

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Brandice Elliott, Development Review Specialist  
 JL Joel Lawson, Associate Director Development Review  
**DATE:** April 8, 2022

**SUBJECT:** BZA Case 20666 (1634 North Capitol Street, N.W.) to permit a restaurant use within the penthouse of a proposed, attached, four-story with penthouse and cellar, hotel in the MU-4 zone.

### **I. OFFICE OF PLANNING RECOMMENDATION**

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

- Eating and Drinking Establishment within Penthouse Habitable Space, Subtitle C § 1501.1(d), pursuant to Subtitle X § 901 (eating and drinking establishment permitted with special exception; no eating and drinking establishment existing; eating and drinking establishment proposed).

Subject to the following condition intended to mitigate the impact of the use on adjacent residential properties:

- All exterior lighting on the penthouse is to be shielded and pointed downward, which would mitigate the impact of the proposal by ensuring that light is not directed towards neighboring residential properties. Decorative outdoor lighting, such as string lights, is excluded from this condition.

This condition has been discussed with the Applicant and they are in agreement.

### **II. LOCATION AND SITE DESCRIPTION**

Address	1634 North Capitol Street, N.W.
Applicant	Cozen O'Connor for 1644 North Capitol LLC
Legal Description	Square 3101, Lot 118
Ward, ANC	Ward 5, ANC 5E
Zone	The <b>MU-4</b> is primarily intended to permit moderate-density mixed-use development.
Historic District	Bloomingdale Historic District; Site of Old Engine Company No. 12 (Eckington Firehouse)

Lot Characteristics	The subject property has 11,723 square feet of area and 117-feet of frontage along North Capitol Street, to the east. The lot has 100-feet of frontage along Quincy Place, to the south. The rear of the lot has 117-feet of frontage along the 12.7-foot wide public alley, to the west.
Existing Development	The proposed development consists of a four-story, 97-room hotel with a ground level restaurant use. The building is currently under construction.
Adjacent Properties	To the north of the subject building is a restaurant and several row buildings with residential uses. To the south, across Quincy Place, is a detached residential building. To the east, across North Capitol Street, are semi-detached retail buildings. To the west, across the public alley, are attached residential buildings.
Surrounding Neighborhood Character	The surrounding neighborhood character is generally low to moderate density, mainly consisting of residential row buildings. North Capitol Street is a high-capacity transit corridor with several bus lines. The site is approximately one-half mile from the NoMa-Gallaudet University Metro Station.
Proposed Development	The Applicant is currently constructing a four-story building consisting of a 97-room hotel with a ground level restaurant use. The project includes a matter-of-right penthouse level with 1,208 square feet of habitable space. The applicant has requested special exception relief to have a 632 square foot restaurant and bar on the penthouse level. The remainder of the penthouse level would be used for hotel guest rooms, a stairwell, and elevator core. The penthouse structure would be 15-feet in height, two stories, and would comply with the required setbacks for penthouses.

### III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone – MU-4	Regulation	Proposed	Relief
Lot Width	No requirement	117 ft.	None required
Lot Area	No requirement	11,723 sq.ft.	None required
Height § 403	50 ft. max.	49 ft.	None required
Penthouse § 403	12 ft.; 15 ft. for mechanical space	Not provided	None requested
Floor Area Ratio § 402	2.5 max. (3.0 IZ)	2.43	None required
Lot Occupancy § 404	60% max. residential (75% IZ)	65.4%	None required
Rear Yard § 405	15 ft. min.	15 ft.	None required
Side Yard § 406	None required	None	None required

Zone – MU-4	Regulation	Proposed	Relief
Green Area Ratio § 407	0.3	Not provided	None requested
Parking C § 701	None required for historic resource	6 spaces	None required
Eating and Drinking Establishment in Penthouse Habitable Space C § 1501	Eating and drinking establishment permitted with approval of S.E.	Eating and drinking establishment proposed	<b>Special Exception Required</b>

#### IV. OFFICE OF PLANNING ANALYSIS

##### **a. Special Exception Relief from Subtitle C § 1501.1(d), Eating and Drinking Establishments in Penthouse Habitable Space**

###### Subtitle C

*1501.1 A penthouse or rooftop structure may house mechanical equipment or any use permitted within the zone, except that penthouse habitable space shall be restricted as follows:*

- (d) An eating and drinking establishment located within a penthouse habitable space, or on a rooftop deck on the highest roof of the building, shall only be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9;*

###### Subtitle X

*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;*

The project, including the proposed penthouse bar and restaurant use would be in harmony with the purpose and intent of the MU-4 zone, which is to permit low-density mixed-use development. The proposed penthouse use would enhance the project by providing a rooftop amenity to hotel and restaurant guests. The Applicant has indicated that a contribution to the Housing Production Trust Fund has been made but has not provided the amount of the contribution.

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

The subject property is located along the North Capitol Street corridor, with residential row buildings to the north, west, and south of the site. The MU-4 zone is intended to provide neighborhood-serving retail uses in low- and moderate-density residential areas and is compatible with the adjacent RF-1 zone.

There would be a separation of approximately 40-feet between the penthouse and residential row buildings to the west. Additionally, there would be a separation of about 25-feet between the

penthouse and the residential row buildings to the north. A larger separation of about 100-feet would be provided between the penthouse and row buildings to the south. The penthouse floor plan indicates that there would be a large sliding glass wall that would open the space up to the west, towards the residential row buildings, and to the east, towards North Capitol Street. The maximum occupancy of the 632 square foot space has not been provided.

Since the four-story building would be taller than adjacent residences, it would be possible for light and sound to impact neighbors. Additional mitigations should be implemented in order to ensure that the uses do not unduly adversely affect the use of neighboring residential properties, due to their proximity to the site.

The proposed eating and drinking establishment will require licensing by the Alcoholic Beverage Regulation Administration (ABRA) to be permitted to sell and serve alcohol on the premises. ABRA specifically regulates some mitigation factors, including sound amplification and hours of operation, through its public hearing process (DCMR § 25-446.01; Settlement agreements – enforceable provisions). OP has not recommended conditions to mitigate these potential issues because they will be addressed through that public process.

ABRA does not appear to specifically regulate exterior lighting, which could impact neighboring residential buildings in this case. OP has provided a condition at the beginning of this report intended to address this potential impact, which would require lights to be shielded and directed downward so that light is not directed towards the residential uses. This would not include decorative outdoor lighting, such as string lights. The applicant has agreed to this condition.

(c) *Will meet such special conditions as may be specified in this title.*

Other than the conditions of approval noted above, no special conditions are proposed by OP.

## **V. OTHER DISTRICT AGENCIES**

Comments from other District Agencies had not been filed to the record at the time this report was filed.

## **VI. ADVISORY NEIGHBORHOOD COMMISSION**

Comments from the ANC had not been filed to the record at the time this report was filed.

## **VII. COMMUNITY COMMENTS TO DATE**

Comments from the community had not been filed to the record at the time this report was filed.

### Location Map

