

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts, Project Manager
JL Joel Lawson, Associate Director Development Review
DATE: September 7, 2018

SUBJECT: BZA Case 19811, 4526 13th Street, NW - to allow a nonconforming apartment house in the RF-1 zone to continue with 17 units.

I. OFFICE OF PLANNING RECOMMENDATION

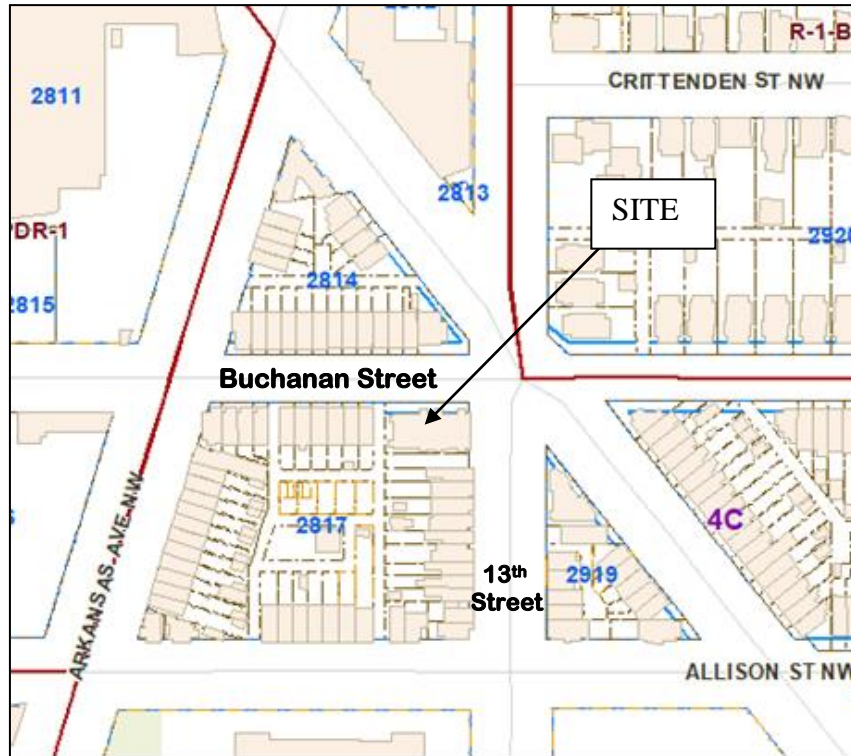
The Office of Planning (OP) recommends **approval** of the following:

- Subtitle E § 201.4, density of an apartment house in the RF-1 zone (900 sq. ft. of land area per unit required; 16 units or 1 unit / 465.75 sq. ft. land area per unit per existing C of O; 17 units or 1 unit / 438.3 sq. ft. of land area per unit existing and proposed).

II. LOCATION AND SITE DESCRIPTION

Address	4526 13 th Street, NW.
Applicant	Columbia Heights Partners, LLC
Legal Description	Square 2817, Lot 36
Ward, ANC	Ward 4, ANC 4C
Zone	RF-1 – Residential Flat Zones are intended to provide for areas predominantly developed with attached row houses on small lots within which no more than two dwellings are permitted. A building existing before May 12, 1958 in the RF-1 zone may be used for more than two dwelling units.
Historic District	None
Lot Characteristics	A rectangular corner lot, 7,452 square feet in area, with 110 feet of frontage along Buchanan Street, and 46 feet of frontage along 13 th Street. To the rear of the property is a 15-wide alley.
Existing Development	The property is currently developed with a two-story plus basement apartment building that was constructed in 1919 and has been used as an apartment building continually.
Adjacent Properties	To the north is a 3-story apartment building and 2-story row dwellings; to the west and south are row dwellings. To the east, across 13 th Street, is a 2-story apartment building all within the RF-1 zone.

<p>Surrounding Neighborhood Character</p>	<p>The surrounding neighborhood character is predominantly moderate density residential, consisting primarily of row dwellings and apartment buildings in the RF-1 zone. To the northeast is an area of single family detached homes in the R-1-B zone. Properties to the west are in the PDR-1 zone, with offices and religious place of worship.</p>
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III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – RF-1	Regulation	Existing	Proposed	Relief
Lot Width (ft.) E § 201	40 ft.	67.75 ft.	No change	None Required
Lot Area (sq. ft.) E § 201	4,000 sq.ft.	7,452 sq. ft.	No change	None Required
Density E § 201	900 sq. ft. of land area per unit	16 units = 465 sq. ft. of land area per unit	17 units = 438 sq. ft. of land area per unit	Required
Height (ft.) E § 303	35 ft.	40 ft.	No change	None Required
Lot Occupancy E § 304	60%	62%	No change	Existing nonconformity
Parking C § 701	3 spaces	0	0	Existing nonconformity

IV. PROPOSAL

Subtitle E § 201.4 requires that an apartment house in an RF-1 zone, existing before May 12, 1958, may not be renovated or expanded to increase the number of dwelling units unless there are nine hundred square feet (900 sq. ft.) of lot area for each dwelling unit, both existing and new. The property is improved with a purpose-built apartment building dating from 1919. The applicant states that when the property was acquired in 2016 there were 17 residential units on the rent roll, 16 units above grade and one unit in the cellar. However, the Certificate of Occupancy does not recognize the cellar unit. As such, although the applicant is not requesting to add additional units on the property beyond what currently exists, relief is requested to legitimize the existing 17th unit.

For many years, the apartment building has catered to low income tenants who participate in DHCD’s Housing Choice Vouchers (“HCV”) program with units priced at or below 30% of the Annual Median Income. A *Certificate of Notice of Increase in Rent Charged* approved in 2008 by DHCD (Exhibit 31, pages 10 to 12) identifies 17 units with the cellar unit identified as “#A”, demonstrating that the unit has existed at least since 2008. The applicant states that the cellar unit is currently occupied and meets the minimum 6 feet 6 inches height limit for habitable space in the cellar. The property has never provided off-street parking and the required 4 spaces have been grandfathered. The addition of the one cellar unit would not increase the requirement. The applicant requests the relief to continue the use of the cellar unit to be rented to a low-income tenant.

V. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from Subtitle E § 201.4, Density of an Apartment House in the RF-1 Zone

i. *Exceptional Situation Resulting in a Practical Difficulty*

The applicant is presented with an exceptional situation in that the structure is a purpose-built apartment building in the RF-1 zone with 17 units that does not meet the Zoning requirement. The DHCD certificate demonstrates that the unit in the cellar has existed for an extended period of time prior to the building’s purchase by the applicant, is completely built out and meets the requirement

of a habitable unit in the cellar. If the cellar unit were not to be allowed, it would result in a practical difficulty in that there would be a loss of a in deeply affordable unit. The unit would have to be dismantled to accommodate another use which could result in significant cost. In addition, the cellar area already has storage and other uses which serve the residents of the building. A vacant unit or space could present potential maintenance or security difficulties in that space, even while the remainder of the building is occupied.

The property cannot be expanded to meet the 900-square foot of land area per unit because it is bounded on to the north and east by streets and to the west by a 15-foot alley. To the south is a vacant property but the owner of that property is not interested in selling. Including that property in the land area for the apartment building would still not meet the 900-square foot of land area per unit requirement.

ii. No Substantial Detriment to the Public Good

The proposed cellar unit should not pose substantial detriment to the public good. The unit is existing, and no internal or exterior modifications to the building are proposed. The apartment house is in a transit-rich neighborhood, so retention of the additional unit should not impact the area negatively. Further, the unit will continue to house a low-income resident.

iii. No Substantial Harm to the Zoning Regulations

The existing unit, in this purpose-built apartment house would not cause substantial harm to the Zoning Regulations. The requested relief would allow the applicant to continue an affordable unit in an otherwise unusable space in a transit-accessible neighborhood. There are no exterior modifications proposed for the building, so the height and massing of the structure would continue to be appropriate for the neighborhood in which it is located. This is an existing apartment house, that is entirely committed to residents with Housing Choice Vouchers allowing them to have rents at below 30% of AMI.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) has filed a report indicating no objection to the requested variance (Exhibit 31).

VII. COMMUNITY COMMENTS

The property is within ANC-4C. The ANC is scheduled to review the proposal at their September 12, 2018 public meeting.