

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Brandice Elliott, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: March 30, 2018

SUBJECT: BZA Case 19738 (1300 35th Street, N.W.), requesting special exception relief to allow a nonconforming residential use on the first floor of an existing apartment house.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Subtitle C § 204.9, change a nonconforming use to another nonconforming use.

II. LOCATION AND SITE DESCRIPTION

Address	1300 35 th Street, N.W.
Applicant	Holland & Knight, LLP for Washington DC Sole Properties, Inc.
Legal Description	Square 1227, Lot 813
Ward, ANC	Ward 2, ANC 2E
Zone	R-20 is a Georgetown Residential House zone intended to retain and reinforce the unique mix of housing types including detached, semi-detached and attached dwellings and permit attached row houses on small lots, and includes areas where attached houses are mingled with detached houses and semi-detached houses.
Historic District	Georgetown Historic District
Lot Characteristics	The 1,506-square foot rectangular lot is located at the northwest corner of N Street and 35 th Street, having a width of 23.43-feet along 35 th Street, and a width of 64.28-feet along N Street. The lot is not served by an alley.
Existing Development	The property is currently developed with a semi-detached, three-story building that was constructed in 1849 and is a contributing structure to the Historic District. The ground floor is a currently vacant, but configured as a residential unit, while the second and third floors consist of a four-unit apartment building. The ground floor was previously occupied by an office use, permitted by special exception.

Adjacent Properties	To the north, are existing row dwellings. To the south, across N Street, is an existing 4.5-story multi-family residential building. To the east, across 35 th Street, are semi-detached and attached residences, and neighborhood-serving retail. To the west is a two-story multi-family residential building.
Surrounding Neighborhood Character	The surrounding neighborhood character is predominantly moderate density residential, consisting largely of semi-detached and attached row dwellings, apartment houses, and neighborhood-serving retail. A large institutional use, the Holy Trinity Church and School, is located in the same square.
Proposed Development	The applicant proposes to change an existing nonconforming use on the ground floor of an existing structure to a different nonconforming use. A previous special exception approved by the Board (reference BZA Case No. 14576) permitted the ground floor to be used as an office, and under the present request, the applicant proposes to replace the office use with a residential use. The existing three-story semi-detached structure currently consists of four dwelling units on the second and third floors. Should the requested relief be approved, the structure would consist of five dwelling units. No additions or modifications to the exterior are proposed.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – R-20	Regulation	Existing/Proposed	Relief
Lot Width (ft.) D § 1202	30 ft.	23.43 ft.	Existing nonconforming
Lot Area (sq. ft.) D § 1202	3,000 sq.ft.	1,506 sq.ft.	Existing nonconforming
Height (ft.) D § 1203	35 ft. max.	Not provided	None requested
Lot Occupancy D § 1204	40% max.	Not provided	None requested
Front Setback D § 1205	Consistent with one immediately adjacent properties on either side	Not provided	None requested
Rear Yard (ft.) D § 1206	20 ft.	Not provided	None requested
Side Yard (ft.) D § 1207	None required	Not provided	None requested
Pervious Surface D § 1208	20% min.	Not provided	None requested
Parking C § 702	0 spaces	0 spaces	None requested
Nonconforming Use C § 204	Nonconforming use may be changed to another nonconforming use, subject to special exception and conditions	Office use existing, apartment residential use proposed	Requested

IV. OFFICE OF PLANNING ANALYSIS

a. Special Exception Relief pursuant to Subtitle C § 204.9, Changing a Nonconforming Use to Another Nonconforming Use

204.9 If approved by the Board of Zoning Adjustment, a nonconforming use may be changed to another nonconforming use, subject to the general special exception criteria of Subtitle X, Chapter 9, and the following conditions:

- (a) *The proposed non-conforming use would be permitted as a matter-of-right in the most restrictive subtitle in which the existing non-conforming use is permitted as a matter of right, in accordance with following order, from most restrictive to least restrictive subtitle:*
- (1) Subtitle D – Residential House (R) zones;*
 - (2) Subtitle E – Residential Flat (RF) zones;*
 - (3) Subtitle F – Residential Apartment (RA) zones;*
 - (4) Subtitle H – Neighborhood Mixed-Use (NC) zones;*
 - (5) Subtitle G – Mixed-Use (MU) zones;*
 - (6) Subtitle I – Downtown zones (D);*
 - (7) Subtitle J – Production, Distribution, and Repair (PDR) Zones; and*
 - (8) Subtitle K – Special Purpose Zones.*

The applicant proposes to replace the existing nonconforming office use on the ground floor with a residential unit. Office uses are permitted as a matter-of-right in Neighborhood Mixed-Use (NC) zones, which is the most restrictive zone that permits office uses. Therefore, the nonconforming office use may be changed to another use permitted as a matter-of-right in the NC zone, which includes an apartment house.

- (b) *In the R, RF, or RA zones, the proposed use shall be either a single dwelling unit, flat, or a multiple dwelling unit development; except on an alley lot, the proposed use may only be a single dwelling unit;*

The proposed use is consistent with this provision. The subject property is zoned R-20, and the requested special exception would allow for the replacement of an office with a residential unit, resulting in the existing multiple dwelling unit development consisting of five dwelling units.

- (c) *In the R and RF zones, the corner store provisions of the relevant subtitle shall apply;*

This provision does not apply, as the proposal does not include a corner store.

- (d) *The external impacts of the proposed use will be deemed to be no greater than the existing use;*

The applicant has not proposed any modifications to the exterior of the building that would increase external impacts of the proposed use, such as bulk additions or façade improvements. In general, office uses generate more pedestrian and vehicular traffic associated with conducting business than is associated with residential uses. As a result, the impact of the proposed residential use should be no greater than the existing office use.

- (e) *The proposed use shall not adversely affect the present character or future development of the surrounding area within at least three hundred feet (300 ft.) of the site;*

The proposed residential use should not adversely affect the present character or future development of the surrounding area. The neighborhood is predominantly residential, including attached, semi-detached, and detached dwellings, as well as some neighborhood serving retail. Holy Trinity Church and School is located in the same square, west of the site. The proposed residential use is consistent with other uses in the existing building, which includes four other dwelling units, as well as within the context of the surrounding, predominantly residential, neighborhood character.

- (f) *The proposed use shall not create any deleterious external effects, including, but not limited to, noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects;*

The proposed residential use should not create any deleterious external effects. The use of the ground floor as a residential dwelling unit would not increase pedestrian or vehicular traffic to the site beyond the current office use, and would not otherwise increase noise, traffic, parking, or loading considerations. Given that the site is located in the Georgetown Historic District, parking is not required for the use. A residence on the ground floor would also not impact illumination, vibration, odor, or design and siting effects.

- (g) *When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use; and*

The nonconforming office use was approved by the Board in 1987 (BZA Case no. 14576), and has not been changed to a conforming or more restrictive use. The proposed residential use is more restrictive than the existing office use.

- (h) *The Board of Zoning Adjustment may require the provision of changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it deems necessary to protect the value, utilization, or enjoyment of property in the neighborhood.*

The Office of Planning does not recommend any modifications to the design, plan, screening, landscaping, type of lighting, or any other restriction or safeguard to protect the value, utilization, or enjoyment of property in the neighborhood.

V. COMMENTS OF OTHER DISTRICT AGENCIES

As of the date of this writing, comments from other District Agencies had not been received.

VI. COMMUNITY COMMENTS

The applicant will present the special exception request to ANC 2E at its April 2, 2018, public meeting. An update regarding the outcome of this meeting should be provided at the public hearing. OP has not received comments from the community regarding this application.

Attachment: Location Map

Location Map

