



## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Karen Thomas, Case Manager  
Joel Lawson, Associate Director Development Review

**DATE:** May 13, 2014

**SUBJECT:** BZA #18723 – 2105 10<sup>th</sup> Street, NW – Supplemental Report

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### **I. RECOMMENDATION**

With regard to the revised proposal to construct a mixed use residential building, the Office of Planning (OP) recommends **approval** of the following variance relief:

- § 774 Rear Yard (15 feet required; 5 and 0 feet proposed);
- § 772 Lot occupancy - (80% maximum; (89% proposed on the 1<sup>st</sup> Fl; 92% - 2<sup>nd</sup> Fl; and 93% 3<sup>rd</sup> Fl.));
- § 2116.12 Parking Location (No structured parking within 20 feet of lot line abutting a street; Proposed: partially above-grade (3.5 ft.) structured parking abutting V and 10th Streets); and **special exception relief** to
- § 770.6(b) Rooftop Structures (1 to 1 setback required; 9' 6" setback provided where 14 feet is required).

### **II. BACKGROUND**

OP's previous report dated March 4, 2014 (Exhibit 33) could **not recommend approval** of the requested areas of relief for:

- Lot Occupancy;
- Rooftop Structures; and
- Parking Location

Subsequent to OP's prior report, the applicant requested and received a postponement of the BZA hearing and worked with Historic Preservation staff and the Public Space Committee staff (DDOT) to revise the submission in light of comments regarding the requested relief. This report reflects those revisions.

#### **Historic Preservation:**

The plans previously submitted have been revised to address some of the concerns raised in the original HPO report (February 27, 2014). These include a setback for the sixth and seventh floors to the rear of the church to eliminate visibility of those floors from public street views (the setbacks on the west elevation adjacent to the church façade remain the same), and moving the addition's penthouse in from the wall shared with the church. The north elevation has been revised to include fenestration and an inset balcony rather than presenting a blank party wall, and the west elevation has been slightly revised to include an additional bank of windows.



HP staff is satisfied that the revisions satisfy their concerns and has recommended concept approval.

### Public Space

The use of public space was significantly reduced, redesigning the handicap and other entrances to the building to utilize less public space and provide more landscaping, as desirable features to mitigate the impact of the location of a portion of the parking area above the street level.

## III. APPLICATION-IN-BRIEF

The applicant, Morning Bright, LLC proposes construction of a mixed use building at the corner of 10<sup>th</sup> and V Streets, NW. The revised building would have a total of 44 residential units – 3 in an historic landmarked church on the site, and 41 in a new addition to the church. The building would also have approximately 3,210 square feet of retail or commercial space on the ground floor – 1,232 square feet in the church and 1,978 square feet in the newly constructed portion of the building. Access to the uses in the church portion of the building would continue to be primarily through the main entrance of the church on 10<sup>th</sup> Street, while the uses in the new part of the building would have access from V Street. A doorway connection between the commercial spaces results in the two structures – the church and the new addition – being considered one building for zoning purposes. Partially-underground parking would be accessed from the 10-foot alley on the north side of the building. No loading is provided on-site. The building would be 70 feet and six stories tall with approximately 47,800 square feet of total floor area. In order to develop as proposed, the application requires lot occupancy, rear yard, rooftop structure and parking location relief.

## IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

C-2-B / ARTS	Regulation	Existing (Church)	Proposed	Relief
Height (ft.) § 770	70 ft.	53.73'	70'	Conforming
Lot Area (sf)	n/a	9,553 sf	No change	n/a
Floor Area Ratio § 771	5.0	0.58	5.0	Conforming
<b>Lot Occupancy § 772</b>	<b>80% (7,650 sf)</b>	<b>18% (1,721 sf)</b>	<b>93% (8,872 sf)</b>	<b>Requested</b>
<b>Rear Yard (ft.) § 774</b>	<b>15'</b>	<b>5' (below 20' in ht., measured to CL of alley) 0' (above 20' in ht.)</b>	<b>14' 9"</b>	<b>Requested</b>
Side Yard (ft.) § 775	None required	Not provided	None	Conforming
<b>Rooftop Structures §770.6</b>	<b>1 to 1 setback (14 ft.)</b>	<b>n/a</b>	<b>9.5 ft</b>	<b>Required</b>
Parking § 2101	1 space per 3 units (historic building exempt) (42 units = 14 spaces)	0	15 (below grade)	Conforming

C-2-B / ARTS	Regulation	Existing (Church)	Proposed	Relief
Parking § 2116.12	Parking must be more than 20' away from lot lines fronting a public street	n/a	No setback along 10 <sup>th</sup> and V Streets	Requested

## V. ANALYSIS

### Variance Analysis

The design would require variances from lot occupancy, rear yard and parking location requirements. In order to be granted a variance, the applicant must show that they meet the three part test described in § 3103.

- 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 exhibits exceptional conditions. The site contains a landmarked building, the historic church, which cannot be demolished or moved. That building's foundation is only six feet below grade and the adjacent building to the east of the property has a foundation of only 18 inches. Five geotechnical borings indicated that the soil conditions are such that deeper than normal foundations would be needed to support the new construction, and that the soil makeup "exacerbate[s] the condition of the foundation of the abutting buildings" (February 13, 2014 Written Statement, Section V.A.). Another exceptional condition is the location of the church, which is immediately adjacent to the alley with no setback.

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

#### *Lot Occupancy*

The calculations for the individual floor lot occupancy are proposed as follows:

- 1<sup>st</sup> Floor: 6844 sf + 1682 sf = 8526 sf – 89%
- 2<sup>nd</sup> Floor: 7090 sf + 1682 sf = 8772 sf – 92%
- 3<sup>rd</sup> Floor: 7190 sf + 1682 sf = 8872 sf – 93%
- 4<sup>th</sup> Floor: 7190 sf – 75%
- 5<sup>th</sup> Floor: 7145 sf – 75%
- 6<sup>th</sup> Floor: 6099 sf – 64%

On the 4<sup>th</sup> 5<sup>th</sup> and 6<sup>th</sup> floors the lot occupancy is well under the maximum. The applicant has provided schematic diagrams indicating that satisfaction of the lot occupancy, given the exceptional site conditions would force the core southward, affecting the drive aisle and causing the loss of at least 5 parking spaces, which would trigger the need for additional variance relief.

### *Rear Yard*

The exceptional conditions combine to form a practical difficulty for the applicant. The church abuts the alley and cannot be moved. The alley is at the rear of the property and the resulting rear yard, therefore, is five feet (measured to the centerline of the alley) up to a height of 20 feet, and zero feet (measured to the property line) above 20 feet to the top of the church. Demolishing or moving the church is not possible, so any building scenario with new construction facing V Street would have a zero-foot rear yard. The average rear yard for the new construction is 14.75 feet.

### *Parking Location*

The exceptional conditions combine to form a practical difficulty for the applicant. The soil conditions and the shallow depth of the abutting building's foundations make deep excavation for a completely underground garage, and the resulting underpinning more difficult than in typical construction scenarios. The design would result in a partially sunken parking level extending no more than 3.75 feet above the adjacent grade. A setback of 20 feet from the property line would lead to no on-site parking being provided and the need for relief. The applicant has worked diligently with DDOT's Public Space Committee staff to address concerns and the project no longer requires Public Space Committee review.

- 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?**

### *Lot Occupancy*

Relief to lot occupancy would not negatively impact the public good and the intent of the regulations. The lot occupancy is only exceeded on the first through 3<sup>rd</sup> floors due to the historic church and is significantly less on the upper floors. The setback of the new construction increases at the top levels and the additional separation provided by the alley would provide adequate access to light and air available to properties at the rear. The addition would not be out of character with other new buildings in the vicinity.

### *Rear Yard*

Maintaining the existing building configuration by leaving the church in place would not impair the public good or the intent of the Regulations. The church has existed in that location for well over 100 years and its location next to the alley is consistent with the neighborhood context. The regulations intend rear yards to provide adequate space between buildings for light, air and privacy. But in this case, next to an alley, there should be no substantial impacts to those qualities. The condo building to the north already has windows facing the church, and the amount of light and air they receive would not change. The applicant would not create any new windows in the church.

### *Parking Location*

The Regulations intend to create a vibrant streetscape where the private space of buildings engages the public space of the street. As only one level of parking could be provided due to the precarious nature of the soil and the building's footings, the ground floor is raised in parts ranging from 3'10" to 2' 7" above the adjacent sidewalk. This area above grade would be landscaped with shrubs to reduce the parking area's visibility from public space. The applicant complied with DDOT's and the Public Space Committee suggestions to increase the landscaping in the public realm and reduce the distance of projections into public space. Thus relief can be granted without impair to the intent of the regulations.

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### **Special Exception Analysis**

The proposed stair tower on the 6<sup>th</sup> floor roof does not meet, from the wall of the courtyard, the one-to-one setback requirement for rooftop structures. The Board may grant, pursuant to § 411.11, special exception setback relief. Section 411.11 lists the following criteria:

- 1. Meeting the requirement would be impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable.**

Relief is requested from an exterior wall located in the middle of the property above the church. Minimal relief is now required as the applicant has increased the setback of the 14-foot tall structure to 9.5 feet. Other roof structures are setback more than the required distance from all walls abutting streets or alleys.

- 2. The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.**

Granting relief to the rooftop structure located in the center of the property would not impact the light and air available to the proposed structure or to nearby buildings, nor would it impair the intent of the Regulations, which seek to minimize the appearance of rooftop structures.

## **VI. HISTORIC PRESERVATION**

The Historic Preservation Review Board' April 3, 2014 report granted concept approval of the changes previously recommended by the Board.

## **VII. COMMENTS OF OTHER DISTRICT AGENCIES**

The applicant worked with DDOT and the Public Space Committee to review the application and the revisions reflect concerns with respect to the use of public space and the handicap entrance to the building.

## **VIII. COMMUNITY COMMENTS**

The applicant has met with the ANC1B to discuss the changes made to the project since its previous submission. ANC 1B voted to support the application with its noted changes at its regularly scheduled meeting on May 1, 2014 (Exhibit 41). Adjacent neighbors who may be most affected by the addition to the church have also signed letters in support of the revised development proposal.