



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Arthur Jackson, Case Manager
Joel Lawson, Associate Director Development Review

DATE: April 30, 2013

SUBJECT: **BZA Case 18550** – request for special exception and variance relief for a five-story apartment building proposed on property located at 1350 Maryland Avenue NE

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) supports **approval** of:

- Special exception relief in accordance with § 1320.4 to allow new development on a lot larger than 6,000 square feet within the HS-A/C-3-A district; and
- Variance relief from the 20-foot setback required between onsite parking spaces and abutting street rights-of-way by § 2116.16.

Special exception relief in accordance with § 777.1 (§ 411.11) may also be needed for multiple roof structures that would not be within a single enclosure; and a variance from § 400.7 (b) because the roof structure(s) would not set back from all exterior building walls a distance equal to their height(s).

However, this relief was not requested in this application so it was not analyzed in this report.

II. LOCATION AND SITE DESCRIPTION:

Address:	1350 Maryland Avenue NE
Legal Description:	Square 1027, Lot 165 ¹
Ward:	6A
Lot Characteristics:	The irregularly shaped corner lot is 20,051 square feet (0.46 acre) in size with frontages along 14 th Street, Maryland Avenue NE and an alley 30 feet wide. Several curb cuts and driveways exist along the 14 th Street frontage of the site (refer to Figures 1 and 2).
Zoning:	HS-A/C-3-A – multiple dwellings are allowed in this district. This property and surrounding properties were placed within the H Street Northeast Neighborhood Commercial Overlay in 2011 (ZC Case 10-19) at the request of Advisory Neighborhood Commission (ANC) 6A.

¹ The D.C. Surveyor issued a plat of consolidation for subject lots 0141, 0142, 0143 and 0849 on March 26, 2013.



Existing Development:	According to DC Office of Tax and Revenue, a portion of the site (former lot 0849) was previously developed with the Faith Bible Church originally constructed in 1920 and several additions constructed onto the original structure (refer to Figure 1). The subject property is now vacant.
Historic District:	None
Adjacent Properties:	A one-story commercial building to the north along 14 th Street; a one-story commercial building and three-story dwellings to the south across Maryland Avenue; a newly-opened gasoline service station and retail store to the east across 14 th Street; and three-story row dwellings further west along the Maryland Avenue frontage.

III. PROJECT DESCRIPTION IN BRIEF

Applicant	Valor 1350 Maryland LLC, the owner of record
Proposal:	<p>To construct a five-story apartment building with 84-units, approximately 74,500 square feet of floor area and a basement garage with 35 vehicle-spaces. The horseshoe-shaped building would be constructed adjacent to the Maryland Avenue and 14th Street frontages and both side property boundaries. Eight additional parking spaces, a 12 x 55-foot loading berth and 200-square foot at-grade loading platform would be located within the rear open court. A 10 x 20-foot service/delivery space would be accessed directly from the public alley.</p> <p>The basement ceiling would reach a height of four-feet above the grade of the adjacent public right-of-way. All vehicular access to and from the site and garage would be along the abutting alley. Curb cuts and driveways that currently exist along 14th Street would be eliminated.</p>
Relief Sought:	§ 1325 – special exception relief to allow construction on a lot larger than 6,000 square feet and variance relief from the § 2116.12 requirement to set back the entire interior parking facility.

IV. ZONING REQUIREMENTS

HS-A/C-3-A District	Regulation	Proposed ²	Relief
Height (ft.) § 770	65 feet	61.5 feet	None
Floor Area Ratio § 771	4.0	3.7	None
Floor Area	--	74,512 sq. ft.	--
Number of Apartments	--	84	--
Lot Occupancy § 772	75% max.	74%	None
Rear Yard (ft.) § 774	2 ½ in./vert. foot (12 feet 10 inches)	17 feet 6 inches	None
Side Yard (ft.) § 775	None or 2 in./vert. foot	None	None
Open Court § 776	4 in. width/vert. foot (min. 15 feet)	N/A	None
Roof Structures § 777	18.5 feet	9 feet 10 inches	None

² Information provided by applicant.

HS-A/C-3-A District	Regulation	Proposed ²	Relief
		(multiple)	
Parking, Bicycle § 2119	5% x required vehicle parking (2)	28	None
Parking, Vehicle § 2101	1 space/2 dwellings (42 min.)	43	None
Loading § 2201	1 loading berth @ 55 feet deep, 1 loading platform @ 200 sq. ft., 1 service/delivery space @ 20 ft. deep	SAME	None

The subject lot exceeds 20,000 square feet and portions of the proposed elevated garage in the new building would be adjacent to abutting public rights-of-way and sidewalks.

Section 1320.4 (f) of the H Street Neighborhood Commercial overlay district requires special exception approval for new construction on a lot that exceeds 6,000 square feet. Section 2116.12 requires all vehicle spaces within a parking structure to be located at least 20 feet from all lot lines that abut public streets, unless the ceilings of all parking levels are at or below the grade of the adjacent public sidewalk at all points along the building frontage.

New residential development with more than 10 units in C-3-A is also subject to Inclusionary Zoning (IZ) provisions in Chapter 26 of the regulations. Accordingly, a minimum of 8% of the 75,412 square-foot development or approximately 5,960 square feet shall be allocated for inclusionary units.

Revised plans submitted with the Pre-hearing Statement show three separate structures of different heights atop the proposed building. This would be inconsistent with the requirements of §§ 411.3 and 411.5. What appeared to be open courts on the northern (side) and western (rear) façades also raised questions. In response to an inquiry from OP, that applicant indicated that: elevator and stair penthouses would be the same height; the three penthouses would be connected by trellises to form a single roof structure; and “court” areas would be covered by a trellis, thus not being open to the sky. The applicant also indicated that the covered area was included in the project lot occupancy calculation.

The Zoning Administrator will review this proposal for conformity with the Zoning Regulations at the building permit stage.

V. **OP ANALYSIS**

a) Compliance with HS Overlay District Design Standards

1324.1 *The design requirements of §§ 1324.2 through 1324.16 shall apply to any lot in the HS Overlay District for which a building permit was applied after October 25, 2004.*

1324.2 *Buildings shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than twenty-five feet (25 ft.) shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be*



constructed to both property lines abutting public streets.

One hundred percent of the street walls to the full building height would continue along 100% of the adjacent Maryland Avenue and 14th Street frontages.

- 1324.3 *New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR above the total density permitted in the underlying zone district for residential uses.*

This proposal would involve entirely new construction.

- 1324.4 *In C-2 Districts within the HS Overlay District, seventy percent (70%) residential lot occupancy shall be permitted.*

Not applicable in this case.

- 1324.5 *For the purposes of this Section, the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.*

Residential uses would begin on the ground floor of the proposed apartment building. In this project the lot occupancy would be the same on every floor.

- 1324.6 *For the purposes of § 1324.5, "residential uses" includes single-family dwellings, flats, **multiple dwellings**, rooming and boarding houses, and community-based residential facilities.*

The proposed use would be a multiple dwelling.

- 1324.7 *Parking structures with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.*

Not applicable - the proposal is for a multiple dwelling with accessory parking and not a parking structure.

- 1324.8 *Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows having clear or clear/low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.*

Not applicable - no commercial use is proposed.

- 1324.9 *Security grilles shall have no less than seventy percent (70%) transparency.*

The Pre-hearing Statement confirmed that the front facades would have no security grilles.

- 1324.10 *Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. shall have an individual public entrance directly accessible from the public sidewalk. Multiple-dwellings shall have at least one (1) primary entrance on H Street directly accessible from the sidewalk.*

Not applicable - no commercial use is proposed.

- 1324.11 *Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average, for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.*

This section was intended to apply more to buildings with commercial ground floors.

However, the residential building façade is designed to provide 5 entrances over the 237-foot length of the street frontage. Additional entrances cannot be provided on the 14th Street façade

because it is mostly occupied by a handicapped-accessible entrance ramp. Even with this ramp, the entrances would average one for every 47.4 feet along the overall frontage.

1324.12 *The ground floor level of each new building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.) if the building: ...*

(b) *Fronts Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. and would have ground floor space occupied by one (1) or more service, retail, or office uses permitted as a matter of right in the underlying zone.*

Not applicable - no commercial or office space is proposed as part of this development.

1324.13 *Buildings subject to § 1324.12 shall be permitted an additional 5 feet (5 ft.) of building height over that permitted in the underlying zone.*

Not applicable in this case.

1324.14 *Projection signs shall have a minimum clearance of eight feet (8 ft.) above a sidewalk and fourteen feet (14 ft.) above a driveway, project no more than three feet, six inches (3 ft., 6 in.) from the face of the building, and end a minimum of one foot (1 ft.) behind the curblin or extension of the curblin.*

The entrance canopy sign would be over eight feet above the sidewalk, project seven feet from the building façade³ and would not come to within one foot of the curb line.

1324.15 *Façade panel signs shall not be placed so as to interrupt windows or doors and shall project no more than twelve inches (12 in.) from the face of the building.*

The Pre-hearing Statement confirmed there would be no façade panel signs.

1324.16 *Roof signs are prohibited.*

The statement confirmed there would be no roof signs.

Based on this review, this proposal is would generally be consistent with § 1324 design standards.

b) Compliance with HS overlay district special exception standards (required per § 1320.4 (f))

1325.1 *The buildings, structures, and uses listed in § 1320.4 and exceptions from the requirements of the H Street Overlay District shall be permitted as a special exception if approved by the Board of Zoning Adjustment after public hearing, based on § 3104, provided the following criteria and the requirements of § 1304 are met:*

(a) *The project is consistent with the design intent of the design requirements of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan;*

The applicant proposes to develop this building on a lot greater than 6,000 square feet. While the referenced design standards do not specifically target rights-of-way in the immediate vicinity of the site, general design guidance provided in Vision and Plan Framework statement included:

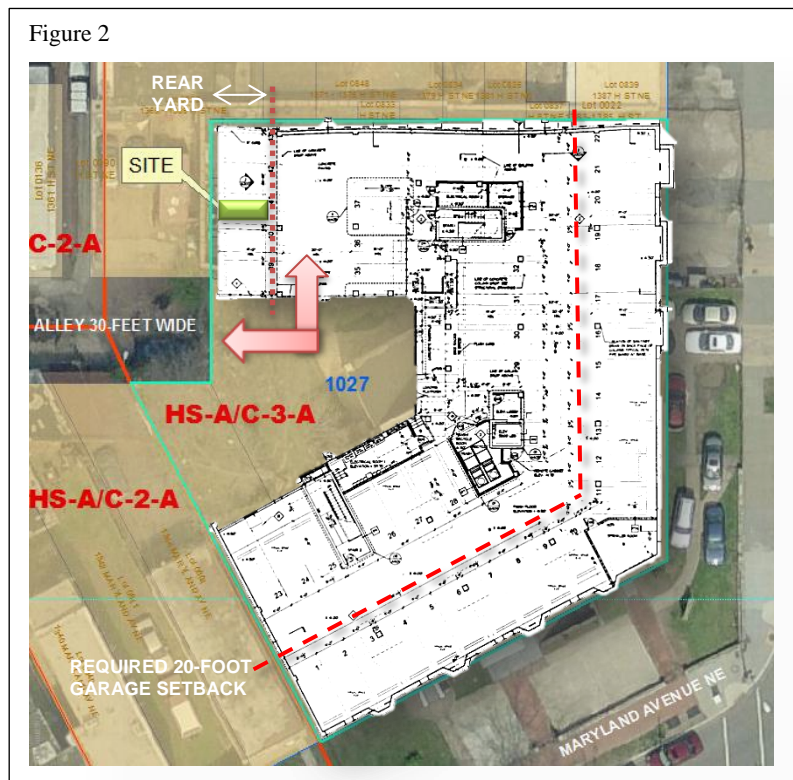
“New buildings along the corridor should be designed in ways that respect the community’s character, protect neighborhood livability and contribute to the making of active streets and public spaces. New development should be urban in character and use, bringing life to the street, complementing historic buildings and reinforcing a ‘sense of place’ for the corridor.”

This statement also emphasized “... the introduction of new buildings that reinforce the street’s uniqueness.”

The proposed building façade would abut 14th Street and Maryland Avenue frontages and would provide multiple ground floor entrances which would reflect the existing pattern of entrances to one-family dwellings that line both sides of Maryland Avenue to the west. The design would also bring this street corner back to life by replacing deteriorated structures and underutilized properties with a distinctive new residential building that closely interacts with the adjacent sidewalks and public space.

- (b) *The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board shall include review by the State Historic Preservation Officer and a status of the project's review by the Historic Preservation Review Board;*

The subject property is neither an historic landmark nor located within an historic district. The manner in which the proposed contemporary building design would interact with the street using multiple entrances, stairs and ramps, would reflect and enhance the established urban character of residential neighborhoods to the west.



- (c) *Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;*

Vehicle access would be provided from the existing alley which is 30-foot wide at the property line. This will allow the elimination of the existing curb cuts and driveways from the adjacent 14th Street frontage. This change would significantly improve pedestrian safety along this street by reducing the potential for pedestrian/vehicular conflicts.

Traffic studies prepared by AMT and Associates, Inc. on May 30, 2012 and April 22, 2013, concluded that, as a result of the proposed development: key intersections³ in the vicinity would continue to operate at an acceptable level of service during the AM and PM peak travel hours; the vehicular circulation scheme utilizing the alley is the best plan for providing vehicular and pedestrian safety; and the overall negative impacts of this development on local roadways would be minimum.

In light of the existing heavy traffic on H Street, the study recommended installation of “No Left Turn” signs on Linden Court and westbound H Street to prevent turning movements left from Linden Court *onto* H Street and left from H Street *into* Linden Court.

The proposal was also reviewed by the District Department of Transportation (DDOT). Agency comments will be provided under a separate cover.

Some neighboring properties which also utilize the alley for parking and/or loading expressed concern to OP about the additional parking and loading demands on the alley network (refer to the Community Comments section below).

- (d) *Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;*

This proposal would provide required parking and loading resources onsite, thereby reducing the potential for impacts on neighboring properties and nearby public space.

- (e) *Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and*

Multiple dwellings are allowable uses in this district. Outdoor gatherings onsite would be limited to a roof deck, small balconies on some individual units and a small area in the southwest corner of the rear open court. All mechanical equipment would be selected and located so not generate noise in excess of that allowed under the Zoning Regulations. The proposed all-residential multiple dwelling is, therefore, not anticipated to adversely impact neighboring residential or commercial properties.

- (f) *The size, type, scale, and location of signs shall be compatible with the surrounding corridor and consistent the design guidelines of the H Street N.E. Strategic Development Plan.*

Building signage on the submitted plans is limited to a single small plaque on the canopy over the lobby entrance that would face 14th Street.

1325.2 An applicant may demonstrate compliance with § 1325.1(f) by demonstrating that the signage will be exclusively located on upper facades, awnings, and transom windows, constructed of durable materials, and sensitively designed; and will not affect more than twenty percent (20%) of display windows, consist of backlit box signs or neon product advertisements, block visibility into a store, or be overly obtrusive.

The only signage would be a plaque on the canopy above the lobby entrance.

1325.3 The Board may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the H Street Overlay District.

No additional requirements are recommended.

³ Including H Street at Linden Court (north-south alley in Square 1027), Linden Court at the east-west alley (extending from site), G Street at Linden Court, G Street at Maryland Avenue, Maryland Avenue at Side Street and G Street at Side Street NE.

1325.4 Applicants shall demonstrate that projects requiring a special exception shall be consistent with the design intent of the design requirements, of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan.

This proposal would be consistent with the applicable provisions of § 1324 and the above-referenced general urban design guidance from the H Street N.E. Strategic Development Plan.

Based on this review, this proposal is consistent with these special exception review standards.

c) Garage structure setback relief in accordance with §3103.2:

- **Unique conditions or circumstances:**

Consolidating this site created an irregularly shaped corner lot with 20,000 square feet and frontage along two intersecting streets. Based on architectural sections in the submitted plan, the property is lower at the rear property boundary than at the adjacent rights-of-way. The alley also provides the only acceptable option for vehicular access due in part to current District policy⁴ requiring the elimination of driveway and curb cuts, where possible, along all public rights-of-way.

- **Exceptional or practical difficulty:**

The proposal would require 43-vehicle spaces onsite under § 2101.1 of the regulations. Section 2116.16 also requires that parking above-grade must set back 20-feet from all lot lines that abut public sidewalks. As noted above, the current site plan provides the required parking resources and loading facilities partially above-grade. Based on the submitted building sections and site plan:

- Required parking and loading spaces and circulation aisles occupy most of the property.
- Twenty-two or just over half of the 43 required parking spaces would be located within 20 feet of the abutting streets.

Options available to meet this requirement include shifting some of the required parking further away from street frontage or lowering the parking level below grade, however:

- Insufficient open space remains to relocate the 22 vehicle nonconforming spaces elsewhere on the property.
- Introducing a vehicle ramp to lower the parking level fully *below* grade (as shown in plan sheet A-1-2 submitted with the Pre-hearing Statement) would disrupt the planned vehicle circulation pattern onsite resulting in the elimination of approximately four required parking spaces, thus requiring the applicant to either request parking relief or incur significant additional expense to construct a *second* parking level below-grade.

Based on this analysis, meeting the parking space setback requirement on the subject property does present a practical difficulty.

- **Detriment to the Public Good:**

Providing the required parking resources as planned onsite behind the residential façade of the multiple dwelling would not impact upon or detract from the pedestrian circulation on abutting sidewalks in the public space. As noted previously, the overall project design for this allowable use appears entirely consistent with general design guidance provided in the H Street N.E. Strategic Development Plan. Approval of the required relief would, therefore, not be consistent with the intent of the Zoning Regulations.

⁴ The referenced policy was included in an appendix to the Pre-hearing Statement.

VI. AGENCY COMMENTS

To date, the District Department of Transportation has not provided agency comments.

VII. COMMUNITY COMMENTS

The Pre-hearing Statement stated that the building design and layout was the result of an agreement with Advisory Neighborhood Commission 6A. It also stated that the community has had extensive opportunity to review the design of and to provide public feedback on this project, although some neighboring property owners have expressed concerns about:

- the impact of the additional vehicle traffic on the existing alley network;
- the effect increased traffic would have on pedestrian safety in the alley; and
- how the issuance of 84 additional resident parking permits would impact on-street parking resources around the square.

To date, a final resolution from ANC 6B has not been added to the case record file.