



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

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

DATE: March 8, 2011

SUBJECT: BZA Application 18182: 1718-1734 7th St. NW

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends **APPROVAL** the following relief to permit construction of the proposed new apartment building on the proposed new lot as follows:

Area variances pursuant to:

1. § 2101.1 to reduce the number of off-street parking from 20 spaces to 14 spaces for the new building;
2. § 2202.1 to reduce the number of loading berths by providing only one berth at 20 ft for the new development;
3. § 770.1 to permit the height of the new building to 79 feet, 65 feet maximum permitted;
4. § 774.1 to provide no rear yard on the new lot; and

Special exception relief pursuant to:

1. § 411.11 to permit roof structures of varying heights on the new building.

By subdividing the subject Lot 33 into two lots – one for the new development and one for the existing development, the applicant would also create the following non-conformities for the existing development, identified in this application as Lot 847, requiring variance relief pursuant to:

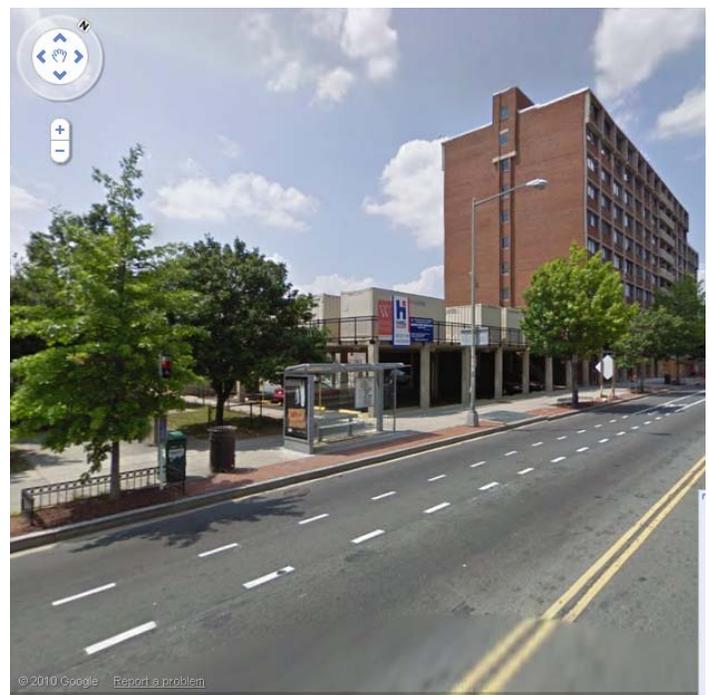
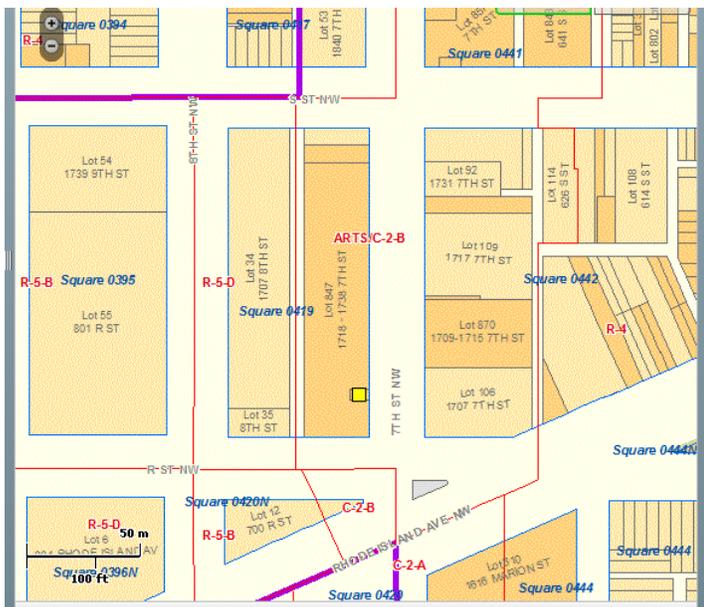
1. § 771.2 to increase the FAR on Lot 847 of the existing building to 4.41 FAR where 3.5 FAR (maximum) is permitted; and
2. § 2101.1 to reduce the number of off-street parking spaces from 58 to 25 spaces for the existing building.

The applicant has also requested variance relief from § 2604.2, Inclusionary Zoning. OP feels that this section establishes a bonus height of 70 feet per Inclusionary Zone (IZ) requirements, so relief is not required. However, should the BZA determine that this relief is needed, OP’s analysis for the height variance relief from § 770.1 would apply and OP would not be opposed to the granting of the relief.

II. AREA AND SITE DESCRIPTION

Address	1710 -1730 7 th Street NW
Legal Description	Square 419 Lot 33 – (Proposed to be subdivided as Lot 847 and a new lot to the south (number currently not assigned)).
Ward	1
Lot Characteristics	New Lot is a proposed L-shaped lot encumbered with the combined WMATA easement also known as Lot 846.

Existing Development	The subject Lot 33 is developed with a 108-unit apartment building with 58 assigned parking spaces. Parking is located off the alley at the building's rear, below an elevated concrete deck and on a concrete-surfaced parking area of 7 spaces. The lot also includes a small landscaped area adjacent to the WMATA easement identified as Lot 846.
Zoning	ARTS: Arts Overlay District; one purpose of the Arts Overlay is to expand the area's housing supply in a variety of rent and price ranges. C-2-B: compact and located on arterial streets, in uptown centers, and at rapid transit stops. Building use may be entirely residential or a mixture of commercial and residential uses.
Adjacent Properties	North: An existing 108-unit apartment building, apartment houses with ground floor retail and row houses to the east of the apartment house immediately opposite the subject property. South: Across R Street and Rhode Island Ave, the new Shaw Library. East: Across 7 th Street, properties owned by the church and Howard University. West: Across the rear alley, Metro Station access and garden style residences.
Surrounding Neighborhood Character	Mixture of retail, residential and institutional uses.



Zoning Map and Site Photo

III. APPLICATION IN BRIEF

The applicant, Lincoln Westmoreland Housing, has proposed the subdivision of the existing 38,072 square-foot Lot 3 and Lot 846, to create two new lots measuring 24,889 square feet (new Lot 847 with existing building to the north) and another lot measuring 13,183 square feet, which is currently developed with the concrete pad and surface parking, as well as the permanent WMATA subsurface easement. Other than the subdivision, no alterations or additions are proposed to the existing apartment building. The new lot would be redeveloped to include a new 50-60 unit apartment building of approximately 53,980 gross square feet within the area of the existing concrete pad. No development would be placed over the subsurface easement. All units would be affordable. A portion of the ground floor would also be devoted to retail space in accordance the Arts Overlay District requirements.

The proposed development would require variance and special exception relief from area requirements as shown in the following table.

Item	Existing	Permitted	Proposed	Deviation
Lot Area	38,072 sf (Lot 33)	N/A	Lot 847 = 24,889 sf New Lot =13,183 sf	N/A
Lot Occupancy (§ 772.1)	47.6%	80%	Lot 847=50% New Lot=55%	Conforms Conforms
Height (§ 770.1)	89 ft. (existing)	65 ft (existing regulations)	New building = 79 ft	Needs Relief
FAR (§ 771.2) (§1904.1)	3.11	3.5 (existing C-2-B) 4.5 (per §1904.1)	Lot 847 = 4.41 New Lot = 4.35	Needs Relief
Rear Yard (§ 774.1)	32 ft	15 ft	Lot 847 = 32 ft (existing) New Lot = 0 ft	Needs Relief
Parking (§ 2101)	58	1 per 3 d.u Lot 33= 36 Lot 847= 20	Lot 847 = 25 New Lot = 14	Needs Relief Needs Relief
Loading (§ 2200)	None	1 berth@55 ft 1 platform@200ft 1 loading space 20 ft	New Lot = 1 loading space 20 ft	Needs Relief
Penthouse Height (§ 411.11)	18ft 6ins	18ft 6 ins	18’ 6 ins and 12 ft 6 ins.	Needs Relief
Ground Floor Retail Uses (§ 1901)	41%	50%	Lot 847= 41% New Lot = 53%	Existing non-conformity Conforms

IV. PROPOSED DEVELOPMENT

The applicant has proposed the subdivision of the existing record lot, Lot 33, into two lots. The larger of the two lots, new Lot 847 would measure 24,889 square feet in land area and would retain the existing 108-unit apartment building. The smaller lot to the south would measure 13,183 square feet and would be cleared of the existing concrete deck to accommodate the 7-story apartment building with 3,307 square feet of ground floor retail. The new building would be constructed to create a street wall along the 7th Street frontage and the ground floor level would include the residential lobby and entry to the retail space. Fifty to sixty apartment units on upper floors, two through eight, would include efficiency and one bedroom apartments.

Vehicular access to the 14-space surface parking area would be from the public alley, as currently exists. Eleven bicycle spaces would be provided for building residents. Retail and residential trash storage and removal would also be from the rear, where the west elevation would be set back from the alley lot line by at least 20 feet to increase the alley’s effective width to 35 feet. The project would provide one loading berth for both retail and residential use.

C-2-B allows an FAR of 3.5. Under the IZ program, an FAR of 4.2 is permitted. The Arts Overlay provides for bonuses above the base 3.5 amount of up to 1.0 for a total of 4.5 FAR.

Although no addition to the existing apartment building are proposed, the subdivision would increase the effective FAR to 4.41 making it non-conforming to FAR requirements, as it was built prior to the existing Arts Overlay. The new building proposed at 4.35 FAR would conform to the Arts Overlay’s maximum.

VI. ANALYSIS

A. Variance Relief

Section 3103 requires the applicant to demonstrate that (1) the property is affected by an exceptional or extraordinary situation or condition, that (2) the strict application of the Zoning Regulations will result in a practical difficulty for the applicant, and that (3) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan.

Exceptional Condition

The exceptional condition is derived from a confluence of factors, including the original property's physical features, its subsurface encumbrance, as well as the original financial agreements for the development on the larger lot.

The Property's width is narrow at 95 feet as measured from 7th Street to the alley. The subsurface easement occupies 43% of the new Lot to the south. According to the applicant, the original financial agreement for the existing development negated the option for an addition to the existing building. It also requires the retention of a certain number of parking spaces on the existing lot. This requirement ultimately affects the shape of the individual lots, as shown under the proposed subdivision. The applicant intends to provide the relevant information regarding the financial agreement's influence on the option to subdivide the property, thereby necessitating the need for relief.

Practical Difficulty

The confluence of factors previously described creates an exceptional condition of the property leading to practical difficulties in upgrading or redeveloping the site as desired.

§ 2101 and § 2202.1- Off-Street Parking and Loading - New Lot

The application requests a decrease in the number of required off-street parking spaces from 20 to 14.

Practical Difficulty

A. Parking

The permanent subsurface WMATA easement below the new lot would not allow underground parking, and the lot area as proposed for development would not accommodate additional surface parking.

B. Loading

Providing the required loading areas and berths for the **new lot** would severely impact the proposed number of units and the retail floor area of the project. The subsurface easement reduces the potential buildable area of the lot by 43%. Applying the loading requirements would render the remaining buildable area unfeasible as an affordable residential project as currently proposed.

Intent, Purpose and Integrity of the Zone Plan

Granting this variance would not impair the intent, purpose and integrity of the zone plan. The subject property sits atop the Green Line Metro Station with an entrance located across the alley at the property's rear. It is also located on the multi-modal 7th Street transportation corridor with Smart Bike options available two blocks to the north at the corner of 7th and T Street. Up to eleven bicycle spaces would be provided on-site. Car-share locations are also available in the immediate vicinity. Therefore, the availability of a variety of transportation options reduces future residents' incentives to own and store vehicles on the premises.

The proposed reduction of the loading also would not adversely impact the intent of the Zone Plan, as it is not anticipated that future residents of this smaller building would require its use all at the same time.

§ 770.1– Height**Practical Difficulty**

The permanent WMATA easement on the proposed new lot creates a practical difficulty for the applicant to construct the building with a larger footprint and lower height. This easement covers approximately 43% of the new lot's area and cannot be built upon, so in order to maintain affordability of the project an additional floor is proposed. The new building relies on many funding sources and has been designed to accommodate all of the requirements that will make it viable. Any reduction of units below that requested would adversely affect the financial viability of the project for the applicant.

Intent, Purpose and Integrity of the Zone Plan

The intent of the increased height is to accommodate an additional floor to maintain the financial feasibility of the project given the reduced buildable area of the lot. This is not contrary to the intent and purpose of the inclusionary Zoning Regulations. The permitted FAR is not exceeded by including the additional floor and resulting height in the project. Light and air to abutting neighbors would not be affected as the new building would be located to the south of the existing apartment building which has east and west facing windows.

§774.1- Rear Yard**Practical Difficulty**

The proposed configuration for the new lot and the constraints of the WMATA easement on the site create a practical difficulty for the applicant to provide a rear yard and maintain viable number of housing units.

Intent, Purpose and Integrity of the Zone Plan

The lack of a rear yard would not adversely affect neighboring properties as the new building would abut a portion of the rear yard of Lot 847 where no structure currently exists. The distance from the rear of the proposed structure to the alley centerline would be greater than 15 feet. Therefore, there is an effective distance greater than 15 feet from the rear of the proposed building to the residences at the west across the alley.

§ 3104 Special Exception

Section 3104 authorizes the Board to grant special exceptions, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

Special exception relief, pursuant to Section 3104 is required from height of the roof structure pursuant to Section 411.11. The penthouse is not a uniform height per § 411.5, as the portion of the penthouse which abuts the adjacent building varies in height. The southern portion of the penthouse rises to a height of 12 feet, six inches to accommodate the mechanical equipment. The northern portion of the rises to a height of 18 feet, six inches to accommodate the elevator overrun and control room. The height variation reduces the building's effective massing as viewed from public space. Without the smaller walls for its southern portion, the penthouse would be unnecessarily large for functions it can accommodate in the smaller penthouse.

The design of the building is not anticipated to affect the light and air to the abutting existing property or the immediate properties across the alley. As a corner building with a rear alley, it abuts no other property and the penthouses meet the required setback from the roof's edges to reduce its visual impact from public space. Therefore, the Office of Planning finds the subject application to be in conformance with the special exception criteria contained within §§ 411.11, and 3104.1. The proposed building is in compliance with all other applicable provisions of the Zoning Regulations.

Relief for the Existing Building – Lot 847**§ 771.2 – FAR**Exceptional Situation

The proposed subdivision effectively reduces the lot size of the existing building which invariably increases the existing FAR to 4.41, even without proposed additions to the building.

Practical Difficulty

The appropriate land area to maintain the building's FAR within the prescribed C-2-B limits would severely reduce the available land and buildable area for the proposed development on the new lot to the south. The resulting area would be too small to construct an affordable project as programmed by the applicant. Therefore, there is a practical difficulty in balancing the existing building's FAR with an appropriate buildable area on the new lot which is encumbered by the subsurface easement.

Intent, Purpose and Integrity of the Zone Plan

The intent and purpose of the Zone Plan would not be impaired, since it would not exceed the maximum 4.5 FAR limit afforded under the Arts Overlay District Regulations - Section 1904.1 (b).

§ 2101 - Off-Street Parking - Lot 847Practical Difficulty

The proposed subdivision of the lot would create two irregularly shaped lots, which would effectively reduce the 58 dedicated parking spaces of the existing apartment building to 25 spaces. There is a practical difficulty for the applicant in maintaining the required spaces on **Lot 847**, as no other options would be immediately available on the open area to the rear of the lot. The provision of underground parking would be cost-prohibitive and may be impractical due to the lot's narrow width.

Intent, Purpose and Integrity of the Zone Plan

Granting this variance would not impair the intent, purpose and integrity of the zone plan. The subject property sits atop the Green Line Metro Station with an entrance located across the alley at the property's rear. It is also located on the multi-modal 7th Street transportation corridor with Smart Bike options available two blocks to the north at the corner of 7th and T Street. Up to eleven bicycle spaces would be provided on-site. Car-share locations are also available in the immediate vicinity. Therefore, the availability of a variety of transportation options reduces future residents' incentives to own and store vehicles on the premises.

VI. COMMUNITY COMMENTS

No community comments have been received by OP to date.

VIII. AGENCY COMMENTS

OP has no record of other agency comments to date.

IX. RECOMMENDATION

The Office of Planning has reviewed the application in terms of the property's zoning, the character of the neighborhood and the standards for variance and special exception relief. This proposal is unique because it involves the subdivision of an existing property on a metro station to facilitate new affordable housing and ground floor retail. Even though OP would normally have concerns with these forms and levels of requested relief, in this case, OP feels that the application can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Map."

OP recommends **approval** of the application according to the requested relief as highlighted in the Summary Recommendation of this report.