



## MEMORANDUM

**TO:** District Board of Zoning Adjustment

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

**DATE:** February 16, 2010

**SUBJECT:** BZA Case No. 18028 - Request for a special exception under § 518 and area variances under §§ 531 and 2001.3 to allow an addition and new retail and service uses in an existing building.

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

The Office of Planning (OP) **recommends approval** of special exception relief pursuant to § 518 and area variance relief pursuant to §§ 531 and 2001.3.

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

Address:	1750 New York Avenue N.W.
Legal Description:	Square 171, Lot 33
Ward/ANC:	2/2A
Lot Characteristics:	The subject lot is irregular in shape and borders three streets: New York Avenue, 18 <sup>th</sup> Street N.W., and E Street N.W. The lot measures approximately 32,000 square feet and slopes downward to the south.
Zoning:	SP-2
Existing Development:	There is an existing office building with accessory uses.
Historic District:	Commission of Fine Arts (CFA)
Adjacent Properties:	To the north of the Property, across New York Avenue, is the American Institute of Architects (AIA) and the historic Octagon House. To the east of the Property is the Corcoran Gallery of Art. South of the Property, across E Street, is the American Red Cross. Across 18 <sup>th</sup> Street to the west of the Property is Rawlins Park.
Surrounding Neighborhood Character:	The neighborhood is characterized by federal office buildings and large commercial and institutional buildings. There is a mix of SP-2, C-3-C, and federal lands identified as GOV.

### **III. PROJECT DESCRIPTION-IN-BRIEF**

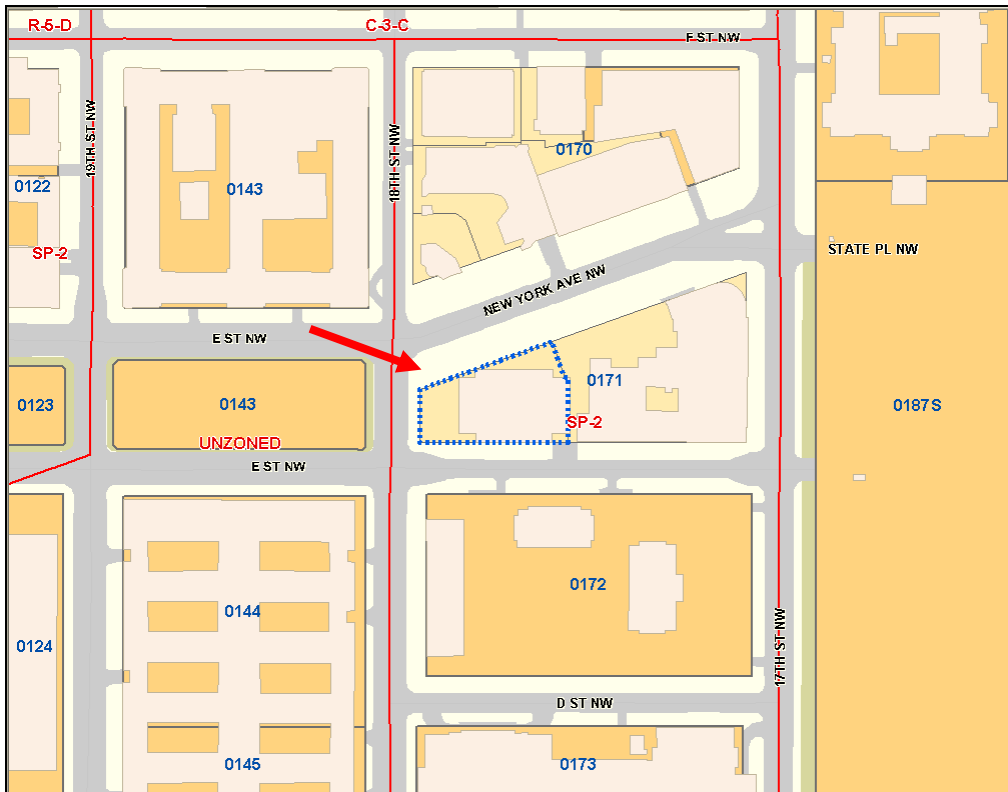
Applicant	United Unions, Inc.
Proposal:	The Applicant proposes to convert existing ground floor and below space to incorporate new retail and restaurant uses. Additionally, the Applicant proposes to construct new building and restaurant entrances, as well as a new canopy for a proposed restaurant. Following the expansion, the overall gross floor area of the building would increase by approximately 3,900 square feet or .12 FAR.



### IV. IMAGES AND MAPS



Aerial view of the site looking east across 18<sup>th</sup> Street



Aerial view of the site (subject Property outlined in blue)

## V. ZONING REQUIREMENTS

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

SP-2 Zone	Regulation	Existing	Proposed	Relief:
Retail uses § 518	Permitted by special exception	Some ground floor and below retail <sup>1</sup>	Ground floor and below retail	Relief required
Height (ft.) § 530	90' max.	89'	89'	None required
Rear yard (ft.) § 534	20' min.	45'	45'	None required
Side yard (ft.) § 535	2" wide for each foot of height; 15' min.	63'	38'	None required
Parking spaces (number) § 2101	99 min.	195	195	None required
Floor area ratio (FAR) (floor area/lot area) § 531	6.0 max. (3.5 max. non-residential)	5.39 (non-residential)	5.51 (non-residential)	Relief required

## VI. BACKGROUND and RELIEF SOUGHT

On January 11, 2010, the Zoning Commission approved final action on Zoning Commission Case Number 09-11, an amendment to Chapter 5 of the Zoning Regulations. The amendment permits certain retail and service uses by special exception in SP-2 zones located south of M Street N.W. and N.E. The Applicant is requesting special exception relief pursuant to new § 518 to accommodate ground floor and below retail and service uses. In addition to special exception relief, the Applicant requests area variances under §§ 531 and 2001.3 to permit an addition to a non-conforming structure that currently exceeds the non-residential FAR limitations.

## VII. OFFICE OF PLANNING ANALYSIS

### Special Exception: § 518

*§ 518.1 The uses identified in § 518.4 shall be permitted in certain properties in an SP-2 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.*

*§ 518.2 The properties are those located south of M Street N.W. and N.E.*

The Property is located south of M Street N.W.

*§ 518.3 The uses shall be located on or below the ground floor of the building.*

The uses would be located on or below the ground floor of the building.<sup>2</sup>

*§ 518.4 The uses shall be those permitted in §§ 701.1 through 701.5 of this Title.*

<sup>1</sup> The Applicant indicated that a bank and cafeteria are currently operating in the building.

<sup>2</sup> The Zoning Regulations define "Ground floor" as "the floor that is nearest in grade elevation to the adjacent surface of the public right-of-way." See § 199.1.

The application provides that spaces identified for ground floor retail and service uses would be limited to uses permitted in §§ 701.1 through 701.5. The application states that specific tenants have not yet been secured.

*§ 518.5 The uses shall not include a drive-through.*

The application indicates that the uses would not include drive-through.

*§ 518.6 The uses shall be located and designed such that they are not likely to become objectionable to neighboring properties because of noise, traffic or other objectionable conditions.*

The service and retail uses should not become objectionable to neighboring properties. On the contrary, the new retail uses would provide a needed service to area employees and visitors. The site is located in a predominately office and institutional area with no abutting residential neighbors. The proposed uses are deemed appropriate for C-1 “Neighborhood Shopping Districts” and would total less than 10,000 square feet in space in the existing building, or approximately 6% of the building. Retail and restaurant uses also have historically operated in the building pursuant to special exceptions (see BZA Orders Numbers 10740 and 12498). Concerning traffic impacts, existing parking in the building substantially exceeds the required number of spaces under the zoning regulations.<sup>3</sup> Loading for new retail or service uses would continue to be handled by the building’s existing loading area along its E Street side.

*§ 518.7 The Board of Zoning Adjustment may impose requirements pertaining to screening, signage, or other requirements it deems necessary to protect adjacent or nearby property.*

OP does not suggest any additional requirements. CFA would continue to review the design and has, at this time, approved alternative conceptual designs which do not impact the requested relief.

Area Variances: §§ 531 and 2001.3

- 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 features that exhibit a specific uniqueness. The site is a six-sided corner lot that abuts three streets. Each side of the lot measures differing lengths. Due to the slope of the Property, entrances to the building along New York Avenue and 18<sup>th</sup> Street occur on a higher floor than the E Street entrance. The placement of the building on the site, in combination with the expansive public space along both 18<sup>th</sup> Street and New York Avenue, creates sizeable building setbacks from adjacent streets. The site is improved with an office building that became non-conforming due to changes in the zoning regulations. Pursuant to Appeal No. 10228, the Board authorized the construction of a 9-story office building measuring approximately 170,000 square feet and an FAR of 5.39. At the time, SP-2 zones allowed an FAR of 5.5 for non-residential uses.<sup>4</sup> However, Zoning Commission Order No. 235 (1978) reduced the allowable non-residential FAR from 5.5 to 3.5, thereby causing the existing building to become non-conforming.

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

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<sup>3</sup> Applicant calculates that 99 parking spaces are required for existing and proposed uses, while the building currently has 195 parking spaces.

<sup>4</sup> According to a 1973 version of the Zoning Regulations, “Apartment house and hotel” uses were authorized up to 6.0 FAR.

The strict application of the FAR limitations would impose a practical difficulty that is unnecessarily burdensome to the Applicant. First, the building became non-conforming to the non-residential FAR limitations due to changes in the zoning regulations. As a consequence, even though the SP-2 zone permits a maximum of 6.0 FAR which the Applicant is not proposing to exceed, the building cannot be expanded without zoning relief. To comply with the present SP-2 zoning, the Applicant would be forced to substantially reduce the amount of office uses in the building. Such office uses, pursuant to Board approval, have operated in the building for nearly 40 years. Second, without relief, the Applicant would be unable to retrofit the building to better serve existing and proposed tenant needs. According to the Applicant, a new main entrance to the building and restaurant entryway are needed to improve the building's functionality and to advance the building's LEED certification. Such entrances, the Applicant provides, cannot effectively be incorporated internal to the building due to the existing building configuration. As a result, the Applicant proposes to construct external entrances which would occupy collectively about 1,900 square feet. Similarly, the Property's uniqueness creates a practical difficulty for the creation of a restaurant canopy that is intended to increase the attractiveness of a space for a future tenant. The restaurant canopy feature, which would measure about 2,000 square feet, would be open to the elements, and would be located within the approximately 60' yard on the building's 18<sup>th</sup> Street side, cannot be made internal to the building.<sup>5</sup> Although properties in the SP-2 zone are permitted to construct up to 6.0 FAR, the additional .06 FAR that the canopy represents would not be permitted without relief.

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?*

Relief could be granted without substantial determinant to the public good. The building is not located proximate to any residential buildings. It would continue to offer office, retail, and service uses on the site. The proposed building additions would add little bulk to the site, would be set back considerably from the street, and would increase the ground floor of the building by only 3,900 square feet or .12 non-residential FAR. The additions would improve the appearance and functionality of the building and help to improve its environmental features. The building also would continue to conform to the maximum 6.0 FAR on the site. The CFA has approved alternative design concepts, and ANC 2A voted unanimously to support the proposal.

Zoning relief would also not substantially impair the intent, purpose and integrity of the Zoning Regulations and Map. Office use was a permitted use on the site, and the Applicant proposes only a slight FAR increase to improve the functionality of the building and to support proposed retail and service uses. As evidenced by the recent Zoning Commission approval, specific retail and service uses have been deemed appropriate for this site, subject to the satisfaction of conditions which this proposal meets.

#### **VIII. COMMUNITY COMMENTS/ANC**

ANC 2A submitted a letter, dated January 27, 2010, indicating a unanimous vote in support of the proposal.

#### **IX. RECOMMENDATION**

The Office of Planning **recommends approval** of the required special exception and area variances to accommodate an addition and new retail and service uses in an existing building.

JS/pg  
Paul Goldstein, case manager

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<sup>5</sup> The Applicant's plans indicate that the canopy square footage calculation includes "adjacent portion of arcade."