

## **MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Karen Thomas Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** April 10, 2024

**SUBJECT:** BZA Case 21103 (71 Kennedy Street /5501 1<sup>st</sup> Street, N.W.) to permit a four-story 47-unit apartment building, with one level of below-grade parking.

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

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

- Subtitle G § 209.1, Closed Court (350 square-foot minimum area and 16.6-foot width required; 173 square-feet and 10-foot, 2-inch width and 45 square feet and 5-foot., 2-inch width (all floors) proposed); and
- Subtitle G § 207.6, Rear Yard (15-foot minimum required, none proposed).

There are a considerable number of letters of concern from area residents, mainly with regards to applicant's proposal to not provide retail on the ground floor. OP would also support the retention of the originally proposed ground floor retail space. However, ground floor retail is not required in this zone.

### **II. BACKGROUND**

The original filing to the Board in 2019 proposed a mixed-use building with two levels of parking accessible from 1<sup>st</sup> Street, loading spaces, 46 dwelling units and 4,017 square feet of commercial space and the Board approved relief from the closed court and rear yard requirements (Order 19897, effective date 3/14/2019).

At the Board's hearing on 12/06/2023 the Applicant requested a modification of consequence (19897C) from the original Order 19897 to:

- Eliminate the previously proposed ground floor commercial space and convert the space to residential.
- Increase the number of units by one, from 46 to 47 dwelling units; and
- Reduce the number of parking spaces from 22 to 17.

The Board dismissed the application at the [Public Meeting of 12/06/2023](#) as the [Order](#) had expired.

Those requests are now a part of the proposal under this application, including construction of a four-story apartment building with 47 units and one level of below grade parking. The applicant is requesting special exception relief from the court and rear yard requirements, as approved prior.

A curb cut at Kennedy Street to access on-site parking is also proposed and DDOT is working with the Applicant to address this need. DDOT's original report under [19897C \(the Modification\)](#) at

[Exhibit 14](#)) addressed this issue, and DDOT informed OP recently, that they are discussing the grading and paving of the unimproved alley under the current proposal.

### III. LOCATION AND SITE DESCRIPTION

Address	71 Kennedy Street, N.W. (corner of 1 <sup>st</sup> Street NW)
Applicant	REI LLC
Legal Description	Square 3389, Lots 822 and 817
Ward, ANC	Ward 4, ANC 4B
Zone	MU-4
Lot Characteristics	Square corner lot with a 15-foot building restriction line along 1 <sup>st</sup> Street and Kennedy Street each, and a 15-foot-wide unbuilt public alley to the east.
Existing Development	A one-family detached dwelling, a one and two-story commercial building and a one-story three-bay retail building.
Adjacent Properties	North: 3.5 story apartment building South: Across Kennedy Street, a church East: Across the unbuilt alley, four-story apartment building West: Across 1 <sup>st</sup> Street, 3-story apartment building with ground floor retail facing 1 <sup>st</sup> Street
Surrounding Neighborhood Character	Moderate-density residential with low-density commercial uses and houses of worship fronting Kennedy Street.
Proposed Development	Four-story (plus penthouse) apartment building with 47 dwelling units, a habitable penthouse, two closed courts on the north side of the building and 17 below-grade parking spaces to be accessed via Kennedy Street to the alley. The project has fewer than 50 units and no retail component and therefore will not include a loading berth.

### IV. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone: MU-4	Regulation	Existing	Proposed	Relief
Height G § 203.1	50-foot max.	N/A	48 feet 5 5/8ins	None Required
Habitable Penthouse Height G § 205	12-foot max. and 1-story	N/A	11 feet, 4 inches and 1-story	None Required
Penthouse Height G § 205	Up to 15-foot max. for mechanical & habitable	N/A	3 feet, 8 inches (mechanical only) TOTAL: 15 feet (mechanical & habitable)	None Required
Lot Width	None	115 feet	115 feet	None Required

<b>Zone: MU-4</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Lot Area	None	13,225 sq. ft.	13,225 sq. ft.	None Required
Floor Area Ratio G § 201	3.0 max. (IZ)/0.4 penthouse	N/A	2.86 IZ/0.39 penthouse	None Required
Residential Lot Occupancy G § 210.1	60% max. 75% (IZ)	N/A	74.62%	None Required
Rear Yard G § 207	15-foot min.	N/A	None	<b>REQUIRED</b>
Closed Court C § 209 -Width	4"/ft. bldg. ht. or 12 ft., 6 in.	N/A	10 ft 2 in. (all Fl.) and 5 ft. 2 in. (2 <sup>nd</sup> to 4 <sup>th</sup> Fl)	<b>REQUIRED</b>
-Area	350 sq. ft. min.	N/A	173 sq. ft. and 45 sq. ft.	<b>REQUIRED</b>
GAR C § 407.1	0.3 min.	N/A	0.3	None Required
Parking C § 701.5	14-space min.	N/A	17 spaces	None Required

## V. OFFICE OF PLANNING ANALYSIS

### a. Special Exception Relief from Subtitle C § 202.1, Closed Courts

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

The larger of the non-conforming closed courts is proposed to allow for light and air into the units opening onto it. This courtyard would connect to an “arcade-like” area on the first floor that would facilitate the flow of air through this closed court to the benefit of those units opening onto it. This court would not be visible from the street due to the neighboring building but would allow some light and air into the future units.

The smaller court should be only visible from properties in the north and is intended to provide light and air for units at the northeastern side of the building.

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

The larger of the courts would not be visible to neighboring properties as it would open onto the party wall of the adjacent building to the north. That building has no windows that would face the court. As this court would not be visible from any public or private property, it would have no impact on the use of abutting properties. Further, the smaller court should not pose an adverse effect on the neighboring property as there are no windows from the abutting property that would be facing that court, which is intended to provide light and air to units at the northeast and rear of the subject building. That court would not directly abut any residential units of the adjacent property.

**b. Special Exception Relief from Subtitle G § 207, Rear Yard**

***207.14 Relief from the rear yard requirements of Subtitle G § 207 may be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to the following conditions:***

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

The rear yard is on the north side of the property and the adjoining property has no windows facing the subject property. The windows along the north façade of the proposed property building would face into the rear yard of the property to the north.

- (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.***

Not applicable. The adjoining building is residential as is the subject proposal.

- (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.***

Not applicable. The proposed building facades would be parallel to the buildings on 1<sup>st</sup> Street and Kennedy Street. The building windows would not have sightlines to habitable rooms of the adjacent property.

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

Adequate parking as required is proposed below-grade via the unpaved alley on the east side of the property which the applicant proposes to improve, subject to DDOT's approval. Loading is not required, and none is proposed.

- (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.***

The site is neither located within a historic district nor a historic landmark. No comments were received from either DCHA or DDOT concerning the rear yard.

**Special Exception Relief from Subtitle X § 901,**

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

As shown, the proposal is in harmony with the general purpose and intent of the Regulations. The requested relief was originally granted in [Order 19897](#), although that approval has expired and this proposal reflects changes primarily to the ground floor use from commercial to residential, which is permitted in this zone. Thus, granting the

requested relief should not substantially change the material facts of the Board's original decision, and should not be inconsistent with the intent or purpose of Zoning.

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

As noted above, the proposal should not adversely affect the use of neighboring property.

**VI. COMMENTS FROM OTHER DISTRICT AGENCIES TO DATE**

No comments from other District agencies were submitted to the file.

**VII. ADVISORY NEIGHBORHOOD COMMISSION**

ANC 4B supports the proposal per its submission in the record at [Exhibit 15A](#) and email correspondence to the Applicant at [Exhibit 15B](#).

**VIII. COMMUNITY COMMENTS TO DATE**

Exhibits 17-53 and 56 are letters in opposition based mainly on objection to the removal of ground floor retail as originally proposed in plans under BZA 19897.

**IX. LOCATION MAP**

