

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: July 6, 2018

SUBJECT: BZA Case 19799 (518 9th Street, N.E. and 816 E Street, N.E.) to permit two existing primary buildings on a single record lot.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception relief:

- Subdivision Regulations, Subtitle C § 302.2, pursuant to Subtitle X § 900 (each primary building and structure shall be erected on a separate lot of record; one building per lot of record existing; two buildings on one consolidated lot of record proposed).

II. LOCATION AND SITE DESCRIPTION

Address	518 9 th Street, N.E. and 816 E Street, N.E.
Applicant	Holland & Knight for 5533-518 9 th Street NW Washington LLC
Legal Description	Square 914, Lots 54 and 55
Ward, ANC	Ward 6, ANC 6A
Zone	RF-1 (Residential Flat Zone) provides for areas predominantly developed with attached row houses on small lots within which no more than two dwelling units are permitted. A building or structure existing before May 12, 1958 in the RF-1 zone may be used for more than two dwelling units.
Historic District	Capitol Hill Historic District
Lot Characteristics	518 9 th Street, N.E. (Lot 54) is a square lot having 14,243 square feet of lot area, and 114.79 feet of frontage along 9 th Street. The west side of the lot has 114.79 feet of frontage along a 15-foot wide public alley. 816 E Street, N.E. (Lot 55) is a square lot having 13,897 square feet of lot area, and 112 feet of frontage along 9 th Street and 124.08 feet of frontage along E Street.
Existing Development	Each lot is developed with a four-story apartment house having 64 units. Both buildings were constructed in 1926 and are nonconforming in terms of height, number of stories, and use to current zoning requirements.

Adjacent Properties	To the north are existing row dwellings. To the south, across E Street, is a triangle park and existing row dwellings. To the east, across 9 th Street, are existing row dwellings and an apartment house. To the west, across the public alley, are existing row dwellings and an apartment house.
Surrounding Neighborhood Character	The surrounding neighborhood character is moderate density residential, consisting predominantly of row dwellings and apartment houses.
Proposed Development	The applicant proposes to make matter-of-right renovations to the buildings, including penthouse additions. The proposed modifications require compliance with stormwater management requirements for each lot, which cannot be achieved on lot 54 due to an insufficient amount of land area and the configuration of the existing building. However, stormwater management requirements can be satisfied for both lots if they are combined into one lot, where the green roof and bioretention facilities proposed on lot 55 could benefit both lots and comply with DOEE stormwater management requirements. As a result, the applicant has requested special exception relief to allow the combination of both lots into one record lot with two primary structures.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – RF-1	Regulation	Existing	Proposed	Relief
Lot Width (ft.) D § 201	40 ft.	124.08 ft.	No change	None required
Lot Area (sq. ft.) D § 201	4,000 sq.ft.	Lot 54: 14,243 sq. ft. Lot 55: 13,897 sq. ft.	28,140 sq.ft.	None required
Pervious Surface D § 204	20%	Not provided	No change	None requested
Height (ft.) D § 303	35 ft.	55 ft.	No change	None requested
Lot Occupancy D § 304	60%	Not provided	No change	None requested
Rear Yard (ft.) D § 306	20 ft.	Lot 54: 11.06 ft. Lot 55: 20.78 ft.	No change	Existing nonconforming
Side Yard (ft.) D § 307	5 ft., if provided	Lot 54: 11.47 ft./12.20 ft. Lot 55: 10.98 ft./0.05 ft.	No change	None required
Subdivision Regulations C § 302	One primary building per lot of record	One primary building per lot of record	Two primary buildings per lot of record	Requested
Parking C § 701	1 per 2 dwelling units (60 spaces)	None provided	No change	Existing nonconforming

IV. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief from Subtitle C § 302.2, Subdivision Regulations

305.2 *The number of buildings permitted by this section shall not be limited; provided, satisfactory evidence is submitted that all the requirements of this section are met based on a plan of theoretical subdivision where individual theoretical lots serve as boundaries for assessment of compliance with the Zoning Regulations.*

305.3 *The following development standards shall apply to theoretical lots:*

(a) *Side and rear yards of a theoretical lot shall be consistent with the requirements of the zone;*

The Zoning Regulations require a minimum side yard of five feet, should one be provided, and a rear yard of 20 feet. The existing structure on lot 54 has side yards of 11.47 feet and 12.20 feet, and a rear yard of 11.06 feet. On lot 55, the existing structure provides side yards of 10.98 feet and 0.05 feet, and a rear yard of 20.78. The existing structures are nonconforming and would not be modified to create additional nonconformities or increase existing nonconformities.

(b) *Each means of vehicular ingress and egress to any principal building shall be at least twenty-four feet (24 ft.) in width, exclusive of driveways;*

The existing structures were constructed in 1926, prior to the adoption of the 1958 Zoning Regulations, which included parking requirements. As such, no on-site parking has been provided and there is no vehicular ingress or egress to the site.

(c) *The height of a building governed by the provisions of this section shall be measured from the finished grade at the middle of the building façade facing the nearest street lot line; and*

The existing nonconforming structures are 55 feet in height, excluding penthouses, as measured from the finished grade at the middle of the building façade facing the nearest street lot line.

(d) *The rule of height measurement in Subtitle C § 305.3(c) shall supersede any other rules of height measurement that apply to a zone, but shall not be followed if it conflicts with the Height Act.*

The existing nonconforming structures do not conflict with the Height Act.

305.4 *For a theoretical subdivision application, the following information is required to be submitted to the Board of Zoning Adjustment, in addition to other filing requirements pursuant to Subtitle Y § 300:*

(a) *Site plans including the following information:*

(1) *A plat of the record lots proposed for subdivision;*

(2) *The location of proposed streets and designated fire apparatus roads;*

(3) *Location of proposed easements;*

(4) *Lot lines of proposed theoretical lots, and the delineation of the lot lines shared by theoretical lots that will serve as private drives or easements;*

(5) *Existing grading and proposed grading plans;*

- (6) *Existing landscaping and proposed landscaping plans, including the sizes and locations of all trees on or adjacent to the property on public or private lands;*
- (7) *Plans for the location of building footprints on theoretical lots; and*
- (8) *Required yards (rear, side and front) based on the regulations applicable to a zone or any modifications to regulations provided through this section;*

The applicant has provided dimensioned site plans providing the required details, including the existing structures and setbacks ([Exhibit 6](#)).

- (b) *Typical or individual floor plans and elevations for the proposed buildings and structures; and*

Floor plans and color photographs of the existing buildings have been provided (Exhibits [14A1](#), [14A2](#), and [14A3](#)).

- (c) *A table of zoning information including required and proposed development standards.*

The applicant has not provided a table of zoning information for the existing nonconforming structures. This information should be provided prior to the public hearing.

305.5 *Before taking final action on an application under this section, the Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report, including:*

- (a) *The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:*

- (1) *Public safety relating to police and fire concerns including emergency vehicle access;*

The applicant has not proposed to modify the existing buildings beyond their existing footprint, or to increase densities on the properties. As such, there should not be an impact to public safety, including police, fire, and emergency vehicle access.

- (2) *The environment relating to water supply, water pollution, soil erosion, and solid waste management;*

The purpose of this request is to improve the environmental condition of the site. Combining the properties will facilitate compliance with DOEE stormwater management requirements. The applicant has not proposed any modifications to the site that would impact water supply, pollution, soil erosion or solid waste management.

- (3) *Public education;*

The proposed modifications to the site would not increase the number of units, and should not impact the public education system.

- (4) *Recreation;*

The applicant has not proposed to increase the number of units within the structures, and should not increase the impact on recreation services or facilities.

(5) *Parking, loading, and traffic;*

The existing development does not facilitate parking, loading or traffic on-site, and the proposal to combine the properties would not change this condition. Given that the density on the lots would not be increased, there should not be an impact on this infrastructure.

(6) *Urban design; and*

The existing structures were constructed in 1926, and are contributing resources to the Capitol Hill Historic District. The applicant intends to make matter-of-right modifications to the buildings within the existing footprint, and improve the site with enhanced landscaping, permeable green space, and stormwater management improvements.

(7) *As appropriate, historic preservation and visual impacts on adjacent parkland;*

The site is located within the Capitol Hill Historic District and the two existing structures are contributing to the Historic District. The applicant has received approval from the Historic Preservation Review Board for the proposed changes, ensuring that modifications are consistent with the neighborhood character.

(b) *Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear setbacks; density and open space; and the location, design, and screening of structures;*

The applicant has not proposed any modifications to the site that would impact site planning or general development requirements related to setbacks, density, open space, and screening of structures.

(c) *Considerations of traffic to be generated and parking spaces to be provided, and their impacts;*

The applicant has not proposed to increase the density of the existing structures, and would continue to not provide on-site parking, loading, or traffic circulation. As a result, traffic and parking conditions would not be further impacted by the proposed subdivision.

(d) *The impact of the proposed development on neighboring properties; and*

The proposed subdivision should not impact neighboring properties, other than to improve the site's stormwater management capacity. The existing nonconforming structures will continue to exist in their current configurations and would not be increased in density.

(e) *The findings, considerations, and recommendations of other District government agencies.*

At Exhibit 37, DDOT has provided a report noting no objection to the proposal. The Department of Energy and Environment (DOEE) has advised OP that the design engineer for the project should meet with DOEE to discuss stormwater design solutions and Green Area Ratio (GAR) requirements. As of the date of this report, comments from other District Agencies had not been provided.

305.6 *The proposed development shall comply with the substantive intent and purpose of this title and shall not be likely to have an adverse effect on the present character and future development of the neighborhood.*

The proposed subdivision would allow improvements to an existing development that would satisfy stormwater management requirements, which is an improvement over current conditions. Given that improvements to the site would be limited to the existing building footprint, the proposal should not have an adverse impact on the present character and future development of the neighborhood.

305.7 The Board of Zoning Adjustment may impose conditions with respect to the size and location of driveways; floor area ratio; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.

The Office of Planning does not recommend conditions for this proposal.

i. Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?

The proposal would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The development predates the 1958 Zoning Regulations and is nonconforming in many aspects. The proposal to consolidate the lots into one record lot would allow the applicant to make improvements that would achieve greater compliance with stormwater management requirements, resulting in improved landscaping and permeable surfaces. While improvements would be made to the structures, they would be done within the existing building footprint and would not increase the density beyond its current conditions.

ii. Would the proposal appear to tend to affect adversely, the use of neighboring property?

The proposal would not appear to adversely affect the use of neighboring property. The applicant has proposed improvements to the existing structures that would not expand the building footprints or increase density. Site improvements, including those required for stormwater management, would improve the site's condition and create a more attractive streetscape. Further, the applicant has received approval from the Historic Preservation Review Board for the proposed changes, ensuring that they are consistent with the historic character of the neighborhood.

V. COMMENTS OF OTHER DISTRICT AGENCIES

Department of Energy and Environment (DOEE) has provided general comments to OP indicating that the design engineer for the project should meet with DOEE to discuss stormwater design solutions and Green Area Ratio (GAR) requirements. DDOT has filed a report indicating that the proposal will have no adverse impacts on the transportation network ([Exhibit 37](#)).

VI. COMMUNITY COMMENTS

As of the date of this writing, comments from the community had not been received. The applicant indicates in the pre-hearing statement that this request is scheduled to be heard at ANC 6A's public meeting on July 12, 2018. The applicant should continue to work with the ANC and provide an update to the Board at the hearing.

Location Map

