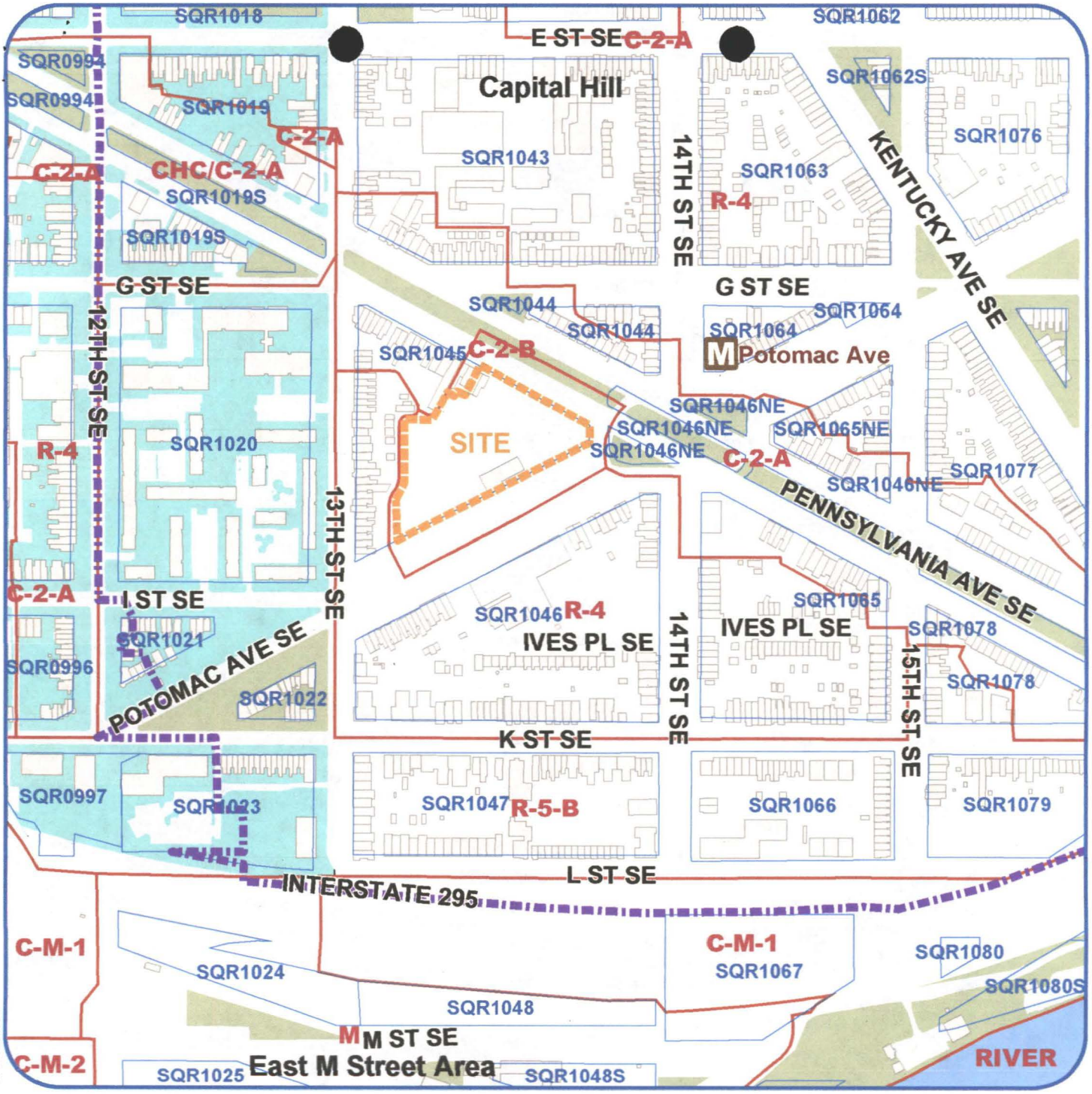
- In conformance with the DDOT recommendation, grocery store loading be limited to the AM period to minimize Pennsylvania Avenue traffic disruptions.

OP further encourages the applicant to continue discussion with DDOT on the provision of a safer and more easily negotiable connection between the site and the Potomac Avenue Metro Station.

AA/jl

ATTACHMENTS:

I. Context Plan
II. Site Plan
III. Context Photos
IV. Project Profile



Location Plan - BZA Case # 17224
Potomac Ave. & Pennsylvania Ave. SE

N

Feet

0 250 500

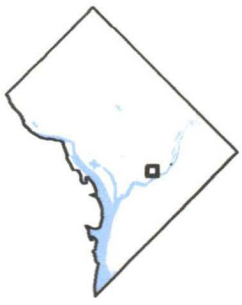
★ ★ ★ Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ October, 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.

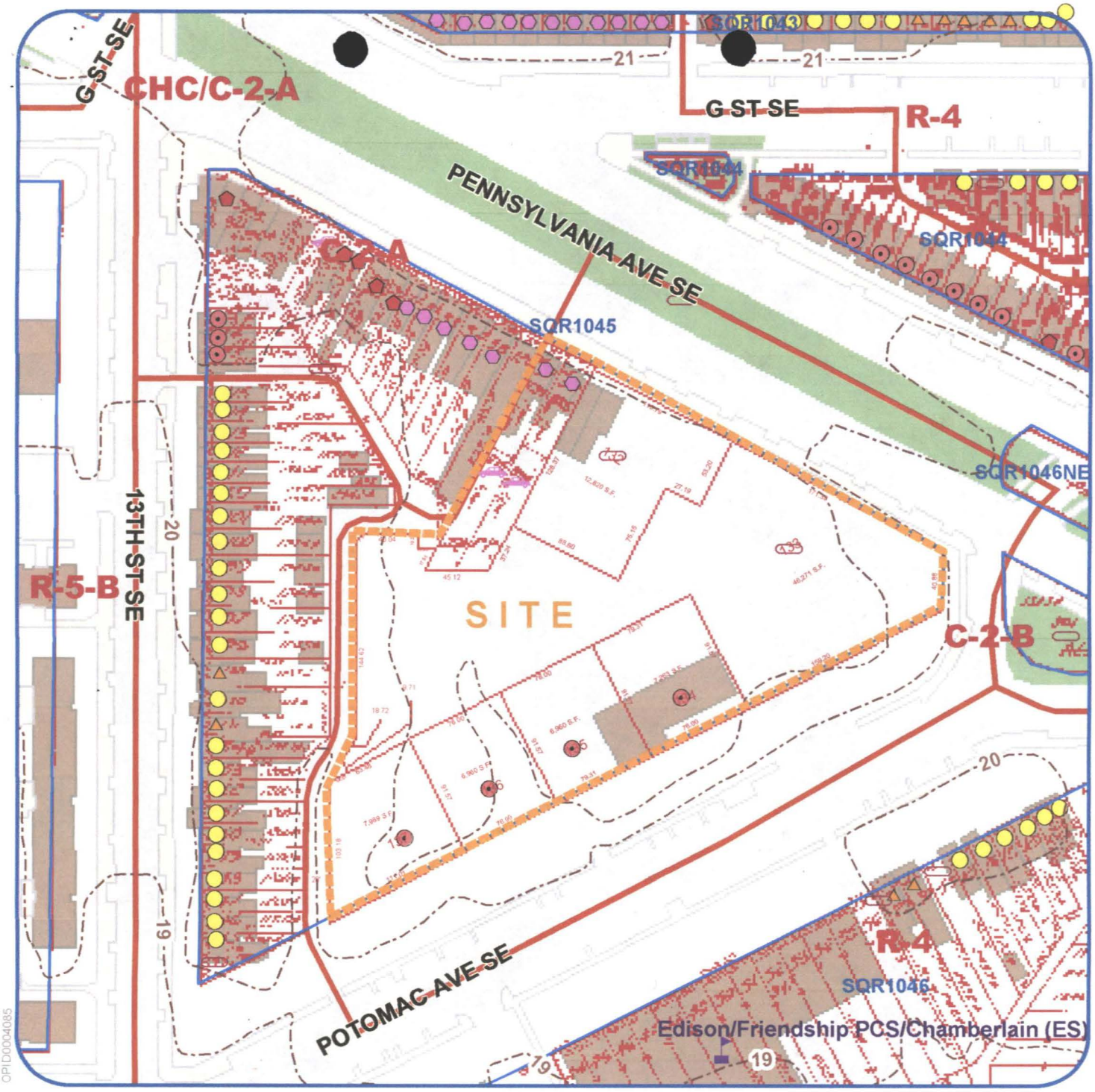
Legend

- Property Squares
- Metro Development Areas (MDA)
- Parks
- Zoning Districts
- Capitol Hill Historic District



Attachment 1

OPID0004084



OPID0004085

Site Plan - BZA Case # 17224
Potomac Ave. & Pennsylvania Ave. SE

N

Feet

0 50 100 150

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

Office of Planning ~ October, 2004

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Legend

- Property Squares
- Zoning Districts
- Non-conforming SF Use
- Rowhouse
- Single-Family Semi-Detached
- Multi-family
- Parks
- Buildings
- Store
- Office
- Parking - Special Purpose
- Educational
- Vacant

Attachment II


G St. SE
14th St.
Pennsylvania Ave. SE
SITE
13th St. SE
Alley
Potomac Ave. SE
School
Facing North


14th St.
School
Potomac Ave. SE
SITE
13th St. SE
Pennsylvania Ave. SE
G St. SE
Alley
Facing South

Standard	C-2-B Zone Regulations	Existing / Proposed[1]	Relief
Development Type:	Commercial / residential	Low rise residential with ground floor retail	Conforming
Lot Area:	n/a[2]	95,047 sq.ft.	Conforming
Height: (§770)	65' max.	65 ft. max.	Conforming
Floor Area Ratio: (§771)	Residential – 3.5 max. Non-residential – 1.5 max.	total = 3.48; non-residential = .55 FAR	Conforming
Square Footage:	Residential –332,665 sq.ft. max. Non-res'l – 142,571 sq.ft. max. Total – 332,665 sq.ft. max.	Residential – 275,933 sq.ft. Commercial – 52,538 sq.ft. Total – 328,471 sq.ft.	Conforming
Lot Occupancy: (§772)	80% max. for residential use	**96% at ground level;** 72% for upper floors	**Variance required**
Residential Rec. Space (§773)	15% min., 40,131 sq.ft. min.	**8.4% = 22,550 sq.ft.** 17,815 sq.ft. outdoor	**Variance required**
Rear Yard: (§774)	15 ft. min.	15 ft.	Conforming
Side Yard: (§405)	Not required	0 ft.	Conforming
Parking: (§2101.1)	Res. – 1 / 3 units = 85 min. Retail = 1/750sq.ft. > 3,000 = 63 Total = 148	Res. = 246 Retail = 184 Total = 430, undergound[3]	Conforming
Loading (§2201):			
Loading Berths:	Res. = 1 @ 55' deep Retail = 1 @ 30' + 1 @ 55' deep	Res. = 1 @ 55' deep Retail = 1 @ 30' + 1 @ 55' deep	Conforming[4]
Loading Platforms:	Res. = 1 @ 200 sq.ft. Retail = 1 @ 100 sq.ft. + 1 @ 200 sq.ft.	Res. = 1 @ 200 sq.ft. Retail = 1 @ 100 sq.ft. + 1 @ 200 sq.ft.	Conforming[4]

1 Information provided by the applicant.
2 No minimum lot area or width prescribed.
3 Accessed from Potomac Avenue.
4 Conforming if all retail utilizes grocery store loading / service area.

Agency Comments

Fire and Emergency Medical Services Department (FEMS) (letter attached)

Department of Employment Services (DOES)(letter attached)

District Water and Sewer Authority (WASA) (letter attached)

DC Department of Transportation (DDOT) (via email)

DDOT has met with the applicants. Some changes to the corner radius from the driveway to Pennsylvania were requested, in order to keep the trucks from swinging into travel lanes, and the applicant appears to have complied in the submitted plans. They also agreed to restrictions on the timing of deliveries, to the AM period only (the east-bound traffic on Pennsylvania is very light). We should insist upon these restrictions.

DDOT discouraged the creation of an internal access driveway on Potomac Avenue for apartment residents which the applicant has also complied with, providing a lay-by instead, which DDOT supports.

Although the proposal includes the provision of a lot of parking, it will be needed for the grocery shoppers, and, due to the proximity to the Metro station, it is anticipated that the residents will not have to use their cars on a regular basis. However, further discussions with DDOT are encouraged to address pedestrian circulation between the site and the metro station, which is a particularly difficult crossing for pedestrians.

ATTACHMENT V

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D.C. 20001

MEMORANDUM

TO: Arthur Jackson
Development Review Specialist
Office of Planning

FROM: Gary L. Palmer
Acting Fire Marshal

DATE: September 14, 2004

SUBJECT: BZA Case No. 17224

The D.C. Fire and EMS Department has reviewed the above case.

The applicant proposes to construct a multi-unit residential building with retail on the ground level and two variances, lot occupancy and amount on residential recreation space.

We concerned about the locations of the fire hydrants and fire department access roads into the mixed-use project and would like to review the locations of the above-mentioned items, along with the locations of all fire department standpipe and sprinkler connections.

If you have any questions concerning this review, please contact my office at 727-3659.

ATTACHMENT V

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

Office of Employer Services

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Margaret V. Wright
Acting Associate Director
Office of Employer Services

DATE: SEP 30 2004

SUBJECT: Review of Zoning Commission Case 17224 – Mixed Use Development at Potomac and Pennsylvania Avenues SE

As requested, the Department of Employment Services (DOES) has reviewed Zoning Commission Case 17224, which is a proposed mixed used development to be constructed at Potomac Avenue and Pennsylvania Avenue, SE.

The Applicant, JPI Apartment Development, L.P., plans to construct a multi-unit residential building with retail space (including a grocery store) on the ground level. In addition to the retail space, the project will include approximately 430 underground parking spaces.

In evaluating the application, JPI Apartment Development, L.P. did not sign a First Source Employment Agreement to ensure that District residents receive 51% of the new jobs created by this project. This employer must enter into a First Source Employment Agreement with DOES in order for the application request to be considered.

It is advised that JPI Apartment Development, L.P. contact Vernell Jordan at (202) 698-5774 or vernell.jordan@dc.gov for assistance in acquiring and completing the First Source Employment Agreement.

ATTACHMENT V

DISTRICT OF COLUMBIA SEWER AND WATER AUTHORITY
5000 OVERLOOK AVE SW, WASHINGTON, DC 20032

MEMORANDUM:

October 04, 2004

To: Joel Lawson, Development Review Planner
DC Office of Planning

Thru: Jodye Russell, Supervisor
Planning Section

From: Kamlesh Parekh, P.E.
Civil Engineer

Subject: Zoning Commission Case # BZA Case 17224
Potomac and Pennsylvania Avenue, S.E.

Thank you for giving us an opportunity to review the subject project. The District of Columbia Water and Sewer Authority (DCWASA) has reviewed the information for the above referenced project. We offer the following comments:

Storm Sewer Requirements: Capacity of the existing storm sewers must be evaluated because proposed zoning will change the existing land use from C-2B zone to fully developed five story mixed-use residential building with urban setting. This land use change will increase surface runoff, pollutant load as well as peak flow. If the existing 12-inch combined sewer on Pennsylvania Avenue and 10 inch combined sewer on Potomac Avenue SE do not have adequate hydraulic capacity, an on-site storage of storm water for quantity control and a structure for storm water quality control will be required.

Water Requirements: The existing 8-inch water main on Pennsylvania Avenue and the 8-inch water line on Potomac Avenue may not have adequate water capacity for fire protection (65 feet height of the building) and daily uses. Pressure and flow tests of the existing water mains will be required to assess availability of water. Also, water flow requirements for fire protection will be needed to evaluate impact of the new development on the water system.

Sanitary Sewer Requirements: In order to evaluate adequacy of the sanitary sewer, you will need to provide future average and maximum daily wastewater flow from the new development.

If you have any question, please feel free to contact Kamlesh Parekh at 202-787-2415 or e-mail at kparekh@dcwasa.com