

## SUPPLEMENTARY MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Shepard Beamon, Development Review Specialist  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** October 24, 2025

**SUBJECT:** BZA Case 21333: Request for use variance relief to use the first floor of an existing building for office use and special exception relief to construct a rear third-story addition for a second residential unit at 409 East Capitol Street SE.

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At the September 10<sup>th</sup> public hearing for this case, the BZA requested a supplemental OP report clarifying the applicability of Subtitle E § 5201, the special exception criteria from the RF zone development standards. The applicant has since modified the proposal to not increase the number of units; however, the applicant still requests the following relief from lot occupancy:

- Lot Occupancy Requirements of Subtitle E § 210.1 (60% required, 48% existing; 70% proposed)

OP defers to the Zoning Administrator in the interpretation of the zoning regulations, including which form of relief is applicable to a particular proposal. The applicant has provided a determination letter ([Exhibit 40A](#)) as well as a follow up email ([Exhibit 40B](#)) from the previous Zoning Administrator (ZA) stating that for mixed use buildings on a single lot, lot occupancy is determined by the primary use (the use occupying the greatest square footage - over 50%), which in the case referenced in the ZA determination letter, as well as in this case, is residential use.

*“... because the Project proposes no change in commercial square footage but will increase the residential square footage, the Building will have a greater amount of residential floor area than it does commercial floor area. For that reason, the Building qualifies as a residential building for purposes (of) 11 DCMR § E-5201.1, and special exception relief is therefore the appropriate relief for an expansion of lot occupancy up to a lot occupancy of seventy percent (70%).*

Under the determination letter and email provided from the (then) ZA, and since the applicant does not propose to expand the existing nonconforming non-residential use, only the conforming residential use, the E § 5201 special exception relief process and criteria would apply to this proposal for the requested lot occupancy relief.

The applicant has also indicated they have followed up with the current ZA and would upload any comments received to the case record as soon as they are made available. OP will also contact the ZA to confirm this interpretation.