

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment
FROM: *JLS fer*
Ellen McCarthy, Director
DATE: May 3, 2005
SUBJECT: BZA Application No. 17315
1220-1234 4th St. NW

APPLICATION-IN-BRIEF

The applicant, Todd Collins, LLC is requesting:

- Eight variances from the minimum lot area requirement (§401.5) to permit development of rowhouse condominiums on 8 lots located at 1220-1234 4th Street NW.

RECOMMENDATION

The Office of Planning recommends:

- **Variance relief from the lot area requirements to permit construction of 2-unit condominium dwellings for All subject lots - Lots 903, 904, 869, and 868; and Lots 888, 866 and 865; and**
- **Denial of variance relief to permit construction of three-unit apartment buildings as submitted for Lots 888, 866 and 865.**

BACKGROUND and PROJECT DESCRIPTION

The proposed site consists of eight lots located in Square 513 in the Mt. Vernon Historic District. The Square is bound by 4th Street to the east, N Street on the north, 5th Street on the west and M Street on the south. The Square is zoned R-4 and the immediate surrounding squares are a mixture of zones, including R-5-B, DD/R-5-B and DD/C-2-C.

The neighborhood is a mixture of row house and apartment dwellings and is presently experiencing a revitalization of its existing neighborhood structures, as well as construction of new infill development.

BZA

Case No. 17315

Exhibit No. 42

Board of Zoning Adjustment
District of Columbia
CASE NO. 17315
EXHIBIT NO. 42

Of the eight lots, seven are vacant, including Lots 888, 903, 904, 869, 868, 866, and 865. The applicant is proposing to construct new row structures on the vacant lots to create a row house condominium development, which would include the existing row house flat on Lot 867. The lots front 4th Street and abut a 10-foot wide alley at the rear, which runs from north to south.

The proposed development consists of the construction of eight, 3-story town-house condominiums with basements. This would result in 19 units, in a combination of five flats and three (3), three-unit buildings.

Current R-4 Zone Regulations require a minimum lot size of 1,800 square feet. Five of the lots are non-conforming in this regard because they pre-date the 1958 Zone Regulations. All proposed structures would occupy up to 58% of the lot with parking provided at the rear.

OWNERSHIP STATUS

The following information outlines the applicant's proposal and ownership status of the lots, as provided to OP by the applicant.

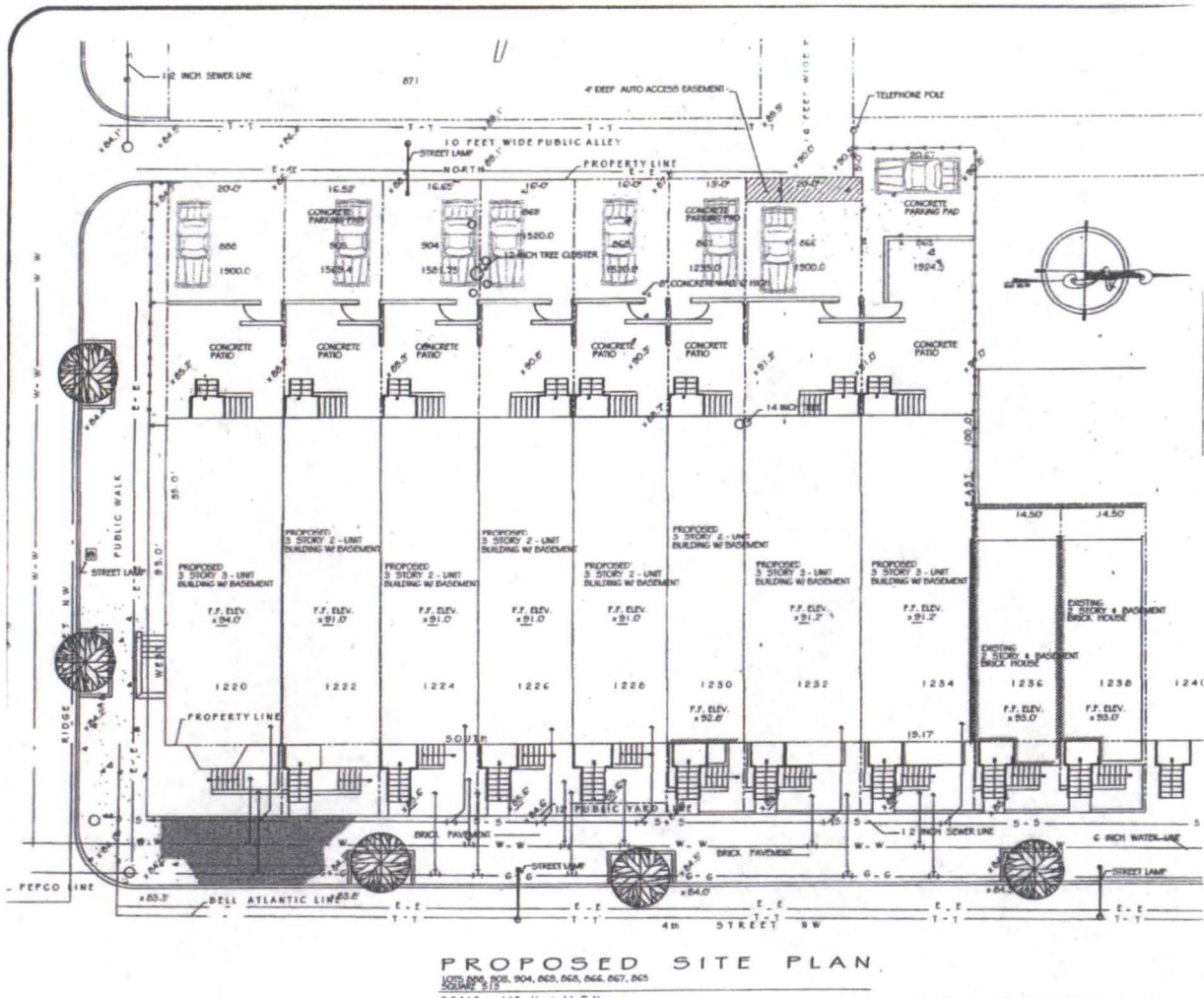
Lot	Lot Size (Sq. Ft.)	Current Status	Proposed Development	Ownership Status
888	1900	Vacant Lot	3 unit Condo	NCRC ¹ Owned (Not released for development- NRD)
903	1569.4	Vacant Lot	2-unit Condo	Home Again (Under condemnation proceedings NRD)
904	1581.75	Vacant Lot	2-unit Condo	North Capitol N'hd Dev./DHCD/Collins LLC
869	1520	Vacant Lot	2-unit Condo	DHCD ² Homestead Program
868	1520	Vacant Lot	2-unit Condo	Collins Development ³
867	1235	2-story r/house	2-unit Condo	Collins Development
866	1900	Vacant Lot	3 unit Condo	North Capitol N'hd Dev./DHCD Homestead
865	1924.5	Vacant Lot	3 unit Condo	Collins Development

Based on information provided by the applicant outlined in the table above, OP confirmed with the Office of Zoning that authorization letters are required. The applicant has assured OP that these letters would be provided on or before the scheduled hearing date.

¹ National Capital Revitalization Corporation

² Department of Housing and Community Development

³ The Applicant, dba - Collins Development. The applicant is the holder of an option to purchase the 5 lots not currently owned by Collins Development.



ZONING REQUIREMENTS and ANALYSIS

VARIANCE RELIEF

The R-4 Zone District permits matter-of-right development of single-family residential uses (including detached, semi-detached and row dwellings and flats), with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet, a maximum lot occupancy of 60% and a maximum height of three (3) stories/40 feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit. Very little vacant land shall be included within the R-4 District, since its primary purpose shall be the stabilization of remaining one-family dwellings. (§330.2)

The applicant is requesting variance relief from the minimum lot area provision, pursuant to §3103 by demonstrating:

- 1) The subject property is subject to an extraordinary or special condition;

- 2) That a strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty for the applicant; and
- 3) The relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan.

The following table outlines the proposal as submitted by the applicant:

Lot No.	Lot Area (Sq.Feet)		Proposed # of Units	Lot Occupancy		Rear Yard (Feet)	Height (Feet)	Lot Width (Feet)	Parking
	Exist.	Req'd		Exist.	Proposed				
888	1900	1800	3	-	58% (40% Required)	40	40	20	1 space
903	1569.4	1800	2	-	58%	40	40	16.52	1 space
904	1581.75	1800	2	-	58%	40	40	16.65	1 space
869	1520	1800	2	-	58%	40	40	16.0	1 space
868	1520	1800	2	-	58%	40	40	16.0	1 space
867	1235	1800	2	58%	58%	40	40	13.0	1 space
866	1900	1800	3	-	58% (40% Required)	40	40	20	1 space
865	1924.5	1800	3	-	58% (40% Required)	40	40	20.67	2 spaces
Total	13,150.65	14,400	19						

Lot 867 will not be included in the following analysis, since it is currently developed as a matter-of-right use and the applicant has not proposed any changes beyond its renovation.

For clarity, the report differentiates the analysis based on the number of units proposed for the structures as follows:

Lots 903, 904, 869, 868, 866, 865 (Proposed Flats)

The subject property is unique because it is subject to an extraordinary or special condition

The various lots do not meet the required minimum standard for lot width and lot area, including lots 903 through lot 867 as shown above. The lots average 16 feet wide and approximately 95 feet in length, thus creating long and narrow lots, which abut a north-south alley at the rear. These lots predate the current 1958 Zone Regulations and cannot be resubdivided as they are not currently in single ownership.

OP's observation of the site concurs with the applicant's position that the sites' special condition is due to its' existing ownership pattern, which prevents subdivision to create conformity of lot sizes and areas. As a result, the applicant has to abide by the lots' pre-1958 area condition. According to Historic Preservation Review Board's staff report, "maintaining the historic lot widths is preferable for maintaining the rhythm of a streetscape of modest rowhouses..."

A strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty for the applicant

The existing and varying ownership of each lot creates a practical difficulty for the applicant, since the lots cannot be resubdivided to create conforming lots under single ownership.

The relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan

For the proposed flats, §401.5 of the Zone Regulations determines that each row dwelling in an R-4 zone District should have at least 1,800 square feet of gross land area. As proposed, each building unit would occupy a building footprint of approximately 880 square feet for the smaller dwellings (16 feet wide), which are proposed for these lots. The proposed sizes of the structures for the flats are deemed adequate to maintain other bulk and setback requirements prescribed by the zone regulations, including the lot occupancy, depth of rear yard, as well as the dimensions of other site amenities such as alley widths, and on-site parking spaces. OP believes the variance request is minimal for these lots, since other requirements have been met. There is no objection to the applicant maximizing the use of the property, given the width of these lots.

OP concurs that the relief can be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose, and integrity of the Zone Plan. The R-4 zone anticipates moderate density residential and flats are permitted as a matter-of-right. Therefore, the requested area variances are appropriate and would not impair the intent of the regulations.

OP believes that the applicant has attempted to create a design that required minimum relief from the regulations, and as such avoided any impairment to the intent and purpose of the Zone Plan and Regulations.

Lots 888, 866 and 865 (Proposed 3-unit row dwellings)

OP does not support the construction of three-unit apartment buildings proposed for Lots 888, 866 and 865 for the following reasons.

Section 199 of the Zoning Regulations define an apartment and apartment house as follows:

Apartment - one (1) or more habitable rooms with kitchen and bathroom facilities exclusively for the use of and under the control of the occupants of those rooms.

Apartment house - any building or part of a building in which there are three (3) or more apartments, or three (3) or more apartments and one (1) or more bachelor apartments, providing accommodation on a monthly or longer basis.

Section 330 outlines the intent of the R-4 Zone District as follows:

330 R-4 DISTRICTS: GENERAL PROVISIONS

- 330.1 The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two (2) or more families.
- 330.2 Very little vacant land shall be included within the R-4 District, since its primary purpose shall be the stabilization of remaining one-family dwellings.
- 330.3 The R-4 District ***shall not be an apartment house district*** as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement. (emphasis added)
- 330.4 Except as provided in chapters 20 through 25 of this title, in an R-4 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 330 through 349.

Apartment buildings are not a permitted use in sections 330 through 349.

Section 403.2 summarizes the percentage of lot occupancy required for structures in the R-4 Zone District as follows:

ZONE DISTRICT AND STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
R-4 Row dwelling, flat, church, or public school	60%
R-4 Conversion to multiple Dwelling	None Prescribed
R-4 All other structures	40%

The structure proposed for Lots 888, 866 and 865 would qualify as “all other structures” within the R-4 Zone, since the zone district does not contemplate apartment buildings as a prescribed use.

Therefore, the following summarizes the lot occupancy for the proposed for the various lots:

Lot No.	Proposed # of Units	Lot Occupancy		
		Exist.	Proposed	Required
888	3	-	58%	40%
903	2	-	58%	60%

Lot No.	Proposed # of Units	Lot Occupancy		
		Exist.	Proposed	Required
904	2	-	58%	60%
869	2	-	58%	60%
868	2	-	58%	60%
867	2	58%	58%	60%
866	3	-	58%	40%
865	3	-	58%	40%
Total	19			

The applicant would have to show that meeting the 40% lot occupancy restriction would create a practical difficulty. In addition, in OP's opinion, the applicant would also need variance relief from §2002.6, which provides that a new structure shall not be erected to house a non-conforming use.

The applicant has asserted that the properties could not be developed economically due to the restrictions implied by NCRC's stipulation on the properties regarding the Area Medium Family Income and the Homestead Act, which would require the owner to set aside 8 of the 19 units for medium income families to benefit the community. However, no economic details have been provided to document the "undue economic hardship" criteria.

Based on the above reasons, OP cannot recommend approval of the three-unit apartments. Granting the variance for these lots would impair the intent and purpose of the zone plan as embodied in the Zoning Regulations and Map, (including §§ 330.1 through 330.4, 2000.2 and 2006.2) since it would result in an intensified use beyond that intended by the R-4 Zone.

Section 410.12

The applicant informed OP that on the scheduled hearing date, relief would also be sought under the application of Section 410.12. Section 410.12 states that:

In the R-4 and R-5-A Districts, if approved by the Board of Zoning Adjustment as a special exception under § 3104, a group of one-family dwellings, flats, or apartment houses, or a combination of these buildings, with division walls from the ground up or from the lowest floor up, may be erected and be deemed a single building for the purpose of this title, when the group does not comply with the provisions of §§ 410.1 through 410.11, subject to the following conditions:

- (a) The provisions of §§ 410.4 and 410.5 shall be complied with; and**
- (b) The erection of the group of buildings shall not affect adversely the present character or future development of the neighborhood.**

ZONING ADMINISTRATOR'S INTERPRETATION

The Zoning Administrator advised OP that the applicant could apply Section 410.12, to the extent that all the row dwellings would in fact be constructed as 2-units each, if all the construction were on one lot and not individual lots as proposed. He further explained that Section 410 is not applicable to establish an apartment use in the R-4 Zone District and the applicant would need a use variance to supplement the application if Section 410.12 were applied.

Therefore, OP does not support the application of this regulation to the present case, since the lots have not been resubdivided into a single lot of record and the applicant would have to request relief through a use variance to permit the development of apartments in the R-4 Zone. The applicant has not supplied information as to how such relief could be granted.

HISTORIC PRESERVATION REVIEW

The applicant's concept proposal was presented to the Historic Preservation Review Board on April 28, 2005. OP notes that the applicant has to refine the concept proposal with respect to the rear elevations and the side elevation of 1220 4th Street (Lot 888). (Attached)

COMMUNITY COMMENTS

The applicant has indicated that ANC 2C reviewed the proposal on April 6, 2005 and voted unanimously to support the zoning variances related to the development of the parcels (attached).

RECOMMENDATION

OP commends the applicant's proposal to provide affordable housing in the District and believes such a project is beneficial to the community. OP has no objection to a proposal which would construct flats on all the subject lots, since this is a matter of right use in the R-4 Zone District. **OP supports the area variance for Lots 903, 904, 869, 868**, which are proposed for the development of flats. For the record, OP notes that Lot 867 is already developed as a two-unit flat and would not require relief from the Zone Regulations. The existing building would be renovated as part of the planned development of the surrounding lots.

However, **OP does not support** the development of apartments **proposed for Lots 888, 866, and 865**. Permitting the variance for apartments on these lots would be contrary to the intent of various sections of the Zone Regulations, including §§ 330.1, 330.2 2000.2 and 2006.2, and would result in an intensified use beyond that permitted in the R-4 zone.

Therefore, for the reasons discussed, OP recommends the following:

- **Variance relief from the lot area requirements to permit construction of 2-unit condominium dwellings for All subject lots - Lots 903, 904, 869, and 868; and Lots 888, 866 and 865**
- **Denial of variance relief to permit construction of three-unit apartment as submitted for Lots 888, 866 and 865.**