

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Ron Barron, Case Manager
JS for
 Joel Lawson, Associate Director Development Review

DATE: February 13, 2025

SUBJECT: BZA Case 21229: Request for use variance and special exception relief to allow combining of two lots and construction of a new, detached, three-story plus cellar, 11-unit apartment house in the R-2 zone at 62-64 Forrester Street, SW (Square 6239, Lots 60 and 59).

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following **use variance** pursuant to Subtitle X § 1002:

- Subtitle U § 201, matter-of-right uses (matter-of-right: Single-family detached or semi-detached residential, Existing: vacant lot, Proposed: 11-unit residential)

While OP would not generally support a variance to allow multi-family construction in the R-2 zone, the extraordinary characteristics associated with the subject property (see analysis below) make the situation sufficiently unique that approval would not have a detrimental impact to the integrity of the zone.

OP also recommends **approval** of the following **special exception** pursuant to Subtitle C § 714.3 and Subtitle X § 901:

- Subtitle C § 714.2, screening requirements for surface parking (Required: Screening with gap no greater than 20 ft., Proposed: 7-space parking pad with gap greater than 20 ft.)

II. LOCATION AND SITE DESCRIPTION

Address	62-64 Forrester Street, SW (Square 6239, Lots 60 and 59)
Applicants	WC PROPERTIES, LLC
Legal Description	Square 6239, Lots 60 and 59
Ward, ANC	Ward 8; ANC 8D
Zone	R-2, low density residential
Historic Districts	None
Lot Characteristics	Two slightly irregular lots that, upon approval would be combined into a single regular lot measuring 7,444 sq. ft. of land area, front and rear lot lines of approximately 73 ft., an east side lot line of 100 ft. and west side lot line of 102 ft.

Existing Development	The subject property is currently unimproved except for a partially collapsed retaining wall running along Forrester St. SW
Adjacent Properties	The subject property abuts Forrester St. SW to the north, a multi-family residential building at 58 Forrester St. SW to the east, a public alleyway to the south and a multi-family residential building at 68 Forrester St. SW to the west.
Surrounding Neighborhood Character	The surrounding neighborhood is predominately two- and three-story multifamily residential buildings.
Proposed Development	To construct an 11-unit residential building with penthouse and 7 parking spaces.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

R Zone	Regulation	Existing	Proposed	Relief
Lot Width D § 202	40 ft. min.	36.6 ft. (Lot 59-3) 36.6 ft. (Lot 60-3)	73 ft. 2 in.	No Relief requested
Lot Area D § 202	4,000 sq.ft. min.	739 sq. ft. (Lot 59-3) 705 sq. ft. (Lot 60-3)	7,444 sq. ft.	No Relief requested
Height D § 203	40 ft. max.	Not provided	40 ft. (3 stories)	No Relief requested
Front Setback D § 206	In-line with neighboring properties	Within range	10 ft. (in line)	No Relief requested
Rear Yard D § 207	20 ft. min.	Not provided	24 ft.	No Relief requested
Side Yard D § 207	8 ft. min.	Not provided	8.5 ft. (west side) 16 ft. (east side)	No Relief requested
Lot Occupancy D § 210	40% max. by right max by sp.ex.	40 %.	40 %	No Relief requested
Parking C § 701	6 min.	0 spaces	7 spaces	No Relief requested
Screening requirements for parking spaces C § 714	Vehicle gaps, 20 ft. max	N/A	Vehicle gaps > 20 ft.	Sp. Ex. Relief Requested
Matter-of-right uses in an R Zone U § 201	Detached or semi-detached single-family	N/A	11-unit multi family	Use Variance relief requested

IV. OP ANALYSIS

The applicant is proposing to build an 11-unit residential building in an R-2 zone. The property is subject to an affordable housing covenant ([Ex. 12](#)) through the Department of Housing and Community Development (DHCD) that limits development on the parcel to either an 8-12 unit residential complex or two single-family homes, 50% of the units of either option must be occupied by households with an annual income at or below 120%. The applicant is proposing one unit at 60% Median Family Income (MFI) and five units at 120% MFI. Because new multi-family construction is not permitted in the R-2 zone, the applicant is seeking a use variance for the multi-family proposal, in addition to special exception relief for parking screening.

Subtitle X § 1000, GENERAL PROVISIONS

*1000.1 With respect to variances, the Board of Zoning Adjustment has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (formerly codified at D.C. Official Code § 5-424(g)(3) (2012 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions **or other extraordinary or exceptional situation or condition of a specific piece of property**, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, 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 as embodied in the Zoning Regulations and Map."*

Exceptional Situation or Condition

The applicant states that the subject property is affected by a number of conditions which, when taken together, constitute an "extraordinary or exceptional situation or condition."

- The property is subject to a restrictive covenant ("Covenant") with the District that envisions that the applicant provide a multi-family building, or in the alternative, two single-family buildings. Either option further requires that 50% of the units be income-restricted.
- The existing parcel is a vacant lot in a neighborhood that is predominately three- to four-story apartment buildings. The area was down-zoned from R-5-A (RA-1) to R-2 in 2008 as part of a broad zoning initiative intended to preserve existing low density single family dwelling neighborhoods.
- The subject properties have significant grade differences from the public right-of-way that requires substantial rehabilitation of a long-neglected retaining wall along Forrester Street. An additional new retaining wall would also be required in the rear of the property along the public alley. This work would be required to facilitate any new development. The applicant has provided supporting documentation at [Ex. 20A](#) to show this work would add at least \$200,000 to the cost of development, which would make a development of 2 single family homes difficult, particularly since one must be an income restricted unit.

Resulting Undue Hardship to the Owner

The only zoning-compliant use in the R-2 zone would be two detached or semi-detached single-family dwelling units, consistent with the alternative proposal of the Covenant. As discussed earlier, the DHCD covenant requires at least 50% of any units constructed to be income restricted. The applicant has demonstrated that such a use would not cover construction and development costs (see Ex. 19D, 19E and 20A). Thus, the applicant would not be able to put the land to a zoning-complaint use at reasonable return.

When taken together, these factors – particularly the presence of the covenant with the District - represent a sufficiently unique confluence of factors to constitute an “extraordinary or exceptional situation or condition of a specific piece of property” which results in a practical difficulty to the owner.

No substantial detriment to the public good

Approval of the requested variance would not result in substantial detriment to the public good. The area has predominantly consisted of apartment complexes since at least the 1940s. Although it was downzoned in 2008, this was to protect nearby single-family homes, not to foster the conversion of multi-family neighborhoods to single family ones. The subject property, however, is surrounded by multifamily buildings and is not close to lower-density properties to result in negative impacts. Providing new market rate and affordable units in a configuration consistent with other buildings on the block, would not pose a substantial detriment to the public good and would, in fact, be a form more consistent with neighborhood character.

No Substantial Impairment to the intent, purpose, and integrity of the zone

The purpose of the R-2 Zone is as follows:

The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached houses (D-101.7)

Approval of the requested use variance would not substantially impair the intent, purpose and integrity of the R-2 zone, in this unique case. The subject property has a unique combination of conditions, mainly the DHCD covenant, the neighborhood character, and zoning history, all of which make the matter-of-right option economically infeasible.

Subtitle C § 714, SCREENING REQUIREMENTS FOR SURFACE PARKING

Subtitle C § 714.1(b) requires screening for surface parking on properties with more than two residential units. The applicant’s proposal would provide six parking spaces, which is the minimum required for 11 units in an R zone. Due to topographic conditions, retaining walls are necessary in specific locations. Because of this, along with rear slope of the alley, it is not possible to provide the screening without reducing the required number of parking spaces.

714.3 The Board of Zoning Adjustment may grant, as a special exception, a modification or waiver of these screening requirements. In addition to the general requirements of Subtitle X, the Board of Zoning Adjustment may consider:

- (a) *Impacts on the pedestrian environment within adjacent streets, sidewalks, and other public areas;*

The proposed parking would be accessed from the public alleyway. This alley has minimal pedestrian use and is sufficiently separated from the streets and sidewalks to have little anticipated impact on them.

- (b) *Existing vegetation, buildings or protective and screening walls located on adjacent property;*

No vegetation, buildings or protective and screening walls currently exist on adjacent property. The applicant would provide a new retaining wall along the property line to the east (abutting 56 Forrester St. SW) that would provide some screening.

- (c) *Existing topographic conditions;*

As discussed earlier, the alley to the rear has a fairly significant slope. The proposed retaining walls are necessary to provide a more level area for the required parking spaces. The number of spaces and the severity of the grade difference also make providing a fence or roll up door type screening solution impractical.

- (d) *Traffic conditions; and*

The traffic conditions along the alley way or adjacent streets are unlikely to be negatively impacted.

- (e) *In granting a modification or waiver, the Board of Zoning Adjustment may require any special treatment of the premises that it deems necessary to prevent adverse impacts on neighboring properties or the general public.*

OP does not recommend any specific treatment for the requested special exception as any impacts on neighboring properties and the general public are likely to be minimal.

Subtitle X § 901, SPECIAL EXCEPTION REVIEW STANDARDS

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

Approval of the requested special exception would be in harmony with the general purpose and intent of the R-2 zone. The applicant is attempting to provide the required number of parking spaces called for under the zone. The intent of screening is to separate the parking areas of adjacent properties and minimize the potential for vehicle encroachment into public space. The proposed design would substantially achieve this intent while meeting the minimum number of spaces required by the regulations

- (b) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

Approval of the requested special exception would be unlikely to affect adversely the use of neighboring property. The alleyway is principally used for vehicular access. The proposed design would be consistent with or superior to the parking solutions provided by the other multi-family developments along the alleyway.

V. OTHER DISTRICT AGENCIES

DDOT reviewed the proposed application and noted no objection to the proposed variance nor special exception relief.

VI. ADVISORY NEIGHBORHOOD COMMISSION

ANC 8D has not submitted comment to the record at this time.

VII. COMMUNITY COMMENTS

No community comments have been submitted to the record at this time.

Location Map:

