

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Maxine Brown-Roberts, Project Manager
JL Joel Lawson, Associate Director Development Review
DATE: May 3, 2019
SUBJECT: BZA Case 20014 (1803 Rhode Island Avenue, NE) to permit a two-story plus cellar and penthouse commercial building in the MU-4 zone.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval of the following** variance pursuant to Subtitle X § 1001:

- Subtitle G § 402.2 FAR (2.5 with a maximum of 1.5 for non-residential uses, 2.49 FAR proposed for all commercial uses).

The Office of Planning (OP) recommends **approval** of the following special exception relief pursuant to Subtitle X § 901:

- Subtitle U § 512.1(d)(3), Prepared Food Shop (18-seat maximum permitted; 112 proposed, Option A);
- Subtitle C § 1500.3 (c) Penthouse Rooftop Bar;
- Subtitle C § 701.5, Parking (Option A – 13 spaces and Option B - 9 spaces) pursuant to Subtitle C § 703;
- Subtitle G § 405.2, Rear Yard (15 ft required, 0 feet proposed) pursuant to Subtitle C § 1201; and
- Subtitle C § 801, Loading (1 loading berth and 1 loading platform, none provided) pursuant to Subtitle C § 909.2;¹

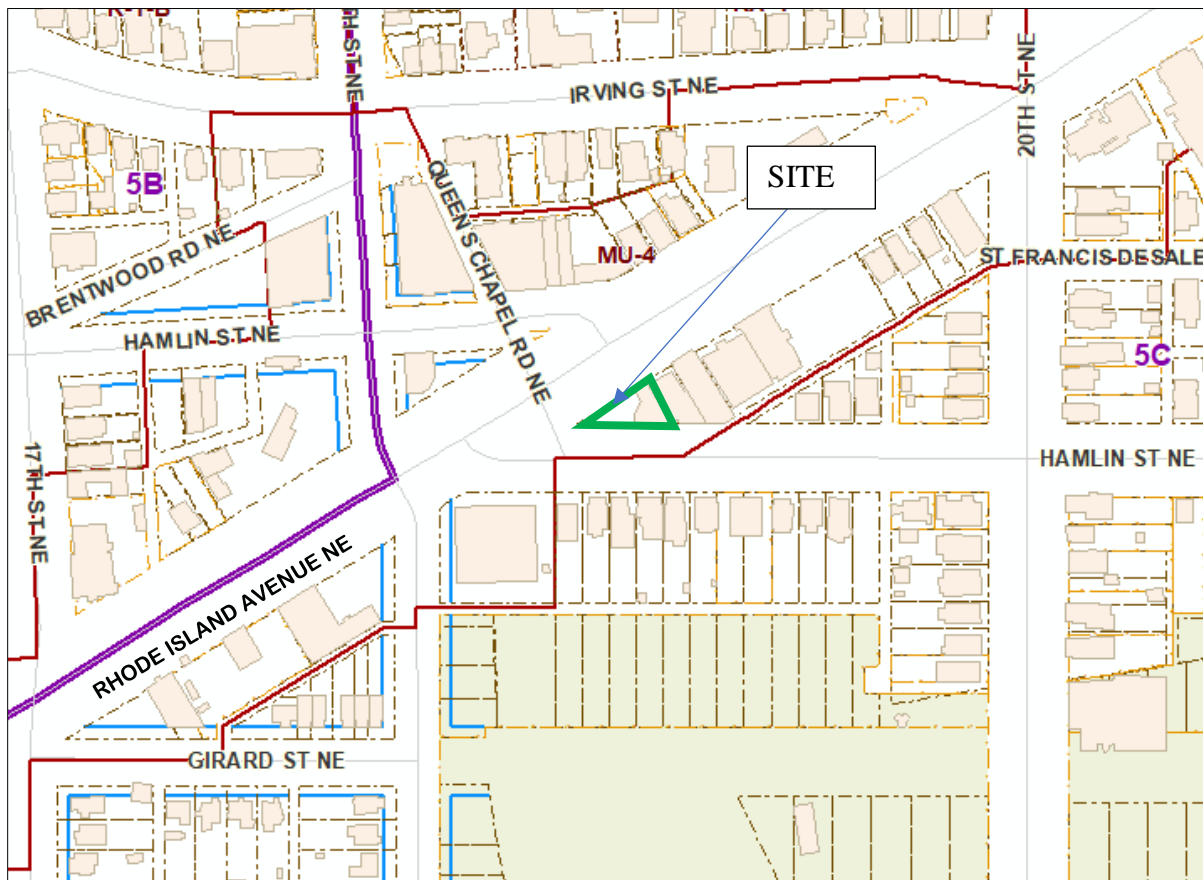
While OP is typically not supportive of FAR-related variance relief for the substitution of residential FAR for non-residential FAR as anticipated by the zone, in this specific case, this small lot, its location and its configuration present a unique circumstance. The OP recommendation of approval, however, is also subject to the concurrence of the Department of Transportation (DDOT). At the time of this report, the applicant has not completed the required parking study and Transportation Demand Management Plan requested by DDOT.

II. LOCATION AND SITE DESCRIPTION

Address	1803 Rhode Island Avenue, NE
Applicant	Addisleigh Park Washington Properties, LLC

¹ The application requested a variance from the loading requirements and in the alternative, special exception relief. OP has conferred with the Zoning Administrator, who advised that the appropriate relief is by special exception pursuant to C § 909.2. OP has provided analysis accordingly.

Legal Description	Square 4209, Lot 5
Ward, ANC	Ward 5/ANC 5C
Zone	MU-4
Historic District	None
Lot Characteristics	The subject property is nearly flat, triangular, and bounded by Rhode Island Avenue and Hamlin Street, NE.
Existing Development	The property is developed with a one-story, commercial building and has curb cuts from Rhode Island Avenue and Hamlin Street.
Adjacent Properties	To the south are single-family, detached houses and the Woodridge Library; to the west is a one-story car repair shop; to the north is a two-story office building; and to the north is a one-story union office building, small retail stores and a three-story apartment building
Surrounding Neighborhood Character	The neighborhood is a mix of single family detached houses, apartments, small offices, churches, and retail uses.



III. PROPOSED DEVELOPMENT

The applicant proposes a two-story, commercial building with cellar and a penthouse habitable space. Currently, the applicant does not have a tenant for the space, but the space would be designed to accommodate and be fitted out for one of the two options for specified uses, to respond to market demands. The table below shows the two options for development, Option A and Option B, with the uses proposed on each level of the building.

BUILDING LEVEL	OPTION A	OPTION B
Cellar	Internet Café/Co-working space (112 seats), which requires special exception approval	Grocery Store, which is permitted by right
1 st Floor and Mezzanine	Coffee Shop (18 seats) and Restaurant	Coffee Shop (18 seats) and Grocery store
2 nd Floor and Mezzanine	Restaurant	Restaurant
Roof	Roof-top bar, which requires special exception approval	Roof-top bar, which requires special exception approval

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone- MU-4	Regulation	Proposed	Relief
Prepared Food Shop, U § 512.1(d)(3)	Up to 18 seats	112 seats in Option A	SE Required
Penthouse Rooftop Bar, C §1500.3(c)	A nightclub, bar, cocktail lounge, or restaurant use in a penthouse	Bar	SE Required
Floor Area Ratio, G §402.1	2.5 max. 1.5 max. Non-Residential	2.49 Non-Residential	Variance Required
Height, G §403.1	50 ft. max.	50 ft.	None Required
Penthouse Height, G §403.3	12 ft./15 ft. for penthouse mechanical space	10 ft. for occupied penthouse and mechanical space	None Required
Lot Occupancy, G §404.1	100% max.	100%	None Required
Rear Yard, G §405.2	15 ft. min.	0 ft.	SE Required
GAR, G §407.1	0.3	0.3	None Required
Parking C §701.5	Option A – Restaurant, coffee shop, bar – 13 spaces Option B – Grocery, coffee shop, restaurant, bar - 9 spaces	0 spaces	SE Required
Loading, C §901.1	5,000 sq. ft to 20,000 sf. ft. 1- loading berth 1 – 30 ft. loading platform	None. Curbside loading.	Special Exception Required

V. OFFICE OF PLANNING ANALYSIS

Variance – Non-Residential FAR

Relief from requirements of Subtitle G § 402.1, FAR

i. Exceptional Situation Resulting in a Practical Difficulty

The property is a small, triangular lot bounded by two streets which results in an exceptional situation leading to a practical difficulty in limiting the nonresidential use to 1.5 FAR. The narrow triangular shape of the lot does not allow for a typical distribution between circulation/utility space and leasable/habitable space. The area needed for utility and circulation space driven by practical and building code requirements. Including residential use in the building would require additional separate residential core, and this would significantly reduce the habitable space. The small size and shape of the lot would result in awkward and/or very small units in any remaining space available.

ii. No Substantial Detriment to the Public Good

The increase in nonresidential FAR would not exceed the maximum 2.5 FAR allowed on the property. The increase in nonresidential FAR would allow the option for a neighborhood serving supermarket in a food desert, or a local coffee shop and a restaurant which are currently lacking in the community. The increase in nonresidential FAR would have minimal impacts on the light and air of adjacent properties, when compared to a by-right project.

OP is typically very concerned about, and opposed to, to replacement of potential residential space with non-residential space, as this would typically be considered a substantial detriment to the public good and contrary to the intent of the regulations. This is especially the case when the proposal involves new construction. In this specific case, the applicant has made a sufficient case that the provision of residential space would be difficult, and any resulting residential space would be very limited and inefficient, while there are a variety of residential uses along the corridor and in the surrounding neighborhood which are underserved for retail, and which would be better served by the retail space as proposed. From conversation in the community, this area has been identified as a food desert, and a small neighborhood supermarket and a coffee shop are desirable uses to serve neighborhood needs. Given the configuration and size of this particular lot, the benefits of this additional retail outweigh the loss of the small amount of inefficient residential space that would likely be possible. Therefore, the proposed increase in nonresidential FAR would in this case, on balance, not be a substantial detriment to the public good.

In addition, this portion of Rhode Island Avenue, NE is one of the Great Street Retail Priority areas, in the Great Streets Initiative. The Great Streets Initiative is the District's commercial revitalization initiative, designed to support existing small businesses, attract new businesses, and transform emerging corridors into thriving and inviting neighborhood centers. The intent is to foster economic development on the Great Streets corridors through investing in small business development via the Great Streets Small Business Retail Grants, which are grants for qualified small business owners who wish to improve their place of business.

iii. No Substantial Harm to the Zoning Regulations

The increase in non-residential FAR would be within the total FAR allowed on the site. The proposed development is along a major transit route and the uses are all allowed as a matter-of-right or by special exception in the MU-4 zone. While the zone permits, and essentially promotes, the provision of residential or mixed-use development, this unique property is not well suited to mixed use development, while the retail uses proposed would be consistent with the zoning and of benefit to the community. The development proposed on this small, triangular site is therefore appropriate for this site and would not substantially harm the Zoning Regulations.

Special Exceptions

Subtitle U § 512(d)(3) – Prepared Food Shop:

A prepared food shop in a MU-4, MU-17, MU-24, MU-25, MU 26, and MU-27 zone shall be limited to eighteen (18) seats for patrons;

The applicant proposes, in one of the two options, a coffee shop/internet café/co-working space in the cellar with 112 seats. The other option would be the provision of a small grocery store, which is permitted by-right, and a coffee shop above.

Subtitle C § 1500.3(c) – Penthouse Rooftop Bar

(c) A nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9;

The applicant proposes a rooftop bar in either of the two options.

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

The general purpose and intent of the MU-4 zone is to accommodate moderate density, mixed use developments that are within low and moderate density residential areas with access to the main roadways or rapid transit stops. A prepared food shop (coffee shop/internet café and co-working space) with 112 seats is proposed in Option A and a 558 square foot, rooftop bar in both Option A and Option B. Both uses are envisioned and permitted within the MU-4 zone with special exception review.

Given the size of the property and the resulting building, the proposed uses are intended to be neighborhood serving and should not attract patrons from a wide area as intended by the Zoning Regulations. In addition, the development would be along Rhode Island Avenue, a major roadway, and would be accessible to the Rhode Island Avenue and Brookland Metro stations. The proposed number of seats would serve persons from the community and are requested as there would not likely be a high or fast turnover of customers, unlike traditional coffee shops where customers come and go over short periods of times. The internet café would be in the cellar and therefore noise spill beyond the building would be minimized.

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

The proposed internet café /co working space should not adversely affect neighboring properties as it would be located in the basement which would help to minimize any potential noise impacts. Noise from the other uses would also be minimized as the areas of customer activity would be located closer to the Rhode Island Avenue frontage and away from the residences along Hamlin Street. The east façade of the building adjacent to the office building would have no windows in order to lessen any noise impacts. Trash and other storage would be internal to the building and accessed from Hamlin Street, which would be a significant improvement over the existing situation where trash storage is located outdoors.

The roof-top bar would be set back from the Hamlin Street façade by ten feet with the space enclosure forming a solid privacy wall to minimize noise spill towards the residences along Hamlin Street (Exhibit 10, page 7).

Overall, the proposed building and proposed uses should not adversely affect the residences through the use of minimized openings along Hamlin Street, setbacks, solid walls on the roof, and the location of the more active uses in the basement. The proposed uses should also not negatively affect other commercial uses along Rhode Island Avenue. The residences along Rhode Island are separated by the wide right-of-way and should therefore not be adversely affected.

Subtitle C § 701.5 – Parking

Under Option A, 13 spaces and Option B, 9 spaces would be required. The applicant proposes no on-site parking in either options. Relief can be granted if the requirements of Subtitle C § 703 are met:

703.1 The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant's demonstration of at least one (1) of the following:

- (a) *Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;*

The property is a small, triangular lot which constrains the provision of any surface spaces on the lot as part of a viable development. The physical shape of the property also constrains the provision of underground parking as the provision of ramps, turning area and drive isle requirements would result in few if any reasonable parking spaces being provided, would be uneconomical, and could make the development not viable. The applicant informed OP that they were inquiring about off-site locations for parking but at the time of this report, had not advised OP of any off-site parking spaces.

- (b) *The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;*

The property is served by public transportation, five bus routes, along Rhode Island Avenue and is within walking distance of the Rhode Island Metro Station to the southwest and the Brookland Metro station to the west of the site. The applicant will also provide bicycle storage on-site for three bicycles (Exhibit 10, page 3) and seven spaces within public space along Rhode Island

Avenue. The proposed uses would be neighborhood serving and persons would be able to walk or use public transportation.

- (c) *Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;*

On-street parking is allowed along Rhode Island Avenue and Hamlin Street. In addition, the neighborhood is well served by Metrobuses.

- (d) *Amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood;*

At the time of this report, the applicant is conducting a parking study to be reviewed by DDOT who will address this issue further in their report.

- (e) *The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;*

The proposed uses would generate the need for up to 13 spaces which would not be accommodated on-site. The applicant is working with DDOT on a parking study and would provide a TDM Plan to mitigate any parking needs. This issue will be addressed in the DDOT report.

- (f) *All or a significant proportion of dwelling units are dedicated as affordable housing units;*

N/A

- (g) *Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use;*

The applicant has not provided any information to OP regarding the availability of off-site parking.

- (h) *The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:*

- 1) *A curb cut permit for the property has been denied by the District Department of Transportation; or*
- 2) *Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24 DCMR;*

There are currently two curb cuts off Rhode Island Avenue and one along Hamlin Street to access the property which would all be closed as part of this development as directed by DDOT Public Space. With no alley access, there would be no way to provide parking. Due to the size and shape of the property, accommodating 13 spaces would require placement underground which would be expensive, very inefficient, and hard to configure.

(i) *Healthy and mature canopy trees on or directly adjacent to the property; or*
N/A.

(j) *The nature or location of a historic resource precludes the provision of parking spaces; or providing the required parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.*
N/A

703.2 *Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.*

The applicant is physically unable to accommodate the 13 or 9 parking spaces on site and has requested that no parking be provided on-site.

703.3 *Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.*

The applicant is working with DDOT and the evaluation of a parking study and a TDM Plan will be addressed in the DDOT Report.

Subtitle C § 901.5 - Loading

The applicant requested a variance from the loading requirements of Subtitle C § 901.5, one loading berth and one loading platform required but none would be provided. However, Subtitle C, § 909 allows the loading reduction as a special exception if the stated requirements are met.

909 SPECIAL EXCEPTIONS FROM LOADING REQUIREMENTS

909.1 *This section provides flexibility from the loading requirements when providing the number of spaces required is impractical or contrary to other District regulations.*

909.2 *The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction of the number of loading berths or service/delivery spaces required by Subtitle C § 901.1 if, in addition to meeting the general requirements of Subtitle X, Chapter 9, the applicant demonstrates that:*

(a) *The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this chapter, or in Chapters 6 or 11 of Title 24 DCMR; or*

The applicant has requested a full reduction from the required loading space and platform. The property does not abut or have access to an alley and therefore the access would have to be provided from the adjacent streets. DDOT Public Space will not likely permit a curb cut for loading from either street.

The applicant states that they are working with DDOT to accommodate on-street loading by designation an on-street loading zone. At the time of this report, the applicant is working with

DDOT on a parking study and a TDM Plan to provide a delivery analysis of potential uses for DDOT's review and comment.

Subtitle X, Chapter 9

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

The applicant is unable to accommodate the required loading on the site due to its triangular shape and small size. However, if the applicant is granted an on-street loading space, then the proposal would be in harmony with the Zoning Regulations and would meet the intent of accommodating loading that would not impact traffic.

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

Providing an on-street loading area would not adversely affect the use of neighboring properties as it should not cause the blocking of traffic or access to neighboring properties.

Subtitle G 405.2 Rear Yard,

The applicant proposes to reduce the required rear yard from 15 feet to 0 feet pursuant to Subtitle G 1201. Providing a 15-foot rear yard setback would severely reduce the building area by 1,584 square feet or 47.7% of the lot area and would result in a building form inconsistent with the streetscape character.

1201 SPECIAL EXCEPTION CRITERIA REAR YARD RELIEF

1201.1 The Board of Zoning Adjustment may grant relief to the rear yard requirements of this subtitle as a special exception pursuant to Subtitle X, provided:

(a) No apartment window shall be located within forty feet (40 ft.) directly in front of another building;

N/A

(b) No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall;

N/A

(c) In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate yards;

The proposal would have no residential use. The closest residential uses are across Hamlin Street which has a right-of-way of 60 feet which would minimize any direct views into the residences.

(d) Provision shall be included for service functions, including parking and loading access and adequate loading areas; and

The applicant has requested relief from the parking and loading requirements. The property is served by adequate public transportation and would primarily serve neighborhood residents. The

applicant has requested relief for the loading to be provided on-street. The applicant is working with DDOT on a TDM Plan to mitigate any loading related issues.

- (e) *Upon receiving an application to waive rear yard requirements in the subject zone, the Board of Zoning Adjustment shall submit the application to the Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the Historic Preservation Office.*

DDOT will provided additional recommendations.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

The Department of Transportation (DDOT) will submit its recommendation under separate cover.

VII. COMMUNITY COMMENTS TO DATE

The property is within ANC 5C. At its April 17, 2015 meeting the ANC voted to recommend approval of the requested relief.