



## MEMORANDUM

**TO:** District Board of Zoning Adjustment

**FROM:** Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** March 8, 2011

**SUBJECT:** BZA Application #18183 – Request for area variance relief from open court width (§ 776.1) and off-street parking (§ 2101.1) requirements and special exception relief from roof structure (§ 411 & § 1902.1(a)) and rear yard requirements (§ 774.2) to accommodate a new office, retail, and arts building at 1513-1521 14<sup>th</sup> Street N.W.

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

The Office of Planning (OP) recommends approval, subject to appropriate transportation management plan strategies, of this application to construct a new office, retail, and arts building at 1513-1521 14<sup>th</sup> Street N.W. requiring the following relief:

#### *Area variance*

- § 776.1, minimum open court width (deficient by 10.5' on the 6<sup>th</sup> floor level only)
- § 2101.1, minimum off-street parking (deficient by 101 parking spaces)

#### *Special exception*

- § 411, uniform height of roof structure enclosing walls (heights of 10', 12', and 17')
- § 1902.1(a), maximum roof structure height (exceeds by 1.5' to 8.5')
- § 774.2, minimum rear yard (deficient by ~3.5' on floors 1 through 5)

### **II. AREA AND SITE DESCRIPTION**

|                                     |  |
|-------------------------------------|--|
| Address:                            | 1513-1521 14 <sup>th</sup> Street N.W.   |
| Legal Description:                  | Square 241, Lot 129 (hereinafter, the "Property")  |
| Ward/ANC:                           | 2/2F   |
| Lot Characteristics:                | The lot is rectangular in shape and measures 118.5' in width along 14 <sup>th</sup> Street by 105' in depth, totaling 12,440 square feet in lot area. The lot fronts 14 <sup>th</sup> Street to the west and an improved 10' wide public alley to the east.  |
| Zoning:                             | Arts/C-3-A: Arts Overlay District and medium bulk major business and employment center.  |
| Existing Development:               | The Property is developed on the southern half of the lot with a historic three-story former automobile showroom which is currently occupied with a restaurant and art gallery. On the northern half of the lot is a vacant parcel now used for parking.   |
| Historic District:                  | Greater Fourteenth Street Historic District  |
| Adjacent Properties:                | To the Property's north is a three-story building housing a ground floor restaurant and to the south is a four-story section of the Studio Theater. Across the alley to the east are the rear gates and garages of row dwellings.  |
| Surrounding Neighborhood Character: | The immediate area consists of a wide variety of institutional, commercial, and residential uses. Along 14 <sup>th</sup> and P Streets are commercial businesses and residential apartment buildings which are zoned Arts/C-3-A. Row dwellings are located to the Property's east and zoned R-5-B. |



**III. PROJECT DESCRIPTION IN BRIEF**

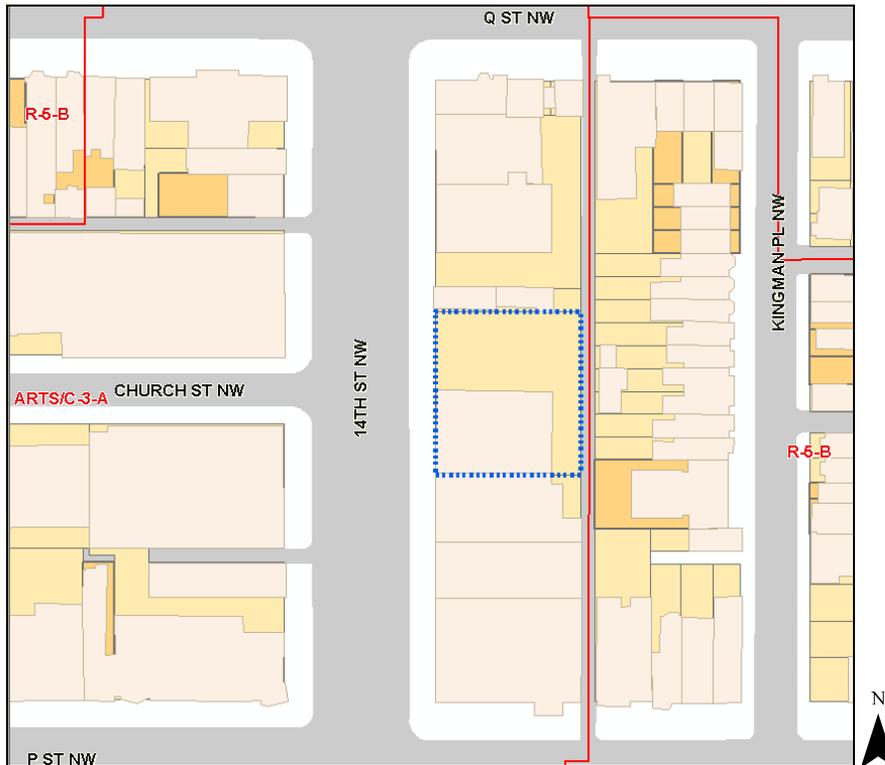
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|----------------|--|
| Applicant      | 1515 14 <sup>th</sup> Street LLC   |
| Proposal:      | <p>The Applicant proposes a new six-story building which would incorporate an existing three-story historic building. A portion of the new construction would be set back by 20' above the existing structure. The proposal would provide 29,981 square feet of new office space, 11,302 square feet of new service and retail space, and 14,598 square feet of art gallery, dance studio, retail, and service uses. The application indicates that the building would comply with required street frontage design requirements as provided in the Application "Submittal Set", page 14 (March 1, 2011 filing). The building would be 75' tall. However, portions of the penthouse roof structures would rise above the 83.5" limitation of the Arts Overlay District and therefore need relief from § 1902.1(a). The building would have a rooftop terrace. At its back, the building would have a rear yard measuring about 12.1' and 23'3", which would require relief from the minimum rear yard standard under § 774.2. A 1.5' wide open court along the north side of the building's 6<sup>th</sup> floor also would need relief under § 776.1.</p> <p>The building would provide no conforming parking spaces, which would necessitate relief from § 2101.1. However, 12 compact parking spaces would be supplied on-site to be accessed via a mechanical car elevator from the rear alley.<sup>1</sup> A 30' x 12' loading berth would be provided behind the building, and garbage would be stored inside the building.<sup>2</sup></p> <p>In 2004, the BZA granted relief to a proposal for the site to accommodate a mixed-use development.<sup>3</sup></p> |
| Relief Sought: | <p>§ 776.1, minimum open court width (area variance)<br/>         § 2101.1, minimum off-street parking (area variance)<br/>         § 411, uniform height of roof structure enclosing walls (special exception)<br/>         § 1902.1(a), maximum roof structure height (special exception)<br/>         § 774.2, minimum rear yard (special exception).</p>   |

<sup>1</sup> According to § 2117.4, "except as provided in §§ 2117.15 and 2117.16, each *required* parking space shall be accessible at all times directly from improved streets or alleys or shall be accessible from improved streets and alleys with a minimum width of ten feet (10 ft.) or improved public streets via graded and unobstructed private driveways that form all-weather surface." [emphasis added]. Additionally, § 2115.1 provides that "Except as otherwise provided in this section, a required automobile parking space shall be a minimum of nine feet (9 ft.) in width and nineteen feet (19 ft.) in length..." Further, according to § 2115.2, "any accessory parking area or accessory garage containing twenty-five (25) or more required parking spaces may designated up to forty percent (40%) of the parking spaces for compact cars."

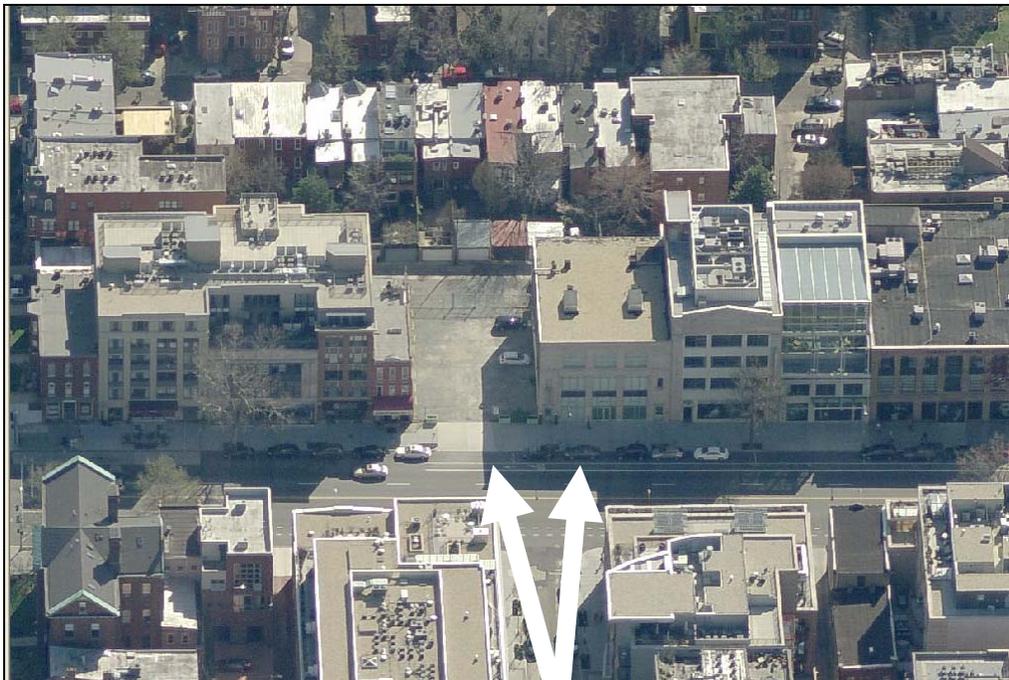
<sup>2</sup> According to the Applicant, loading is not required pursuant to § 2200.5.

<sup>3</sup> The Order indicates that relief was granted from the following provisions: special exceptions for roof structures not meeting setback (§ 411) and rear yard (§ 774.2) requirements and variances from roof structure height requirements (§ 1902) and residential recreation space requirements (§ 773).

#### IV. IMAGES AND MAPS



Aerial view of the site (highlighted in blue)



View of the subject block looking east across 14<sup>th</sup> Street (Property identified)

#### V. ZONING REQUIREMENTS

The following table, which reflects information supplied by the Applicant, summarizes certain zoning requirements for the project and the relief requested.

| <i>C-3-A Zoning</i>                           | <i>Restriction</i>                                | <i>Existing</i> | <i>Proposed</i>   | <i>Relief</i>  |
|---|---|-----------------|---|--|
| Lot area (sq. ft.)                            | N/A   | 12,440          | 12,440  | Conforms   |
| Lot width (ft.)                               | N/A   | 118.5'          | 118.5'  | Conforms   |
| Floor area ratio (sq. ft./lot) § 771.2 & 1904 | 4.0 (4.5) max.                                    | 1.2             | 4.5 <sup>4</sup>  | Conforms   |
| Rear Yard (ft.) § 774.1                       | 2.5"/ft. of height + 12' min.;<br>15.62' required | 22.5' min.      | ~ 12.1' & 23'3' provided                                  | Relief needed: ~ 3' deficient  |
| Open court (width by depth in ft.) § 776.1    | 3"/ft. of height + 12' min.                       | -               | 1.5'  | Relief needed: 10.5' deficient   |
| Height (ft.) Arts Overlay § 1902.1            | 75' building<br>83.5' penthouse                   | 46.8'           | 75' building;<br>92' penthouse top                        | Conforms for building height; relief needed for penthouse height of up to 8.5' in excess |
| Parking (number) § 2101.1                     | 101   | surface spaces  | 0 required;<br>12 compact spaces accessed by car elevator | Relief needed: 101 spaces deficient  |

## VI. RELIEF REQUESTED & OP ANALYSIS

### Variance Relief (§§ 776.1 & § 2101.1)

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The Property has exceptional conditions that lead to practical difficulties. The developable area of the Property is constrained by an existing historic structure on the site, which would be retained and restored as part of the proposal. The structure, which has no underground parking, covers about half the lot and leaves only the northern portion of the site open to the ground. The presence of the historic building, combined with the location of groundwater about 30' below the site (with some evidence of contamination), complicate below grade development. Additionally, as part of the Historic Preservation Review Board (HPRB) process, the northern edge of the sixth floor was slightly recessed. The setback was introduced to respond sensitively to a low contributing historic building to the north.

- 2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The exceptional features of the Property create practical difficulties, as more particularly detailed below:

- Open Court (§ 776.1): The proposal includes a narrow, open court along the northern edge of the building's sixth floor. The court would measure about 1.5' in width. The Zoning Regulations do

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<sup>4</sup> Sections 1904.1(a)&(b) provide that bonus density may be used to increase the gross floor area of a building for any permitted use up to a maximum of 4.5 FAR in the C-3-A District. The Applicant has provided that the approximately 7,575 square feet of restaurant and art gallery use would generate 15,150 square feet of bonus density, and that an approximately 13,712 square feet of furniture store use would generate 26,388 square feet of bonus use. According to the Applicant, the bonus uses would achieve the permitted .5 bonus density.

not require that any courts be provided; rather, the open court was introduced as part of the historic preservation review process to provide a recessive feature on the top floor's northern edge and to soften the size disparity with its abutting 3-story neighbor. Nevertheless, to conform to § 776.1, the court would need to be set back an additional 10.5' (for a total of 12'). Strict compliance with the court setback requirement would cause the loss of approximately 850 square feet of the building which would be practically difficult to locate in a different location on the site. Eliminating or expanding the court to comply with zoning regulations also would create a less responsive design.

- **Off-Street Parking** (§ 2101.1): Although the application provides that the proposal has a parking requirement of 101 parking spaces, the project would supply no conforming parking. Instead, a mechanical car elevator would access 12 below-grade compact spaces which would not meet the definition of "required" parking.<sup>5</sup> The exceptional circumstance of the placement of a historic building (and the difficulty of constructing beneath it) and the size of the remaining lot, along with the presence of groundwater approximately 30' below the site which the proposal tries to avoid disturbing, make it practically difficult to provide the required parking. The application explains that if the Applicant had proposed to install a standard ramp at the necessary slope, with drive aisles of minimum width and full sized spaces of 9' x 19', among other compliant features, there would be room for only a few parking spaces per level. Even in the Applicant's more efficient elevator design with 12 compact spaces per floor, about 9 levels of underground parking would be required to satisfy the parking requirement. The Applicant is proposing to construct only two below-grade levels of development, one of which would be the parking level, in an effort to avoid disturbing the groundwater. In addition, the Property borders a 10' wide alley which could be impacted if the full parking requirement was supplied.

**3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

- **Open Court:** OP believes that the minor relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and map.
- **Off-Street Parking:** The Applicant provided a traffic impact study and proposed mitigation strategies. The traffic impact study notes that the site is located on a principal arterial roadway less than a mile from 3 metro stations, is served by several Metrobus lines and the D.C. Circulator, 3 Capital Bikeshare stations, and nearby private parking operators. The majority of the proposed building would be occupied by office use, which is primarily a daytime use. The study provides that there are typically on-street parking spaces available along 14<sup>th</sup> and 15<sup>th</sup> Street during daytime hours, and the surrounding residential neighborhood is predominately Residential Permit Parking (RPP) restricted. The application also provides a Transportation Management Plan (TMP) which aims to minimize the impact of site traffic and to mitigate the effects of the parking reduction. The TMP offers 12 underground compact spaces for assigned tenant use, on-site bicycle parking (5+ spaces), transit incentives (initial occupants of the office and retail space would be provided a SmarTrip card, preloaded with \$25), 20 Capital Bikeshare memberships, and the services of a transportation services coordinator, among other strategies.

OP does not anticipate that the reduction in required parking, coupled with robust TMP strategies, would be detrimental to the public good. However, OP will continue to work with the

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<sup>5</sup> The Applicant has chosen to pursue a variance from the entire parking requirement rather than seek relief from §§ 2101.1 (number of spaces), 2115.1 (size of parking spaces), and 2117.4 (parking access), among others.

DDOT to determine whether the proposed mitigation strategies found in the recently submitted traffic study are appropriate given the substantial parking relief requested. Options for a strengthened TMP strategy could include more bicycle parking (preferably in the building's ground floor) or obtaining agreements to use off-site excess parking at other nearby locations.

OP does not anticipate that relief from the parking requirement would substantially impair the intent, purpose and integrity of the Zoning Regulations and map. It would allow for the adaptive reuse of an existing structure in a well travelled corridor with access to a variety of transportation modes.

**Special Exception: (§ 411)**

Section 411.5 requires that “enclosing walls from roof level shall be of equal height, and shall rise vertically to a roof ....” The application proposes that the enclosing walls of the roof structure would have heights ranging between 10', 12', and 17' which encircle the boiler pump, cooling tower and emergency generator, and elevator penthouse, respectively. The roof structure would comply with setback requirements. In order to have an enclosure of a uniform height, portions of the enclosing walls would need to be raised several feet to match the height of the elevator penthouse. Complying with § 411.5 would likely produce more conspicuous structures for no benefit to the owner or to the public.

**Special Exception: (§ 1902.1(a))**

The application seeks relief from the 83.5' limitation on the height of roof structures in the Arts Overlay District. The building would be 75' tall with some of the rooftop penthouse rising to a total of 83.5'. However, certain portions of the roof structure would extend to 85' (an elevator shaft), 87' (to accommodate screen walls of the cooling tower and the emergency generator area), and 92' (the elevator overrun). The application provides that the roof structures have been designed as “low as possible.” Further, in order to provide a roof deck, ADA regulations require that the rooftop must be accessible by an elevator. Rooftop structures are generally permitted to rise to 18.5' pursuant to § 770.6(d) but are restricted in the Arts Overlay District.

As a preliminary matter, while the Applicant originally styled the relief request as an area variance, OP believes that it is more appropriately examined as a special exception based on the language of § 1906.1 and other recent cases. Section 1906.1 specifically provides that “exceptions from the requirements of the Arts Overlay District shall only be permitted if granted by the Board of Zoning Adjustment under § 3104 after public hearing” based on the following criteria:

- (a) *The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.*

In general, the proposed development would advance the purposes of the Arts Overlay District as it would expand business opportunities, encourage the adaptive reuse of an older building, and increase the presence of integrated arts and related cultural and arts-related uses. Concerning the additional roof structure height, most of the proposed non-conforming enclosure would measure about 1.5' to 3.5' above the 83.5' height restriction to accommodate necessary building machinery. A limited portion of the roof structure would exceed the height limitation by 8.5' to accommodate the elevator override. In addition, according to the application, the rooftop structure would be set back over 40' from the site's 14<sup>th</sup> Street frontage and over 32' from the rear property line. The additional height relief should have a limited impact.

- (b) *Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan.*

Section 1902.1 permits buildings in the Arts/C-3-A zone to reach a height of 75', but only allows roof structures to rise an additional 8.5' for a total height of 83.5' (1902.1(a)). Most of the non-conforming penthouse only moderately exceeds the height limitation by between 1.5' to 3.5'. In order to provide a roof terrace, which is a desirable feature of the development, elevator roof access must be provided to satisfy ADA code requirements. Without the additional penthouse height, no elevator access could be provided.

- (c) *The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;*

The Historic Preservation Review Board (HPRB) has reviewed the project and approved it in concept.

- (d) *Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and*

This provision is not relevant to the relief sought.

- (e) *The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District.*

OP does not recommend imposing any additional design requirements concerning the penthouses.

**Special Exception: (§§ 774.2 and 774.9(c))**

The application seeks relief from the minimum rear yard standard. Projects in C-3-A zones are required to provide a rear yard depth of "2-1/2 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet" (§ 774.1). The required rear yard depth for this project would be 15.62'. Pursuant to § 774.7, the rear yard in a C-3-A zone for a lot abutting an alley, which applies to the subject Property, may be measured as follows:

- (a) *For that portion of the structure below a horizontal plan twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure from the center line of the alley to the rear wall of the portion; and*
- (b) *For that portion of the structure above the horizontal plane described in § 774.7(a), the depth of rear yard shall be measured from the rear lot line to the rear wall of that portion immediately above the plane.*

Based on the methods of measuring (a) & (b) above, the rear yard is about 3.5' deficient from the ground level through the fifth floor. At the sixth floor the rear yard measures 23'3" and therefore is conforming. The application indicates that the rear yard meets the requirements of § 1902.1(b).

Section 774.2 permits the Board to grant relief from the rear yard requirement subject to the satisfaction of special exception standards found in §§ 774.3 through 774.6.

*§ 774.3 Apartment and office windows shall be separate from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.*

The application estimates that the rear facades of dwelling units to the east of the proposal (along Kingman Place) are about 80' from the proposed construction. The requested 3.5' of rear yard relief should have a negligible added effect to the light and air or privacy of the closest residential buildings.

*§ 774.4 In determining the distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.*

The 3.5' rear yard relief should have little impact on the angle of site lines and the distance of penetration of sight lines due to the considerable distance between the building's east façade and the closest facing windows of the dwellings along Kingman Place.

*§ 774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.*

No required parking would be provided and a variance has been requested. The proposal also provides traffic mitigation strategies, including 12 compact on-site parking spaces and SmarTrip incentives. Although no loading is required, a 30' loading berth and a loading area are provided.

*§ 774.6 Upon receiving an application for an approval under § 774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.*

The Application was referred to DDOT, but no official submission has been received by OP to date. The proposal was reviewed by HPRB and received concept approval.

## **VII. ANC/COMMUNITY COMMENTS**

The Applicant has indicated that ANC 2F unanimously voted to support the requested relief at its March 2, 2011 meeting. To date, OP has not received an official ANC submission or comments from neighbors.

## **VIII. HISTORIC PRESERVATION**

HPRB granted conceptual approval of the project on October 28, 2010.

## **IX. CONCLUSION AND RECOMMENDATION**

The Office of Planning **recommends approval** of the requested relief, subject to additional discussion regarding the appropriate mitigation strategies related to the transportation management plan.

JLS/pg  
Paul Goldstein, case manager