

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Stephen Cochran, Case Manager
 Joel Lawson, Associate Director for Development Review

DATE: February 2, 2016

SUBJECT: BZA No. 19175 – Special Exception from rear yard requirements and Area Variance relief from side yard and loading requirements, for construction of a new residential building at 2 Eye Street, SE – Square 659W, Lot 21

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the following relief to enable the construction of a 13-story, 558 unit apartment building in two stages, with approximately 3,420 square feet of ground floor retail space. The recommendations reflect the February 2, 2016 changes to the penthouse design and the withdrawal of special exception requests for §§ 777 and 411.6 (Case Exhibit 26):

- Special Exception
 - § 774.1, Minimum Rear Yard Depth: (27 ft. 1 inch required; 0 ft. proposed);
- Variances
 - § 775, Side Yard: (If provided, 27 ft. 8 inches required; no side yard on east provided, but 9 ft. side yard on west side proposed)
 - § 2201.1, Loading: (One 55 ft. berth, one 200 SF loading platform, and one 20-foot service/delivery space required; two 30-foot berths, two 200 SF loading platforms and one 20-foot service/delivery space proposed).

II. LOCATION AND SITE DESCRIPTION:

Address:	2 Eye Street, SE.	Legal Description:	Square 695, Lot 21	Ward, ANC:	6, 6D
Lot Characteristics:	The rectangular, level, 56,867 square foot lot is adjacent to the northeast corner of the intersection of Eye and South Capitol Streets, S.E., one block south of the Eisenhower Freeway. The lot is encumbered with an easement that prohibits construction of structures within 9 feet of the lots western boundary. The site does not have alley access.				
Zoning:	C-3-C/Capitol South TDR Receiving Area-- High-Density commercial and/or residential buildings. The TDR designation permits greater by-right density and height than the base zone.				
Existing Building(s):	A one story McDonald's drive-in restaurant and its parking area.				

Historic Dist.:	None
Adjacent and Nearby Properties	The site is bordered to the north primarily by a very large, mostly vacant, CSX Transportation property. The eastern half of the northern boundary and the entire eastern property line are adjacent to an irregularly shaped lot occupied by a car wash. To the west is a 15-foot wide strip of vacant land owned by the District Government, but not included in the South Capitol Street right of way. A 383-unit apartment building is being constructed across Eye Street from the property's southern boundary. The Randall recreation center is across South Capitol Street, to the west. The Navy Yard metro station is approximately 5 blocks to the southeast and the Capitol South metro station is approximately 5 blocks to the northeast.



Figure 1 a, b & c. Site Location

III. PROJECT DESCRIPTION IN BRIEF

The applicant plans to construct a new, primarily residential building near the northeast corner of the intersection of South Capitol Street and Eye Street, SE. The 57,867 square foot site is currently occupied by a McDonald's drive-in restaurant. Although appearing to have frontage on both Eye Street and South Capitol Street, the site is actually an interior lot due to the District Government's owning a

15-foot wide strip of land between the eastern right-of-way line of South Capitol Street and the western boundary of the applicant's property. The site has no alley access.

The proposed 130-foot tall, 13-story, 558-unit apartment building would be constructed in two phases and would contain approximately 3,420 square feet of ground floor retail or amenity space. The building's principal entrance would be from the mid-point of its property line on Eye Street, where a new curb cut and private pathways would provide access to a central courtyard off of which would be the building lobbies, underground parking garage entrance, and all loading facilities, which would be located solely on the ground level.

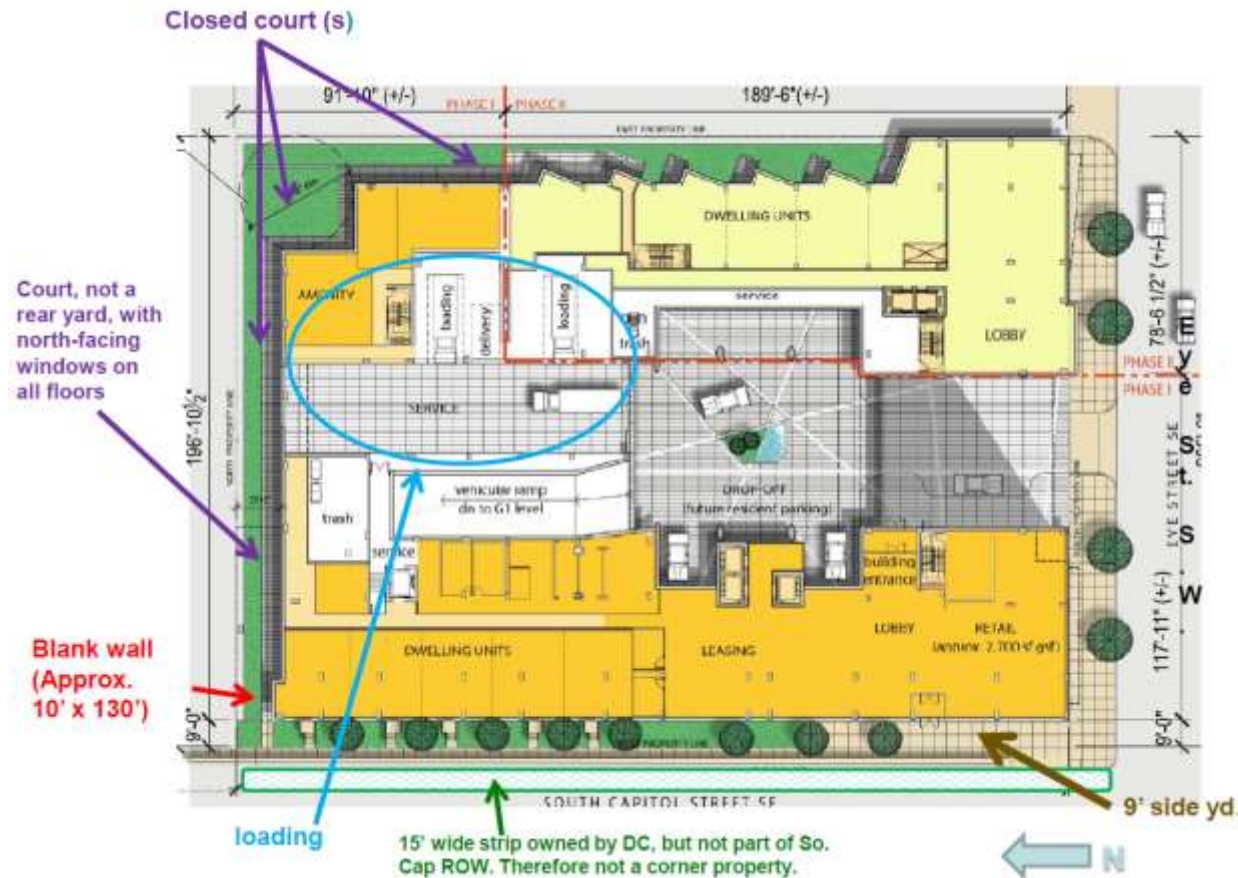


Figure 2. Site Plan

Two 30-foot berths, one 20-foot deep service delivery space and two 200 square foot loading platforms would be provided and relief from providing two 55-foot deep loading berths has been requested. Two underground levels would contain 143 parking spaces, for which no zoning relief would be needed.

The roof spaces have been re-designed since the original filing to conform to the recently passed penthouse regulations. In addition to mechanical equipment, stairways and elevator overruns, there would be two pools and communal indoor and outdoor recreation space, but no habitable residential space. All penthouse structures appear to meet setback and height requirements.

No side yards are required, but relief has been requested to provide one non-compliant side yard on the west side of the property. Relief has also been requested to provide no rear yard, in lieu of which there would be a closed court.

The building has been designed to meet both the building line and upper story setback requirements for South Capitol Street that will become effective September 6, 2016.

IV. ZONING REQUIREMENTS

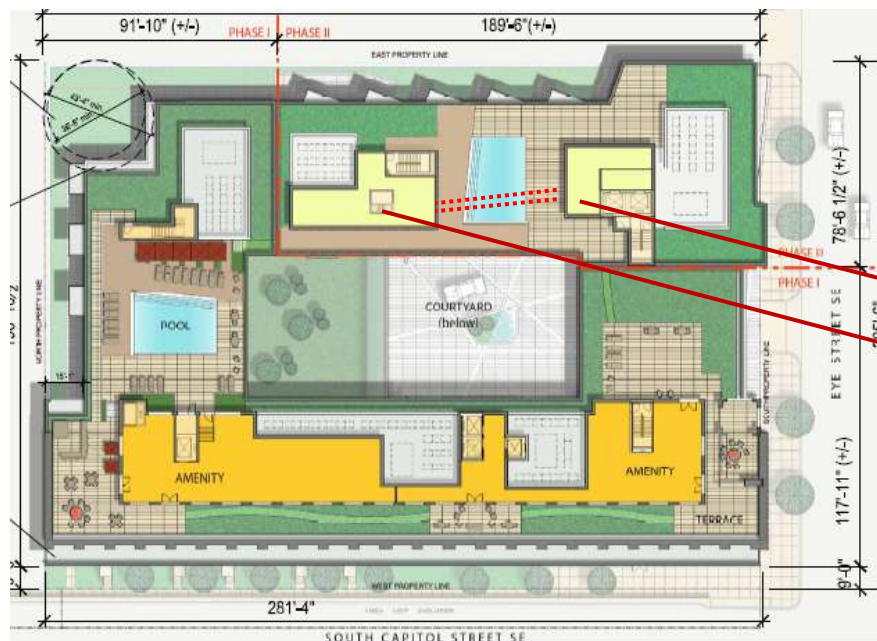
57,867 SF	Required / Permitted	Exist.	Proposed	Relief Needed
FAR (§§ 711; 709.21)	10 (TDR, 110' + ROW)	n/a	9.6	none
Lot Occ.	100%	n/a	100%	none
Height (§ 770.1)	130' (TDR, 110' ROW)	n/a	130' [With voluntary 1:1 setback from So. Capitol St. and for heights >110']	None
Parking (§ 2101.1)	<u>Res.</u> : 140 (558 du's @ 1:4); <u>Retail</u> : 3 (5K sf @ 1/750sf > 3K	n/a	143	None
Loading (§ 2201)	<u>Res.</u> : 1 berth @12'x55'; 1 service @10'x20'; 1 200 sf platform; <u>Retail</u> : none if < 8000 sf		2 berths @ 12' x 30'; 1 service @ 10' x 20'; 2 200 sf platforms	Variance (-2) 12'x55' berths
Rear Yard (§ 774.1)	> 12 ft. or 2.5"/ft. bldg. ht.; i.e., 27' 1" for 130 ft.	n/a	None	Special Exception (-27 ft. 1 in.)
Side Yard (§ 775)	IF provided, > 8 ft. or 2 in./ft. bldg. ht.; i.e., 27' 8" for 130 ft.	n/a	East: none West: 9 ft.	East: 10 ft. West: Special Exception (-18' 8")
Closed Ct (§ 776)	> 15 ft. or 2.5"/ft. bldg. ht.; i.e., 27' 1" for 130 ft.	n/a	Width: 51'6"	None
Penthouses (for zones other than R-1 through R-4) (§§ 770.6, 411, 414, 2602)	<u>Number</u> : Single enclosure unless multiple elevator cores or roof levels differing by ≥ 1 story necessitate one enclosure for each elevator	n/a	<u>Number</u> : 2 pent-house enclosures (one per elevator core), each with communal recreation space	None
	<u>Height</u> : Enclosures of ≤ 20 ft. and 2 stories high permitted,	n/a	<u>Height</u> : principally 18'6" , with	None

57,867 SF	Required / Permitted	Exist.	Proposed	Relief Needed
	with specified number of height variations and restrictions on configuration/ location of habitable space.		variations consistent with regulations	
	<u>Setback:</u> Generally 1:1 from exterior walls of the roof on which penthouse sits	n/a	<u>Setback:</u> Each setback $\geq$ 1:1 from exterior walls	None
	<u>Affordable Housing:</u> Applies to new living space, but not to communal space.	n/a	<u>Affordable Hsg.:</u> None required	None
GAR (§ 3401.2)	0.2	n/a	0.2	none

IV. OP ANALYSIS OF REQUESTED RELIEF

A. Special Exception for Penthouse

The applicant's February 2, 2016 filing (Exhibit 26) withdrew the request for a special exception from §§ 777 and 411.6 to permit a separate third penthouse that included an egress stair and communal recreation space but not a separate elevator core. The applicant has informed OP that the revised penthouse plan will include a meaningful connection between what had been separate penthouses in earlier plans.



Applicant has informed OP that revised roof plan will be filed with meaningful connection and single Phase II penthouse

Figure 3. Roof Plan as of February 1, 2016 (Exhibit 24A)

B. Special Exception for Rear Yard (§ 774.1)

The request meets the standards for special exception relief. Granting such relief would also enable the building to establish a consistent building line, without a gap for the rear yard, for this portion of the South Capitol Street corridor.

§ 774.2 permits the BZA to waive rear yard requirements in the C-3-C zone as a special exception, subject to the following criteria, which the applicant has demonstrated the proposal meets.

774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.

If a rear yard were to be provided, it would be located on the north side of the building. For most of its length, windows on that side would be set back at least 15 feet from the northern property line. Together with the site's adjacency to a vacant property without pending development plans, and its distance from the freeway to the north, the 15 foot setback should provide sufficient light, air and privacy for building occupants.

The westernmost approximately 10 to 15 foot wide portion of the north wall would not have windows and would be approximately 12 feet from the northern property line. While the absence of windows would obviate any concerns about compliance with § 774.3, this 130-foot high blank space could be utilized as the location of large-scale signage or mobile banners facing the freeway and the U.S. Capitol complex. OP has recommended that the applicant agree not to place temporary signage or banners on the building's north wall once the building has received its certificate of occupancy.

The property to the north, between the applicant's site and the Eisenhower Freeway, is undeveloped and currently does not have access from an improved roadway.

774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.

There are no buildings facing the rear of the proposed property, nor is OP aware of any development proposals for the property to the north. As shown on Figure 2, for the areas of the northern façade where windows are proposed there would be no less than a fifteen foot distance between the proposed building and the site's northern property. The distance would be approximately 12 feet from the property line for the portion of the northern wall without windows. These distances should provide for adequate light and privacy for the apartments.



Fig. 4 North Facade

774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.

At DDOT's request, the applicant has located the building's access point midway between an existing driveway to the east and the intersection of South Capitol and Eye Streets. It will provide access to parking spaces compliant with the zoning regulations and to loading facilities that the District Department of Transportation's (DDOT's) report does not consider to be inadequate, but for which relief has been requested due to shorter than required depths for two loading berths. The report that DDOT anticipates filing will address these considerations further.

774.6 Upon receiving an application for an approval under § 774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

The applicant has worked with DDOT on the location of the building's access points. The property's status does not require consultation with the Department of Housing and Community Development because no Inclusionary Zoning units are required for a property in a Transferable Development Rights (TDR) receiving area or for a residential property in this zone that does not include residential penthouse space. The property is not in a historic district and no consultation with the State Historic Preservation Officer is required.

C. Area Variance for Side Yard Relief § 775.5 (side yard width)

Unusual or Exceptional Conditions or Situations Leading to Practical Difficulties if Zoning Regulations Were Strictly Applied

The applicant's design respects the exceptional ground and upper level setback guidelines for South Capitol Street that are now established within the Capital Gateway overlay to the south and that, in order to better frame the view of the Capitol, the Zoning Commission has extended north of the freeway in recently approved revisions to the zoning regulations. The applicant is faced with an exceptional condition in the presence of a 9-foot wide "no build" easement on the western side of the property and an adjacent fifteen foot wide District-owned property between the South Capitol Street right of way and the applicant's western boundary. These lead to a practical difficulty if relief were not granted from side yard requirements on the western side of the property -- particularly if the applicant wishes to respect the South Capitol view corridor restrictions. If no side yard were provided on the western side, as permitted by the zoning regulations, the proposed building would violate the easement on the west side of the site and would be too close to South Capitol Street to maintain the uniform building line that will become a zoning requirement on September 6, 2016. If the otherwise required 27 foot 8 inch side yard were provided the building would be set back too far from South Capitol Street to comply with the corridor setback guidelines.

No Substantial Detriment to the Public Good or Impairment of the Zone Plan.

There would be no substantial detriment to either the public good or the zone plan. Relief to enable the provision of a 9 foot side yard would, in conjunction with the District-owned property to the west enable the building's western frontage to maintain a uniform building set-back on the east side of South Capitol Street.

D. Area Variance for Loading Relief (§ 2201.1):

The applicant requests a twenty-foot reduction in the length of the two required loading berths.

Unusual or Exceptional Conditions or Situations Leading to Practical Difficulties if Zoning Regulations Were Strictly Applied

The applicant has demonstrated that the combination of a curb cut and driveway immediately adjacent to the eastern property line, the impact of the narrow District-owned property to the west, the desired setbacks on South Capitol Street, and the lack of alley access create exceptional circumstances for the location of the curb cut for the project. DDOT asked the applicant to locate the curb cut at a safe distance from both the intersection to the west and the existing curb-cut for the car wash to the east. This curb cut location has led to the building's pedestrian and vehicular entries being most logically oriented around a central courtyard but that the dimensions of the lot and easement and the width of double-loaded corridors inhibit the provision of a driveway in the courtyard that would enable adequate turning movements for 55-foot long trucks. Exhibit C of the applicant's January 26, 2016 filing also demonstrates the potentially disruptive turning movements that a 55-foot truck would require on either South Capitol Street or Eye Street

No Substantial Detriment to the Public Good or Impairment of the Zone Plan.

The comprehensive transportation report filed by the applicant on January 26, 2016 demonstrates that the proposed loading berths, in conjunction with the service/delivery spaces would adequately accommodate the project's loading needs, would not have an adverse impact on surrounding properties, and would provide less disruption to vehicular circulation than would berths serviced by 55-foot trucks. While the timing of this application requires the developer to seek loading relief, the applicant has demonstrated that the Zoning Commission's final approval of revised loading regulations in ZC 08-06B implicitly indicated that not having 55-foot loading berths in this zone would not pose a substantial detriment to the public good or the zone plan.

V. OTHER GOVERNMENT AGENCY COMMENTS

The applicant has met with the DDOT several times about the project and has modified its initial vehicular access plans accordingly. DDOT is expected to file a report with the Office of Zoning in a timely manner.

No other government agency reports had been filed at the time this OP report was completed.

VI. COMMUNITY COMMENTS

ANC 6D voted 4-0-1 on January 11, 2016 to support the relief requests, and has submitted a filing (Exhibit 22) to the case record. The support is conditioned on the developer's agreement that:

- The developer will not petition for a residential parking permit area adjacent to the building and will include restrictions on seeking residential parking permits in tenant leases;
- The developer shall provide supplies and on-site equipment for the management of pet waste.

The ANC filing includes additional requests concerning construction times and access to construction management plans, and notes the developer has agreed to donate \$25,000 to a non-profit housing provider.

No other community comments had been filed at the time this OP report was completed.