

## MEMORANDUM

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

**FROM:** Elisa Vitale, Case Manager  
JL Joel Lawson, Associate Director Development Review

**DATE:** September 9, 2016

**SUBJECT:** BZA Case 19298 – request for special exception, use and area variances pursuant to DCMR 11 X §§§ 901.1, 1000.1 and 1002.1, respectively, for relief to construct a new alley flat and additions to existing alley buildings for residential use at 1901, 1903, and 1905 9 ½ Street NW.

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### **I. BACKGROUND**

The Applicant submitted a request for three alley flats at 1901, 1903, and 1905 9 ½ Street NW. The Office of Planning (OP) indicated that it could not support the requested relief for a multi-family use on an alley lot. The Applicant submitted a letter to the record on September 6, 2016 (Exhibit 41) requesting additional time to submit revised plans and a prehearing statement that would reflect the change from two units per building to one unit per building. At the time the Office of Planning report was due to be filed, the additional information had not been submitted. If filed before the hearing, OP will evaluate the revised request and provide an update to the BZA.

### **II. OFFICE OF PLANNING RECOMMENDATION**

Based on the information submitted to date, OP **recommends denial** of the Applicant's request for use and area variances to allow the conversion and expansion of two existing alley buildings into three-story residential flats at 1901 and 1905 9 ½ Street NW and the construction of a new three-story residential flat at 1903 9 ½ Street NW (Square 0361, Lots 124, 125, and 126):

#### Use Variance

- U § 600.1(e), multi-family residential use of an alley building.

#### Area Variance

- E § 5102.1, height;

OP understands that the Applicant may no longer seek the use variance. However, the Applicant has not formally amended the application. If amended, OP would continue to recommend **denial** of the area variance for height as the applicant has not submitted to the record sufficient justification, but would review and evaluate any information submitted by the Applicant as it becomes available and update the BZA accordingly.

However, should the Applicant revise the relief request to eliminate the use and height variance, OP would recommend **approval** of the following special exception relief should each alley lot be developed for use as a single dwelling unit:

- E § 5105.1, side yard; and

- E § 5106.1, alley lot setback.

Finally, should the Applicant revise the relief request to eliminate the use and height variance, OP would, in concept, not be opposed to the following special exception relief, subject to the Applicant providing sufficient justification against the conditions of C § 703.2, including a Transportation Demand Management Plan (TDMP) approved by the District Department of Transportation:

- C § 701.5, parking.

### III. LOCATION AND SITE DESCRIPTION

Address:	1901, 1903, and 1905 9 ½ Street NW
Applicant:	Martin Sullivan, Agent on behalf of Evergreen Properties II LLC, Owner
Legal Description:	Square 0361, Lots 124, 125, and 126
Ward / ANC:	1 / 1B
Zone:	RF-1 – detached, attached, semi-detached, single-family dwellings and flats.
Historic District or Resource:	U Street Historic District
Lot Characteristics:	Rectangular alley lots bounded by a 15-foot improved public alley (known as 9 ½ Street NW) to the west; the property at 1918 9 <sup>th</sup> Street NW to the north; properties at 1916 and 194 9 <sup>th</sup> Street NW to the east; and properties at 1912 9 <sup>th</sup> Street NW and 911-915 T Street NW to the south.
Existing Development:	1901 and 1905 9 ½ Street NW are improved with two-story brick row dwellings, which are currently vacant. 1903 9 ½ Street NW is unimproved.
Adjacent Properties:	The adjacent properties are improved with residential buildings in the RF-1 zone.
Surrounding Neighborhood Character:	Properties to the north and east are in the ARTS-2 zone. To the west, across the public alley, is the Grimke School, also in the RF-1 zone. To the north and west are the U Street Commercial Corridor and the U Street Metrorail Station.
Proposed Development:	The Applicant is proposing to construct a new alley flat at 1903 9 ½ Street NW and additions to the existing alley buildings at 1901 and 1905 9 ½ Street NW for conversion to and use as residential flats.

#### IV. ZONING REQUIREMENTS AND RELIEF REQUESTED

Zone – RF-1	Regulation	Existing	Proposed	Relief
Height E § 5102	20 ft. / 2 stories max.	1901 – 20’ 10” 1903 – N/A 1905 – 21’ 0”	1901 – 30’ 5” 1903 – 30’ 5” 1905 – 30’ 5.5”	<b>1901 – 10’ 5”</b> <b>1903 – 10’ 5”</b> <b>1905 – 10’ 5.5”</b>
Floor Area Ratio	None prescribed	N/A	N/A	None Required
Lot Occupancy E § 5103	Alley lot less than 1,800 sq. ft. 100 % max.	1901 – 53.8% 1903 – N/A 1905 – 53.6%	1901 – 90% 1903 – 90% 1905 – 90%	None Required
Rear Yard E § 5104	5 ft. min.	1901 – 27’ 2.5” 1903 – N/A 1905 – 27’ 4”	1901 – 6’ 1903 – 6’ 1905 – 6’	None Required
Side Yard E § 5105	5 ft. min. from any lot line of all abutting non-alley lots	1901 – 0’ 1903 – N/A 1905 – 0’	1901 – 0’ 1903 – 0’ 1905 – 0’	<b>1901 – 5’</b> 1903 – None Required 1905 – None Required
Alley Centerline Setback E § 5106	12 ft. min.	1901 – Existing 1903 – N/A 1905 – Existing	1901 – N/A 1903 – 7’ 6” 1905 – N/A	1901 – Existing Nonconf. <b>1903 – 4’ 6”</b> 1905 – Existing Nonconf.
Parking C § 701	1 space / 2 dwelling units	1901 – 0 sp. 1903 – N/A 1905 – 0 sp.	1901 – 0 sp. 1903 – 0 sp. 1905 – 0 sp.	1901 – None Required 1903 – 1 sp. 1905 – None Required

#### V. OFFICE OF PLANNING ANALYSIS

##### a. Variance Relief from § E 5103.1, height, and § U 600.1(e), multi-family use of an alley building

##### i. Exceptional Situation Resulting in a Practical Difficulty

The Property’s uniqueness, small and narrow lots constrained by Historic Preservation Review Board (HPRB) setback requirements, does not impose an undue hardship upon the owner of the Property related to the proposed residential flat use and additional height. The alley lot regulations plainly prohibit multi-family dwellings on alley lots.<sup>1</sup>

##### ii. No Substantial Detriment to the Public Good

The proposed construction that would significantly exceed the maximum permitted height of 20 feet could have an undue impact on surrounding uses. The applicant has not provided a shadow study or other documentation demonstrating how the proposed use and height would not pose a substantial detriment to the public good.

##### iii. No Substantial Harm to the Zoning Regulations

Granting relief for height and multi-family use of a residential building on an alley lot without a clear exceptional condition and practical difficulty would substantially harm the intent of the recently adopted Zoning Regulations, which specifically seek to maintain alley development at a lower scale and density than surrounding uses.

<sup>1</sup> C § 204.9(b) states that “In the R, RF, or RA zones, the proposed use shall be either a single dwelling unit, flat, or a multiple dwelling unit development; except on an alley lot, the proposed use may only be a single dwelling unit.”

**b. Special Exception Relief from E § 5105.1 side yard, E § 5106.1, alley lot setback, and C § 701.5, parking**

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

The requested relief from the side yard, alley lot setback and parking requirements would not result in a project, which conformed to height and use, that would not be harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The Applicant is proposing to modify the existing buildings at 1901 and 1905 9 ½ Street NW, which do not meet the alley lot setback requirements. The existing property at 1901 also is nonconforming with respect to side yard and the proposed addition would require relief from E § 5105.1.

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

With regards to the side yard, alley lot setback and parking relief, the proposal should not adversely affect the use of neighboring property. The Applicant is proposing to renovate two existing buildings and construct a third building that, if amended to eliminate the third floor and to make the units single family dwellings, would generally match the form of the existing buildings and other buildings located on 9 ½ Street NW.

Further, with respect to the requested parking relief, C § 703.2 states that, “The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of at least one (1) of the following:

- (a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;*
- (b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities;*
- (c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;*
- (d) Amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood;*
- (e) The nature of the use or structure or the number of residents, employees, guests, customers, or clients who would reasonably be expected to use the proposed building or structure at one time would generate demand for less parking than the minimum parking standards;*
- (f) All or a significant proportion of dwelling units are dedicated as affordable housing units;*
- (g) Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use;*

- (h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:*
- (i) A curb cut permit for the property has been denied by the District Department of Transportation; or*
- (j) Any driveway that could access an improved public street from the property would violate any regulation of this chapter, of the parking provisions of any other subtitle in the Zoning Regulations, or of Chapters 6 or 11 of Title 24 DCMR;*
- (k) The presence of healthy and mature canopy trees on or directly adjacent to the property; or*
- (l) The nature or location of a historic resource precludes the provision of parking spaces; or providing the required parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource.”*

While OP believes the subject property is well served by mass transit, shared vehicle, and bicycle facilities, the Applicant must submit to the record adequate demonstration of conformance with the criteria in C § 703.2.

Furthermore, Subtitle C § 703.4 requires, “*Any request for a reduction in the minimum required parking shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment’s approval.*” The Applicant has not submitted to the record a TDM plan and OP recommends provision of such plan for DDOT review and approval be made a condition of any parking relief.

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

Comments of other District agencies had not been received at the time this report was drafted.

## **VII. COMMUNITY COMMENTS**

At its September 1, 2016, regular meeting, ANC1B voted to oppose the variance for relief from alley lot residential requirements, the alley lot setback requirement, the alley lot height requirements, and the parking requirements for not conforming with the intent of the zoning code for alley dwellings, not showing economic hardship, and issues with trash storage.

A letter in support of the requested relief was submitted by the property owners at 1918 9<sup>th</sup> Street NW (Exhibit 29). The property owner at 1917 9 ½ Street NW has requested party status in opposition (Exhibit 27).



Figure 1: Location Map