GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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MEMORANDUM

DATE: March 29, 2005

TO: District of Columbia Board of Zoning Adjustment

FROM: Ellen McCarthy, Director

SUBJECT: Board of Zoning Adjustment Case No. 17302
2750 14th Street N.W.

Summary

An application of the Non Profit Community Development Corporation of Washington D.C. seeking approval of a variance from the maximum height allowed in the C-2-B zone per §770.1 from 65' to 74.25'. OP **cannot recommend approval** of the requested variance based on the analysis of variance tests below.

Site and Area Description

The subject property is located at 2750 14th Street N.W., Square 2667, Lot 73. The lot is 24,000 square feet, currently vacant. The subject property and the properties to the north and south on both sides of 14th Street are zoned C-2-B. 14th Street in this area is mainly medium to high density residential buildings and moderate density commercial uses. The neighborhood to the west of the property is zoned R-5-B and consists of moderate density residential uses.

Project Description

The applicant purchased the property from the National Capitol Revitalization Corporation (NCRC). The purchase agreement requires the applicant to develop 56 residential units, half of which are affordable units, 20,000 square feet of retail, and 77 underground parking spaces. The building is currently under construction as a 65' seven-story structure. The building designed by the applicant for this application contains seven above ground stories at a total FAR of 3.5 and a height of approximately 74'.

BZA
Case No. 17302
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
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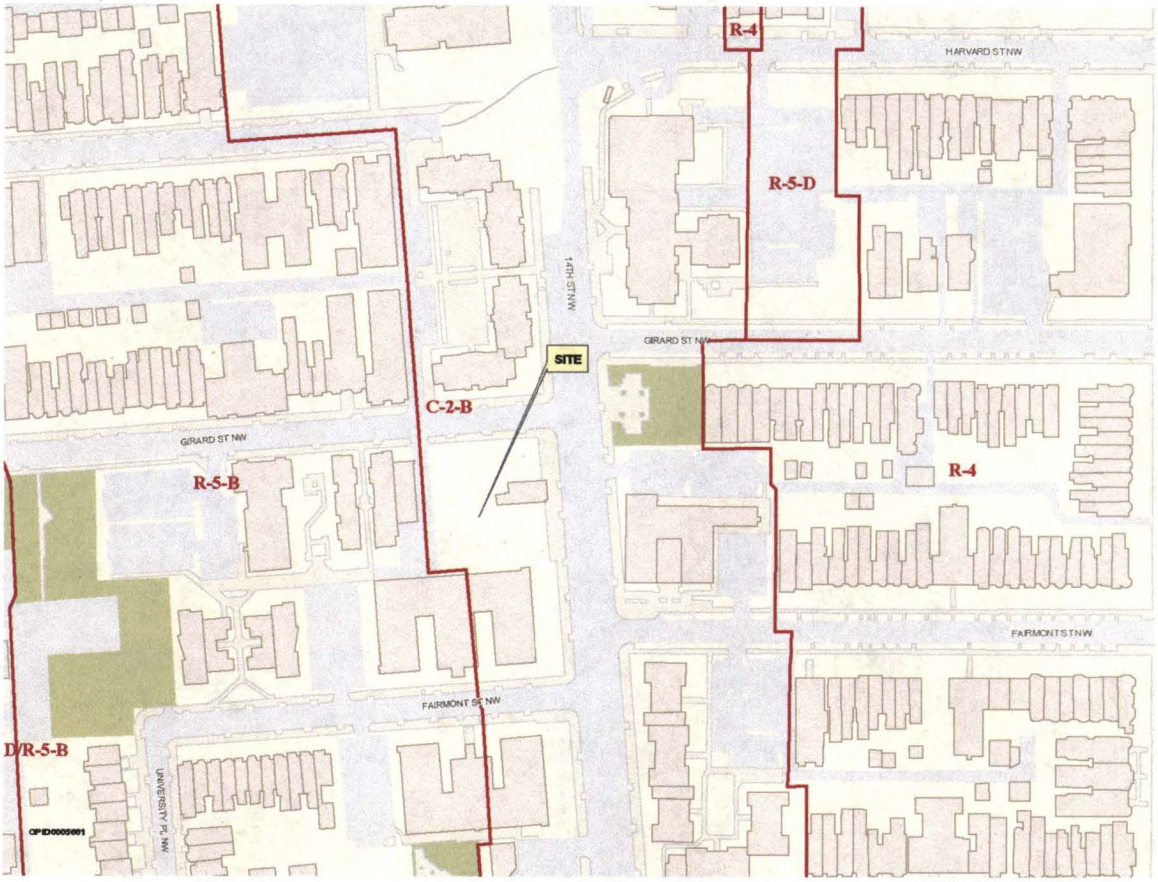


Figure 1: Site Area

Zoning Requirements

The applicant is requesting a variance from the maximum height allowed in the C-2-B district from 65' to 74.25'. The proposed building would meet all other requirements of this zoning district including non-residential FAR.

Section	Item	Required/Allowed	Proposed	Variance
770.1	Height	65'	74.25'	9.25'
771.2	FAR	3.5	3.49	N/A
772.1	Lot Occupancy	80%	55%	N/A
774.1	Rear Yard	15'	23'	N/A

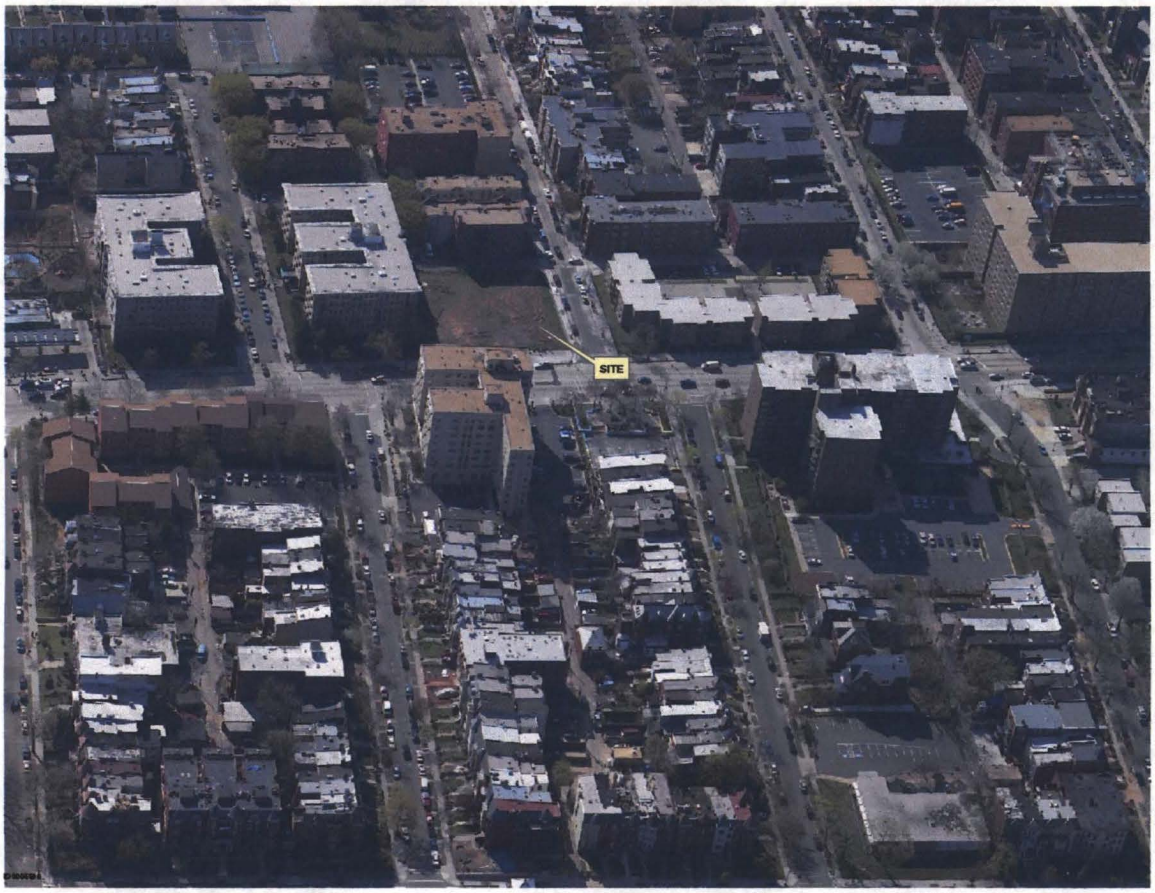


Figure 2: Aerial View from the East

Variance Analysis

The provisions of §3103.2 require the applicant to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty. In addition, there should be no harm to the public or to the zone plan.

Uniqueness and Practical Difficulty

The applicant claims that an exceptional situation exists on this property as a result of the Land Disposition and Development Agreement (LDA) between the applicant and NCRC. The LDA between the two parties requires the applicant to construct a building containing 56 units and 20,000 square feet of retail. The building also must contain "ample" underground parking. 28 of the units must be affordable at a mix of 30, 60 and 80 percent of Area Median Income. There will be a mix of one, two and three-bedroom units throughout the building.

The practical difficulty claimed by the applicant arises from the requirements of the private contract of sale (LDA). In order to provide the agreed upon residential and retail space the applicant is faced with either seeking zoning relief from one or more requirements or

building stories with substandard floor-to-ceiling heights. The significant drop in both retail and residential lease rates with low ceilings led the applicant to seek zoning relief.

In OP's view, however, the project is not appropriate for the variance procedure and cannot properly address the tests of Section 3103.2. The project offers several excellent amenities, including a very large percentage of affordable housing, neighborhood serving retail, and active development of a dead corner along this corridor. These arguments make a strong case for a Planned Unit Development (PUD) project, but cannot meet the Board's required tests for a variance. The LDA in place on this lot does not represent a unique situation on this property. The lot is large, flat, and rectangular. It has no outstanding characteristics in and of itself. The agreement is not the result of characteristics of the lot or the area nor the result of any government regulations but solely the product of a sales contract.

Given this situation, any practical difficulty on the applicant is not related to a physical uniqueness or exceptional situation of the property. The expressed practical difficulties are instead self-imposed by the property sale and are intended to be mitigated by the many site amenities. This situation calls for review by the Zoning Commission through a PUD process rather than a variance by the BZA.

Substantial Detriment and Integrity of the Zoning Regulations

The high ratio of affordable housing, the large amount of on-site parking, and the neighborhood friendly retail are all desired by both the city and the neighborhood. From the perspective of effects on the surrounding neighborhood, the project would have no substantial detriment.

However, the project as it is being attempted does have serious implications on the intent and integrity of the zoning regulations. The circumstances of this case, while clearly presenting a strong case for approval as a PUD, do not meet the standards for a variance. To accept the applicant's arguments and approve this application as a variance not only severely weakens the standards for approval of a variance, but it greatly diminishes the very purpose of the PUD process to grant additional density in return for exemplary development and amenities that benefit of the neighborhood.

In summary, OP does not believe that the exceptional situation described by the applicant meets the standards of §3103 for approval of a variance. Most notably, no compelling case for the existence of uniqueness has been provided by the applicant. Furthermore, approval of this application would be greatly detrimental to the integrity of the zoning regulations.

Community Comments

OP has been informed that ANC 1B is in support of the application. OP is aware of no neighborhood opposition to the project.

Recommendation

The Office of Planning concludes that the applicant has not met the burden of proof, pursuant to 11 DCMR §3103 of the Zoning Regulations, for the granting of the requested variance to permit additional height for the project.

OP **cannot recommend approval** of the requested variance for height for the proposed structure at 2750 14th Street N.W.

EM/tp