

AGENDA

ANC 6A Economic Development & Zoning Committee
Wednesday September 15, 2010, 7-9:00 PM
Sherwood Recreation Center (640 10th St, NE)
2nd Floor Community Room

7:00 pm **Call to order**

7:01 **Community Comments**

7:05 **Ongoing Status Reports:**

1. H Street Connection Redevelopment (Drew Ronneberg) (2 min)
2. Vacant Properties (Dan Golden/Phil Toomajian) (2 min)

7:11 **Old Business - None**

7:11 **New Business**

1. HPA #10-XXX (322 11th St NE). The applicant is proposing construct a 1 story garage at the rear of 322 11th St NE. (30 min)
2. BZA #18122 (815-817 A St NE). The applicant is seeking a variance from the lot area requirements under subsection 401.3, to allow the conversion of a flat (two-family dwelling) to a three unit apartment building in the R-4 District at premises 815 A Street, N.E. (Square 919, Lot 31) (45 min)
3. ZC Case #08-06-12 (Comprehensive Zoning Regulations Review: Planned Unit Development). The committee will consider the Office of Planning's proposal to rewrite the Planned Unit Development regulations. (20 min)

8:45 **Additional Community Comment (time permitting)**

Everyone is welcome! Call Drew Ronneberg with questions at 202 431-4305.

Visit our website at <http://www.anc6a.org/>

Application for variance from the 900 square foot per apartment requirement (sub-section 401.3) to convert an existing two unit flat to a 3-unit apartment house at premises 815-17 A Street N.E. (square 919, Lot 31)

Current Application and Supporting Documents

- 1) Application Form 120
- 2) Memorandum from the Zoning Administrator (DCRA) 3/16/2010
- 3) Plat of the property
- 4) Statement of Existing and Intended use and statement of Burden of Proof
- 5) Page of Color Photographs of the property
- 6) The names and addresses (and labels) for all property owners within 200 feet.
- 7) The name and address of the persons with a lease with the owner for part of the Building
- 8) The current Certificate of Occupancy

Application Granted in 1991

- 1) The Summary Order from the Board of Zoning Adjustment granting the variance on 10/23/1991
- 2) A statement of additional conditions from the original order 10/23/1991
- 3) Memorandum from the Office of Planning recommending approval of the original application (10/9/1991)
- 4) Memorandum from the Office of Housing and Community Development expressing no objection to the original application (10/3/1991)
- 5) Memorandum from the Metropolitan Police Department expressing no objection to the original application (9/10/1991)
- 6) Memorandum from the Advisory Neighborhood Commission 6A documenting the unanimous approval of the original application (9/6/1991)
- 7) Memorandum from the Capitol Hill Restoration Society documenting their vote unanimously support the original application (9/23/1991)

2010 JUL -6 PM 1:27
D.C. OFFICE OF ZONING
RECEIVED

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

APPLICATION

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated.

Pursuant to Sections §3103.2 - Use Variance, §3103.2 - Area Variance and/or §3104.1 - Special Exception of Title 11 DCMR-Zoning Regulations an application is hereby made, the details of which are as follows:

Address(es)	Square	Lot No(s)	Zoning Districts	Relief Being Sought Area Variance • Use Variance Special Exception	Section No(s)
815 A street NE	0919	0031	R-4	Area Variance	3103.2 401.3

Present use(s) of Property: 2 Unit Flat

Proposed use(s) of Property: 3 Unit Apartment Building

Owner of Property: Arthur Carr Telephone No: 202-546-2611

Address of Owner: 815 A street NE

Written paragraph specifically stating the "who, what, and where of the proposed action(s)". This will serve as the Public

Hearing Notice: Conversion of 2 unit flat to 3 unit apartment building

Estimated construction cost: \$ 10,000 Advisory Neighborhood Commission Single-Member District(s): 6A03

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.
(D.C. Official Code § 22-2405)

Date: 7/4/2010 Signature: *Arthur Carr* Applicant*

* The Owner of the Property for which the application is made or his/her authorized agent. In the event an authorized agent files an application on the behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany the notice of application.

To be notified of hearing and decision (Owner or Authorized Agent*):

Name: Arthur Carr

Address: 815 A street NE, Washington, DC 20002

Phone No.: 202-546-2611 Fax No.: 202-543-4804 E-Mail: carre@transformdesign.com

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

RECEIVED
2010 JUL 14 1:21
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR

★ ★ ★

██████████

██████████

March 16, 2010

MEMORANDUM

TO: Board of Zoning Adjustment

From: Matthew LeGrant *ML22*
Zoning Administrator

Subject: Proposed interior renovations to convert an existing two-family flat to a three-unit apartment building, structure located at...
815 A Street, N.E.,
Lot 0031 in square 0919
Zoned R-4
DCRA File Job # B1003537
DCRA BZA Case # FY-10-22-Z

Review of plans for the proposed renovation and conversion to three-unit apartment building at the above subject premises indicates the Board of Zoning Adjustment approval is required as follows:

1. Variance pursuant to §401.3 to allow a conversion from a two-family flat to a three-unit apartment building in the **R-4** residential zone district. (Section 3102.2).

Note: All applicants must provide the Office of the Zoning Administrator with submission verification, in the form of a formal receipt from the BZA, within 30 days of the date this memo.

(Permit #B0908537) FY10-22-Z

NOTES AND COMPUTATIONS

ADDRESS: 815 A St. NE

LOT(S): 0031

SQUARE: 0919

SFD

REQUIRED

ALLOWED

ZONED: R-4

PROVIDED

VARIANCE

	<u>REQUIRED</u>	<u>ALLOWED</u>	<u>PROVIDED</u>	<u>VARIANCE</u>
LOT AREA	2700 Sq. Ft.		2312 Sq. Ft.	388 Sq. ft. 14.3 %
LOT WIDTH	18 Ft		25 Ft	N/A
LOT OCCUPANCY (%)		N/A	N/A	N/A
FLOOR AREA RATIO ()		N/A	N/A	
PARKING SPACES	1	1	1	
LOADING BERTHS	N/A		N/A	
FRONT YARD	N/A		15'	
REAR YARD	N/A		N/A	
SIDE YARD	N/A		N/A	
COURT, OPEN	N/A		N/A	
COURT, CLOSED	N/A		N/A	

Receipt No. 1207

THUR. CARR.

Regulations will be reserved in accordance with the zoning regulations, unless the area has been correctly drawn and dimensioned hereon. It is further agreed that elevation of the accessible parking area with respect to the Highway Dept. approved curb or alley grade will not result in a rate of grade along center driveway at any point on private property in excess of 20% for single-family homes or flats, or in excess of 12% at any point for other buildings. (The policy Highway Department permits a maximum driveway grade of 12% across the parking and the private restricted property).

Robert C. King
Surveyor, D. C.

By: DA

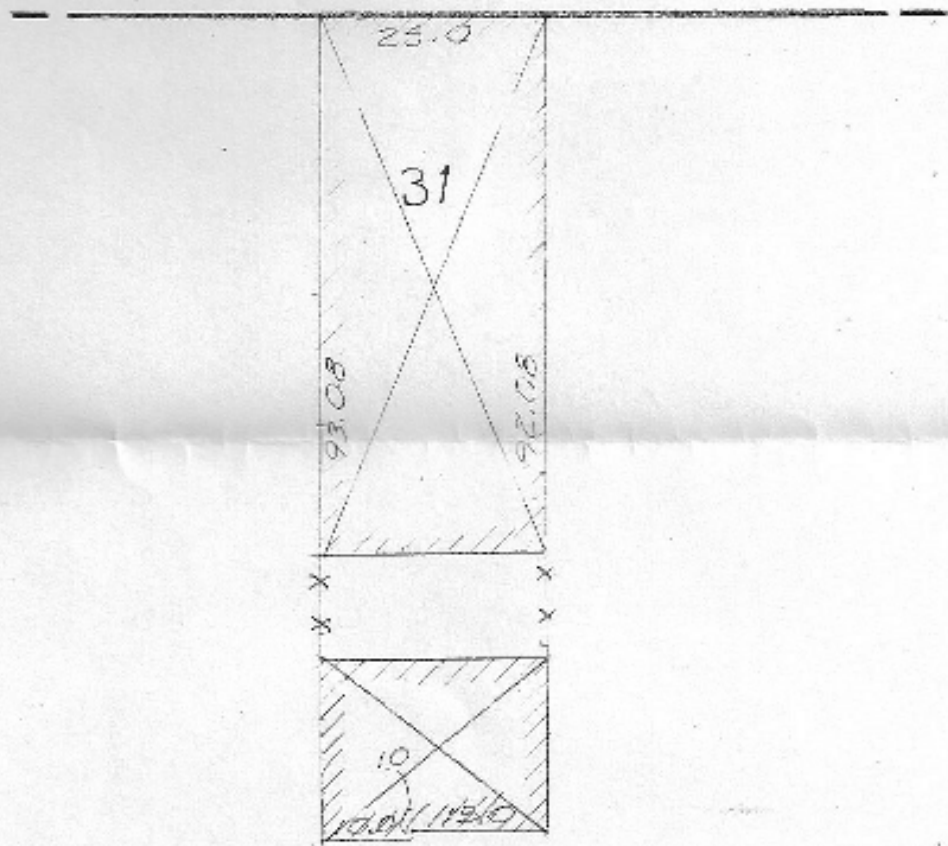
Date

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

A

STREET



15569

AS 29 87 36

Statement of Existing and Intended Use and Applicant's Burden of proof.

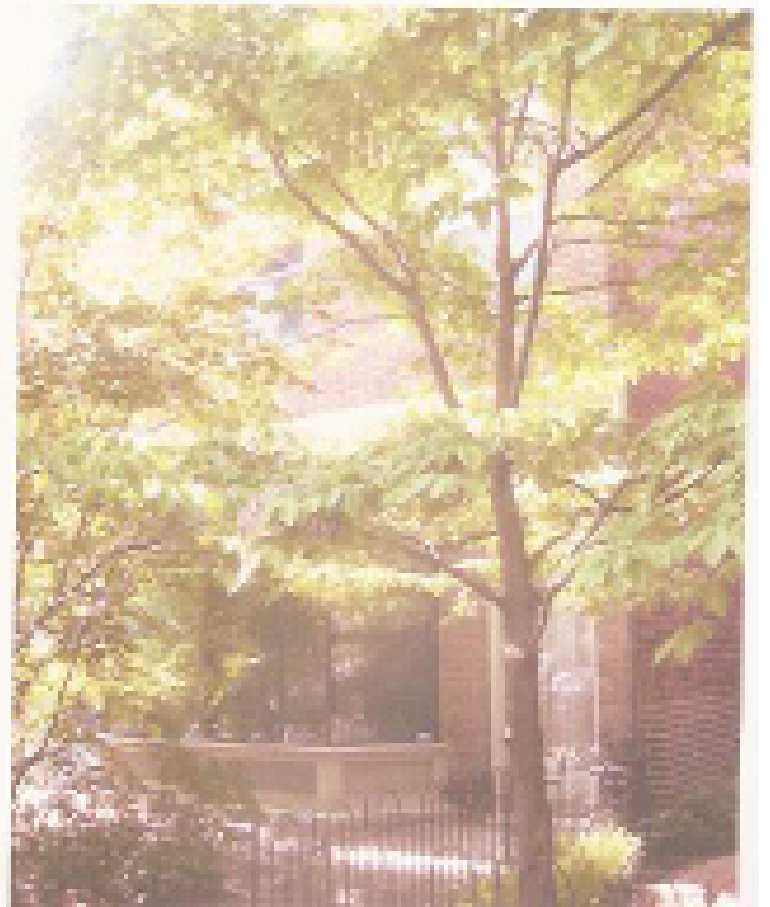
Application for a zoning variance to change the property at 815/817 A Street NE from a 2-unit flat to a 3-unit apartment

This building was constructed in 1913 as a grocery store with two apartments; one on the second floor and one on the third floor. In 1952, after being a rooming house for years, it was converted to a "storefront" church with apartments being used by the minister and his family. In 1990 I applied for and received a variance to convert the building to a 3-unit apartment building. The Application #15569 was approved on October 23, 1991.

The building now has a 2nd floor apartment for my family and a 3rd floor rental apartment. The first floor has a separate entrance and no connection to the other units other than a door to a common staircase. The first floor and basement are now used as a home office and for storage and are over 2000 square feet. This is a tremendous waste of space. The single space on the first floor is over 1200 square feet.

My plan is to convert the first floor and basement into an apartment for my family. The lot size is 2312 square feet. According to DC code the lot size would have to be 2700 square feet to use the building for three units. I am seeking a variance from the provisions of section 401.3.

The design of the building prevents changing it into only two apartments as a practical alternative. The building is designed with a separate entrance (and street number, 817) for the first floor. The building has a two-car garage. Changing the first floor to an apartment will be in keeping with the residential character of the neighborhood.





Square 0919 Lot 0031

-  Property Lines
-  200 Foot Radius

*** Office of Tax and Revenue
 *** Real Property Assessment Division
 *** GIS Geographic Information Systems


 Map Created: 05-11-2010
 For planning purposes only

Tenants at 815 /817 A street NE

Anisha S. Dasgupta and Christopher R. Beauchamp
815 A street NE
3rd Floor
Washington, DC 20002

Department of Consumer and Regulatory Affairs

Permit Operations Division
 941 North Capitol Street NE Room 2100
 Washington DC 20002

Tel: (202) 442-4589 Fax: (202) 442-4862
 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-8557

C of O

CERTIFICATE OF OCCUPANCY

THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE

PERMIT NO. CO1000401

Date: 12/28/2009

Address of Use: 815 A ST NE		Zone: R-4	Ward: 6	Square: 0919	Suffix:	Lot: 0031
Description of Occupancy: TWO FAMILY FLAT						
Permission Is Hereby Granted To:		Trading As:	Floor(s) Occupied: 3	PERMIT FEE: \$76.00		
Property Owner: Arthur G Carr		Previous Use(s): Single Family Dwelling - R-3	Occupant Load: 2	BZA Number: 0		
Type of Occupancy: Load Change	Occupied Sq. Footage: 4626	Approved Use(1): Two Family Flat - R-3				
Conditions/ Restrictions: As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government, and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.						
Director: Linda K. Argo		Permit Clerk: Stacie Williams		Expiration Date:		
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-8557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-8557						

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15569 of Rome Baptist Church, pursuant to 11 DCMR 3107.2, for a variance from the 900 square feet per apartment requirement (Sub-section 401.3) to convert an existing church structure to a 3-unit apartment house, basement through third floor, in an R-4 District at premises 815-17 A Street, N.E., (Square 919, Lot 31).

HEARING DATE: October 16, 1991
DECISION DATE: October 23, 1991

SUMMARY ORDER

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6A and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 6A. ANC 6A, which is automatically a party to the application, filed a written statement of issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 401.3. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, and that the requested relief 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. It is therefore ORDERED that the application is GRANTED, SUBJECT to the CONDITION that development of the project shall comply with the agreement marked as Exhibit No. 33 of the record.

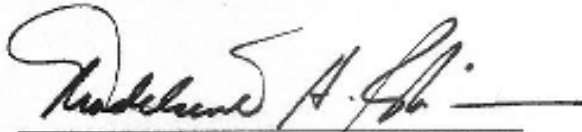
Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

BZA APPLICATION NO. 15569
PAGE NO. 2

VOTE: 3-0 (Sheri M. Pruitt, Paula L. Jewell and Carrie L. Thornhill to grant; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: NOV 25 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, 'NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.'

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15569Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15569

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 25 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Arthur G. Carr
5 Brown's Court, S.E.
Washington, D.C. 20003

Rome Baptist Church
c/o Beller & Nelson
733 - 15th Street, N.W.
Washington, D.C. 20005

Timothy Hauser
24 - 9th Street, N.E.
Washington, D.C. 20002

Virignia Gaddis
238 - 11th Street, N.E.
Washington, D.C. 20002

Robert K. Stevens
22 - 9th Street, N.E.
Washington, D.C. 20002

Robin B. Hayes
Stohlman, Beuchert, Egan & Smith
1775 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006

Craig Lisk, Chairperson
Advisory Neighborhood Commission 6-A
1341 Maryland Avenue, N.E.
Washington, D.C. 20002


MADELIENE H. ROBINSON
Acting Director

DATE: NOV 25 1991

15569Att/bhs

**AGREED CONDITIONS TO
B2A APPLICATION NO. 15569**

In connection with B2A Application No. 15569 and the property located at 815-817 A Street, N.E. (Lot 31, Square 919) (the "Property"), the undersigned parties have agreed to the following conditions and restrictions in connection with the Applicant's request for variance relief:

Any roof deck constructed on top of the garage located at the rear of the Property (the "Roofdeck") will be set back not less than 8.5 feet from the eastern property line of the Property, provided that within the 8.5 foot area between the eastern property line of the Property and the beginning of the roofdeck, Applicant will have the right to plant a garden for rose bushes, tomato plants or other similar plantings:

Appropriate landscaping not less than seven feet in height, which may consist of cypress tree(s) or other similar tree(s) of Applicant's and Hauser's mutual choice, will be planted and maintained along the property line separating the Property and the property located at 24 9th Street, N.E. (the "Hauser Property") to screen the Roofdeck from the Hauser Property:

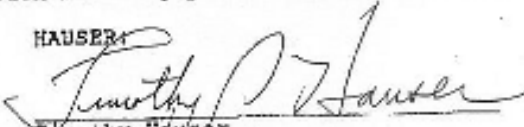
3. In connection with Applicant's conversion of the Property to a three-unit apartment house, Applicant will promptly furnish to Hauser and Stevens (as the owner of the property located at 22 9th Street, N.E.) copies of design/development drawings which Applicant submits to the Historic Preservation Review Board ("HPRB") for conceptual review and approval and advise Hauser and Stevens of any HPRB hearing date concerning such drawings; and
4. Applicant will also promptly furnish to Hauser and Stevens copies of any final working drawings (including amendments and revisions thereto) and building permit application (including amendments and revisions thereto) which Applicant files with the D.C. Department of Consumer and Regulatory Affairs in connection with obtaining a building permit to convert the Property to a three-unit apartment house and promptly advise Hauser and Stevens when any such building permit has been issued.

APPLICANT:

Arthur Carr

Dated: _____

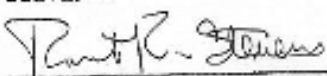
HAUSER:



Timothy Hauser
24 9th Street, N
(Lot 811, Square 919)

Dated: 22 October 1991

STEVENS:



Kim Stevens
22 9th Street, N.E.
(Lot 812, Square 919)

Dated: 22 Oct 91

Government of the District of Columbia

Office of the
Director



Office of Planning
415 12th Street, N.W.,
Washington, D.C. 20004

9 OCT 1991

MEMORANDUM

TO: Board of Zoning Adjustment
FROM: David W. Colby *D*
Acting Director
SUBJECT: BZA Application No. 15569

ZONING SECTION
DISTRICT 1

91 OCT -9 P3:33

APPLICATION

Application of Rome Baptist Church, pursuant to 11 DCMR 3107.2, for a variance from the 900 square feet per apartment requirement (Sub-section 401.3) to convert an existing church structure to a three-unit apartment house, basement through the third floor, in an R-4 District at premises 815-17 A Street, N.E. (Square 919, Lot 31).

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends approval of this application.

APPLICANT'S PROPOSAL

The applicant is proposing to convert an existing three-story church structure to a three-unit apartment house.

SITE AND AREA DESCRIPTION

The subject site is located at 815 and 817 A Street, N.E., on the south side of the street between 8th and 9th streets. It comprises 2,312 square feet of land area and is improved with a three-story plus basement semi-detached structure. The structure consists of two apartment units on the second and third floors and a storefront church on the first floor.

#23

W. Miller
10/10/91

The immediate area surrounding the site is residential and is developed primarily with row single-family dwellings, flats and low-rise apartment buildings. Lincoln Park is located one block east of the subject site. The site is located within the boundaries of the Capitol Hill Historic District.

The subject site is located in an R-4 District which permits matter-of-right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet, and a maximum height of three stories/40 feet. Conversion of existing buildings to apartments is permitted for lots with a minimum lot area of 900 square feet per dwelling unit.

COMPLIANCE WITH THE ZONING REGULATIONS

The applicant is requesting a variance from Sub-section 401.3 of 11 DCMR. Sub-section 401.3 specifies that conversion of existing buildings to apartments is permitted in an R-4 District for lots with a minimum lot area of 900 square feet per apartment or bachelor apartment.

Pursuant to Sub-section 3107.2, the Board may approve a variance where, by reasons of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary practical difficulties, the strict application of the Zoning Regulations would result in peculiar or exceptional practical difficulties to the owner of the property.

COMMENTS

The subject site is developed with a three-story brick structure with a basement. The structure was constructed in 1915 as a grocery store with two apartments on the second and third floors and contains 5,480 square feet of floor space. In 1952, the structure was reconfigured to a storefront church with the two apartments serving as residential units for the minister and his family. The first floor is used as a church and is free of interior partitions. The basement contains a men's bathroom, a ladies' bathroom and a full kitchen.

The applicant is in the process of selling the subject property. The sale of the property is contingent upon the applicant obtaining the requested variance. The purchaser is proposing to convert the first floor and the basement into a one-bedroom apartment which he would use as his residence. The apartments on the second and third floors would be remodeled into two dwelling units, each containing two bedrooms, a living room, a dining room, a kitchen and a bathroom. The two units would be rented.

The second and third floors of the subject structure are and always have been used as residential units. Access to the first floor and the two apartments above is from A Street through separate entrances. A one-car garage is located on the side of the subject building to the east.

The Zoning Regulations require a minimum lot area of 900 square feet per dwelling unit for the conversion of an existing building to apartments in an R-4 District. Therefore, a minimum total of 2,700 square feet of land area is required in this case in order for the proposed conversion to be in conformance with the Zoning Regulations. The subject site consists of 2,312 square feet of land area, which falls short of the zoning requirement by 388 square feet.

In the opinion of the Office of Planning, the proposed conversion of the first floor and the basement of the subject structure into one apartment unit is the most practical alternative in this case. Because of the design of the building, the alternative of limiting the number of apartment units to only the existing two is not viable. The Office of Planning believes that the proposed use of the first floor and basement as an apartment is less intense than the existing church use with regard to noise and traffic (both pedestrian and automobile). The proposed conversion would bring the property more into compliance with the intent of the Zoning Regulations. The proposed use is also in harmony and is consistent with the basic residential character of the neighborhood. A practical difficulty exists in this case because of design constraints associated with the configuration of the subject structure. In addition, the structure was built as a two-unit residential dwelling and a store prior to the enactment of the 1958 Zoning Regulations. In the opinion of the Office of Planning, the proposed conversion of the first floor and the basement of the subject structure to an apartment unit would not impair the intent, purpose, and integrity of the Zoning Regulations and Map.

AGENCY REFERRALS AND COMMENTS

The Office of Planning referred this application to the following District government agencies for review and comment:

1. Department of Public Works;
2. D.C. Fire and Emergency Services Department;
3. Metropolitan Police Department;
4. Department of Consumer and Regulatory Affairs;
5. Department of Housing and Community Development; and
6. Department of Recreation and Parks.

At the time of this writing, the Office of Planning had received a response from the Metropolitan Police Department which voiced no objection to this application (refer to attachment).

COMMUNITY COMMENTS

The subject property is located within the jurisdictional boundaries of Advisory Neighborhood Commission (ANC) 6A. The ANC has voted to support this application.

RECOMMENDATION

Based on the preceding analysis, the Office of Planning believes that the applicant's request to convert a storefront church with two upper floor residential units into a three-unit apartment house is not likely to create adverse impacts on adjacent properties, nor would it adversely affect the surrounding neighborhood. A practical difficulty exists in this case because of the configuration of the existing building which has a separate entrance for the first floor and a separate entrance for the apartments on the upper floors. As a result of the design of the building, the proposed use of the first floor as an apartment is the only practical alternative. Additionally, the proposed conversion from a storefront church to an apartment would be more consistent with the existing characteristics of the immediate neighborhood. The proposed conversion would not impair the intent, purpose, and integrity of the zoning regulations for the R-4 District. Therefore, the Office of Planning recommends approval of this application.

Attachments



GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
WASHINGTON, D.C.

RECEIVED

91 OCT -3 P4:18

OFFICE OF DIRECTOR

Reply To

MEMORANDUM

TO : David Colby
Acting Director
Office of Planning

FROM : *Wilford L. Jackson*
Wilford L. Jackson
General Manager
Bureau of Commercial and
Housing Development

SUBJECT : BZA Application No. 15569

Pursuant to your request for Agency review of the above, the Department of Housing and Community Development (DHCD) has no objection to the conversion of the ground floor space into an additional residential unit, for a total of 3 units.

★ ★ ★
██████████
██████████

GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT
Washington, D. C. 20001-2188

SEP 10 1991

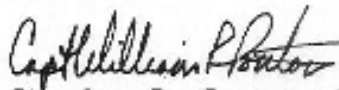
David Colby
Acting Director
D.C. Office of Planning
415-12th Street, N.W.
5th Floor
Washington, D.C. 20004

Dear Mr. Colby:

This is in response to your memorandum, received in this office on August 29, 1991, requesting review and comments by this department on zoning changes affecting the use of property located at 815-817 A Street, N.E. (Board of Zoning Adjustment Application No. ~~15569~~). The property is located in the Fifth District and is patrolled by Scout Car 155.

Based upon our review of this application, it does not appear that the change proposed by this application will affect the public safety in the immediate area or generate an increase in the level of police services now being provided. Accordingly, the department does not oppose this application.

Sincerely,

for 
Charles R. Bacon, Jr.
Inspector, Director
Planning and Research Division

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

**TIME AND PLACE: Monday, October 4, 2010, @ 6:30 p.m.
Office of Zoning Hearing Room
441 4th Street, N.W., Suite 220
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 08-06-12 (Comprehensive Zoning Regulations Review: Planned Unit Development)

THIS CASE IS OF INTEREST TO ALL ANCs

This Notice of Public Hearing announces the twelfth of several proposed subject areas the Zoning Commission for the District of Columbia (the “Commission”) will consider under this docket. All recommendations offered by the Office of Planning (“OP”) under this docket have been reviewed by a working group and a subject matter task force as part of a process designed to ensure full public participation. Nevertheless, this process cannot replace or limit the public hearing process required in the Zoning Act or the Commission's responsibility to consider the merits of each proposal submitted.

This hearing will consider general recommendations for conceptual changes to the zoning regulations regarding planned unit development (“PUD”). The recommendations propose dividing the existing PUD process into three separate processes. The recommendations focus on clarifying regulations for bonus density, public benefits, community involvement, review process, and enforcement for all types of posed processes, a point system for acceptance of public benefits, guidelines for community input, and various pre- and post-application requirements.

This hearing, like all others under this case number, is being scheduled without adherence to the set-down requirements stated at 11 DCMR § 3011 because the Commission waived the requirement at its public meeting held April 14, 2008. The Commission also waived the requirement that a pre-hearing statement be submitted before hearing notices can be published.

It is not expected that the Commission will take proposed action with respect to these recommendations, but that it will make determinations at a public meeting that will serve as guidance for drafting revisions to the zoning regulations pertaining to downtown zoning and other relevant subject matters. More detailed information on the recommendations can also be found in the OP report document at <http://www.dczoningupdate.org/pud.asp>.

Title 11 DCMR (Zoning) is proposed to be amended as follows:

Recommendations

1. Divide the existing PUD process into three separate processes:

a. Type 1 “Design Review”

– **No density increase above matter of right – flexibility tied to design review**

Characteristics:

- No additional density granted
- No map amendment possible
- Dimensional flexibility available, including:
 - Height
 - Yards
 - Lot occupancy
- Use of process optional except where required by zone

b. Type 2 “Design Review with Bonus Density”

– **Limited density increase**

Characteristics:

- Includes design review
- No map amendment possible
- Dimensional flexibility available
- Limited additional density available (See Recommendation 2, below)
- Granting of density above MOR is related to public benefits

c. Type 3 “Project Specific Rezoning”

– **Major density increase – Project Specific Rezoning**

Characteristics:

- Includes design review
- PUD associated map change permitted
- Dimensional flexibility available
- Bonus density available above Type 2 limits
- Granting of density above original zone’s MOR is related to public benefits

Based on the overwhelming preponderance of best practice examples, this concept was presented to the PUD working group in a discussion of the process. There was general working group support for having multiple processes, particularly for separating out projects accompanied by map amendments, as those were seen as having the greatest impact in terms of increased bonus density on a site. Making distinctions in process would allow the Commission and the community to spend more time on projects with the potential for greater size and impact and less time on projects with lower potential for size and impact.

Type 1

In the suggested continuum of projects, Type 1 requests would be the least intense. This process would be similar to and encompass to the mandatory design review process found in existing zones (e.g., CG, SEFC, H Street). While no additional density would be allowed, projects could obtain height and dimensional flexibility in return for design review at the Zoning Commission. For this type of project, the benefit offered to the city is design review by the Commission; since no bonus density is available, no additional public benefits are needed.

This proposed process would fill a need in this city to allow for “public good” projects. Unlike a variance process that requires proof of a hardship, this process would allow for relief of building controls that may not be physically necessary, but would result in superior design to a matter-of-right building. Examples of this might include height relief to allow a taller but narrower building or lot occupancy relief to allow a shorter but wider building where it is appropriate based on the surrounding character. This process would not allow for increase of FAR. A further possible use of this process might be the reuse of historic landmark buildings where no rezoning is appropriate, but building flexibility is needed.

While all three proposed processes would be available as an option anywhere in the city, the Type 1 process could be required by the Commission where it is deemed appropriate, including areas where design review is currently required.

As the Type 1 process is the least intense, it would naturally have the simplest process. These projects would need less pre-hearing interaction, and be more similar to a Special Exception than a traditional PUD in the overall process.

Type 2

Type 2 requests would allow limited density increases but no change of the existing zoning. This process can most closely be related to a traditional PUD without an associated map amendment. While the zoning is not changing, additional density is being requested in exchange for public benefits and amenities. This process would include the same design review as a Type 1 as well as offering the same height and dimensional flexibility; the difference would be that the Commission would also weigh additional density (FAR) against proffered public benefits.

Subsequent recommendations address how the bonus density and public benefit review would work. In general, the additional density available would be proportional across zones (see Recommendation #2) and directly related to the amount and types of public benefits provided (see Recommendation #6).

The process for a Type 2 application would be more similar to a traditional PUD process than a Type 1. Changes described in Recommendation #7 would increase community interaction prior to the application, potentially removing the need for a separate setdown meeting.

Type 3

The proposed Type 3 process combines all of the aspects of the Types 1 and 2 with a rezoning. This is most analogous to a traditional PUD with a related map amendment. The process would include design review, public benefit review, and flexibility for height, density, and building bulk standards.

Since projects in this process would be increasing the zoning on their property, this process would offer the greatest potential increases in bonus density and require the most of the applicants in terms of the provision of public benefits and amenities.

As with the existing PUD process, available bonus density would be dependent on the zone requested, and approval of zone changes would be dependent on Comprehensive Plan guidance. Public benefits would be related to the bonus density requested (see Recommendation #6).

The process for a Type 3 application would include all aspects of the existing PUD process in addition to the community involvement in Recommendation #7.

2. Base the density increase available within each zone on a standard percentage across zones

Maximum density increase should be:

- **20% above the greater of the current maximum matter-of-right (including IZ) for residential FAR**
- **30% above the maximum current matter-of-right for non-residential FAR**

The proposed recommendation would set the amount of bonus density available as a standard percentage across all zones. This would even out the currently skewed distribution of bonus density among zones, lessen the incentives for PUD-related map amendments, increase the opportunity for projects resulting in public review and public benefits, and provide more predictability about what level of density may be permitted in each zone. The percentage would also account for the impact of IZ regulations on the PUD process.

Residential FAR

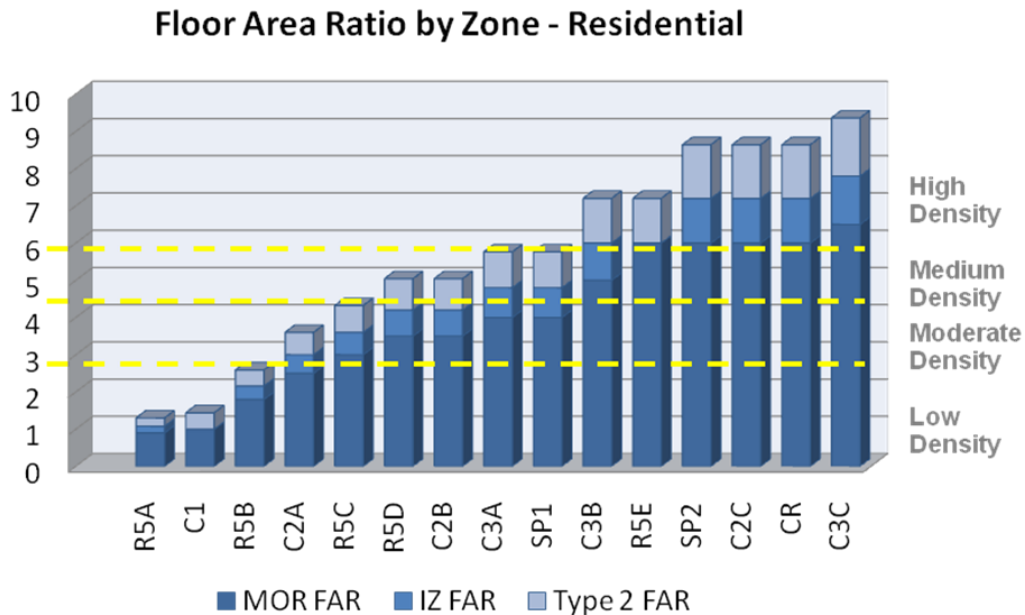
OP analyzed the existing differences between matter-of-right FAR and PUD FAR in all zones and accounted for IZ when determining matter-of-right zoning. The range of PUD density allowance across zones is from 7% below to 43% above matter-of-right, meaning that

there are some zones where applying for a PUD allows less density than can be achieved as a matter-of-right. Overall, the average density that can be gained above matter-of-right through a PUD process is 20%.

Making this average value the standard rather than a different value in each zone would simultaneously reduce the bonus density discrepancies among zones and reduce the incentives to seek a new associated zone category for projects in those zones where a PUD grants relatively little bonus density.

A standard 20% increase would also ensure that the density bonuses allowed remain consistent with the land use designations in the Comprehensive Plan and the zone districts associated with each of those land uses. This is illustrated in the chart below, which shows the existing MOR densities in dark blue, the existing PUD FAR limits in medium blue, and the proposed FAR limits for discretionary residential projects in selected zones in the lightest blue. The dashed lines indicate FAR thresholds among land use designations identified in the Comprehensive Plan.

FIGURE 3 –RESIDENTIAL FLOOR AREA RATIO BY ZONE



For example, for the C-2-A zone, which is classified as a moderate density commercial land use in the Comprehensive Plan, the proposed Type 2 project FAR would be 3.5, -- 20% higher than the existing IZ limit. This amount, while exceeding the existing PUD maximum

of 3.0 is still consistent with floor area ratios allowed for other zone districts within the moderate density land use designation. Similarly, the proposed FAR maximums for projects within the SP-1, C-3-A, and C-2-B zones (all within the medium density land use category) would not exceed 6.0, which is the uppermost end of the medium density development, based on the Comprehensive Plan.

Non-Residential FAR

While IZ regulations do not impact non-residential projects, the PUD bonus densities available to non-residential projects exhibit the same uneven distribution pattern as those for residential projects. This has led some PUD working group members to express frustration with the unpredictability of PUD bonuses, and may have contributed to the concentrations of PUDs in relatively few zones. The bonus density offered for non-residential FAR via planned unit developments ranges from 12.5% to 40% over current matter of right levels. The average value of this difference is approximately 30%.

Making this average PUD value the standard would add predictability to the process and would be highly consistent with existing PUD limits. As with the proposed changes to FAR bonus maximums for discretionary residential projects, the increases proposed for non-residential projects would remain consistent with Comprehensive Plan land use designations and their related densities and zones.

FIGURE 4 – NON-RESIDENTIAL FLOOR AREA RATIO BY ZONE



Just like current PUD FAR maximums, the maximums proposed by this section do not represent what can be built on a lot, only the maximum that can be applied for under a zone. Whether the proposed PUD maximum is higher, lower, or the same as the proposed maximum, the standardization proposed is neither a giving or taking density from any

project, zone, or site. It would only better define when a project must apply for a zone change, adding significance to the concept of a zone change and making the entire process more predictable.

With OP recommending 20% for residential and 30% for commercial, it may seem that it is favoring non-residential projects over residential projects. This is not the case when put into context. The proposed 30% non-residential bonus is a redistribution of the discretionary increases that now exist for non-residential projects. It is not an increase in the overall average. There would actually be equivalencies or decreases in available bonus density in six of the ten zones.

3. Retain a relatively large lot size minimum for PUDs in low and moderate density residential zones and relate minimum size for all other zones to the amount of flexibility being requested.

	Type 1	Type 2	Type 3
Low/Mod Residential Zones	2 AC	N/A	N/A
Other Zones (incl. R-5-B)	None	15K sq. ft.	15K sq. ft.

Type 1

As stated earlier, PUD requests have varied widely in terms of their size and scope. All however, have benefitted from the opportunity for design review that the PUD process provides. As a result, Type 1 requests would not have a lot size minimum outside of low density residential districts. Because these requests do not allow bonus density and would be optional in most cases, OP recommends leaving lot size unrestricted, making it easier for applicants to request dimensional flexibility in return for design review. This would be consistent with how mandatory design review for certain zones is currently addressed in the zoning regulations. Currently, projects which only require additional height or dimensional flexibility must utilize a special exception or variance process to obtain zoning relief. As a result, they are heard and decided by the BZA, which in most cases, has no authority or review standards with regard to issues of design. Allowing projects, regardless of their size, to pursue a design review process to obtain a limited amount of dimensional flexibility would

open up the option for design review to a wider variety of projects, helping to improve and encourage quality design at all scales.

Type 2 & Type 3

Type 2 & 3 requests would be subject to the same lot size minimum as in place currently. The only change would be to consolidate the lot size threshold for R-5-B and W-0 zones with that of the commercial zones. These zones currently have a 1 AC minimum lot size. An evaluation of both zones offers little insight as to why they should continue to utilize a different minimum lot size standard. These two zones comprise a relatively small amount of land within the District. The W-0 zone offers virtually no incentive for PUDs, has not seen any in its history, and as a result is less pertinent to the analysis. Alternatively, the R-5-B zone offers significant development potential, even beyond what is now permitted as a matter of right for residential development under current inclusionary zoning allowance. The R-5-B zone also has no minimum lot size for matter of right development, unlike the other low and moderate density residential zones.

In an effort to simplify the minimum lot size requirements, the current distinction for these zones would be eliminated and both would have the same standards as applied to the higher density zones. As a result, the proposed reduction in minimum lot size would continue to encourage the use of PUDs in the R-5-B zone and maintain design review of such projects at the Zoning Commission. Finally, for this review type the goal is also to not be overly restrictive since map amendments are not permitted and projects are more limited in the amount of available bonus density they can achieve.

4. Permit Commission to consider minimum lot size waivers for additional categories of projects including:

- **Redevelopment consistent with approved Small Area Plan**
- **Government projects**
- **Compatible infill development**

The existing criteria would be retained and two new standards would be added to expand the types of projects that may request a lot size waiver and provide more guidance to the Zoning Commission about what projects may be considered “of exceptional merit”. These would include government projects, which could be afforded lot size waivers to help facilitate their redevelopment (e.g., school reuse projects). In addition, PUDs are often used as a mechanism to implement development objectives found in adopted small area plans. As a result, sites that may not meet the required minimum lot size but are clearly linked to the fulfillment of a small area plan goal or initiative would be given the opportunity to request a waiver from the Zoning Commission. Finally, smaller infill sites that may be difficult to develop should be able to pursue a lot size waiver. These may include the redevelopment of historic landmark sites, which often are improved with large structures no longer suitable or practical for a single use function. Such infill redevelopment would be encouraged, provided it can demonstrate it will be compatible with surrounding uses and character.

5. Codify a list of specific and measureable public benefits

Benefits would be clearly defined and would have to meet the following standards:

- Must be measurable and specific;
- Cannot include monetary contributions (except to District housing funds); and
- Should last for life of the project unless specified.

Best practices research revealed that most cities with PUD-type programs identified desirable and acceptable public amenities in the code. Approaches to defining and valuing public benefits included impact fees used in Boston, percentage bonuses in Portland and a point based system in Minneapolis. Among the alternatives presented, working group participants were most receptive to the use of a point based system. None of the cities researched included monetary contribution in their evaluation.

Based on an analysis of benefits provided in previously approved PUDs, comments from the PUD workgroup meetings, research from other jurisdictions, and a comprehensive review of small area plans, OP has created a draft list of public benefits. The proposed list identifies benefits of value to the general public and the surrounding neighborhood and are grouped into six categories; Building Space, Environment, Housing, Recreation, Transportation and Other (See OP report for full list). At this time the list is still in very draft form and is expected to change based on public, Taskforce, and Zoning Commission input.

The list that is ultimately approved is intended to represent the full menu of proffers that will be deemed acceptable to balance additional density requests; however the list is also intended to be a changeable document. It is expected that the ZC and OP will regularly review and update the proffer list as well as adding local ANC suggested priorities when appropriate. OP suggests a mandatory three year review of the list in the future.

6. Create a point system to establish relationship between density and public benefits

Relate benefits to density increases.

- Provide point value for each benefit
- Assign minimum point threshold for Type 2 and Type 3 projects

In order to provide consistency as to how benefits are provided and assigned, OP suggests assigning a point value to each benefit (full table is provided in the OP report). In addition, this would ensure that the provision of benefits is commensurate with the level of bonus density being requested. The more specific and easily measurable benefits that can be identified upfront, within the regulations, the more certainty communities and applicants can have about what is expected of the process and from the project.

The system would work by having a minimum point threshold for Type 2 and 3 projects. For example, to access any of the 20% bonus density available through a Type 2 project, an applicant might have to provide 20 points worth of benefits from the list. As a result, benefits provided would be directly related to the bonus density being sought. The proposed list includes the proposed benefit/amenity, a defining standard to help clarify what is being expected, and a numerical point value. Values on the sample table below have not been fully vetted. If the Zoning Commission finds this approach acceptable, additional research will have to be done to determine the appropriate values to be associated with each benefit as well as the minimum threshold for each PUD type.

- 7. Formalize the pre-application process for the developer and the community**
- **Require a public meeting between applicant and ANC prior to filing PUD**
 - **Require applicant to document community participation**
 - **Correlate the level of community review w/ process type**

The proposed community input process would include the following steps:

1. Pre-application meeting required for Type 2 and 3 projects.
2. Applicant notifies ANC and OP of potential project.
3. ANC schedules project meeting with applicant; OP attends.
4. Application may be filed 45 days after initial ANC notification.
5. Applicant must highlight changes, if any, resulting from community input.

Filings should include:

- Copies of correspondence;
- Receipts of registered or certified mail; and
- ANC letter (if applicable).

Community members have expressed a desire to become more informed about the project and have earlier opportunities for input into the process. The recommended pre-application meeting is meant to formalize the start of the process for community input well before the

start of the public hearing. The proposed review period starts the clock for community input but does not preclude the applicant from eventually moving ahead to a public hearing. The recommended changes also provide more direction as to how applicants should document their community participation efforts. The new process also calls for OP attendance at the pre-application meeting, to provide informational support to ANCs and learn about potential community concerns early. Finally, the proposed process would apply only to Type 2 and 3 requests, leaving out projects that would not result in increased development density.

8. Adopt the following time periods for PUD orders and criteria for extension requests:

Proposed PUD Time Extension Summary Table

	Type 1	Types 2 and 3
Original Approval	No limit	2 yrs until filing for bldg. permit
Extensions	Not Applicable	2 years (or less as deemed by ZC)
Maximum Number of Extensions	Not Applicable	Two
Criteria for Extensions	Not Applicable	<ul style="list-style-type: none"> •File with OZ, ANC, parties 30-90 days before expiration •No substantial change to material facts •Inability to obtain financing •Delay of governmental approvals •Existing or pending litigation

The proposed recommendation would set clear limits on the number and length of extensions for PUD approvals. Existing criteria regarding the applicant’s ability to obtain financing, delays in governmental approvals, and the impact of present or pending litigation would be retained as well as the notification requirement to all parties.

9. Add filing requirements to improve clarity of Commission-approved benefits and conditions:

- Prior to proposed action submission
 - Applicant must provide a table showing the following:
 - Proposed benefits
 - Number of points earned for each
 - How the standard for each benefit is met
- Prior to final action submission
 - Applicant must provide:

- Full and comprehensive set of updated plans, accurately dated
- Table showing all approved benefits with timetable
- Any other documents required by the ZC

The proposed filing requirements would give applicants, the Zoning Commission, and all interested parties a clearer picture of what benefits and amenities are being proffered at two critical stages of the approval process, proposed action and final action. The proposed benefits list would give the Commission a standardized measure by which to review and evaluate a project's proposed benefits and amenities against the requested zoning flexibility. Requiring applicants to state how and when the provision of each benefit will be met also creates a useful tool for enforcement staff to assess whether or not a condition has been met.

The final action submission could then be easily added to the Zoning Commission order and help keep all documents related to the project in one place. In order to streamline the process, OP, OZ, and OAG staff should work together to create a benefit/conditions format for commonly proffered items. This would help improve the clarity/consistency issue with regard to how order conditions are worded and assist enforcement staff when determining project compliance.

Public benefits and project amenities are discussed at length during the public hearing process, after which point they become conditions of final PUD approval. However the parties engaged in these discussions are not responsible for their enforcement. Once the permit process begins, the Zoning Administrator is responsible for both the review of building permits and enforcement of PUD conditions. In addition, the final order language is not always clear with regard to the intent of the condition. As a result, enforcement staff is left to discern project compliance with conditions that are often vague or inconsistently worded across different projects. From the community perspective, it is also difficult to determine if PUD benefits are being provided, especially ones that are not physical improvements. This is complicated further if the final order does not include an established timeframe for the delivery and/or completion of proffered benefits and amenities.

Finally, applicants who wish to comply with established conditions sometimes find it difficult due to matters beyond their control. For example, if a proposed building material is no longer available or if provision of a project amenity does not receive the necessary approvals from another agency, this may delay the project and jeopardize its completion within the specified timeframe. When these instances occur, applicants are left to either negotiate such matters with the Zoning Administrator or return to the Zoning Commission to request a PUD modification.

10. Define process for condition enforcement

Proposed post-approval audit process:

A. Zoning Administrator reviews provision of PUD conditions during permit process

- B. Temporary Certificate of Occupancy issued if all benefits have not been provided**
- C. Applicant must return to Zoning Commission if conditions cannot be met by expiration of Temporary C of O**

A post approval audit by the Zoning Administrator is being recommended to assist in the enforcement of PUD conditions. A clear timeline would be established because all conditions must be met prior to the issuance of a Certificate of Occupancy (C of O). If all project conditions have not been met at the time of certificate of occupancy issuance, a temporary C of O may be granted by the Zoning Administrator. This would be valid for a specified period of time (typically 6-12 months). If the condition in question has not been met by the expiration of the temporary C of O, the applicant must request modification of the final approval from the Zoning Commission. The PUD modification request must include an equivalent alternative and explain why benefits cannot be provided at the public hearing. This recommendation creates a clear process for the enforcement of PUD-related conditions and provides an opportunity for applicants to make a case for their inability to comply. In addition, it offers an applicant the flexibility to provide an alternative benefit, and if that cannot be accomplished, the process requires a return to the Zoning Commission to help ensure that an appropriate solution is found.

PROCEDURES

The public hearing on this part of Case No. 08-06 will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. The Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 200-S, 441 4th Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, KONRAD W. SCHLATER, GREG M. SELFRIDGE, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JAMISON L. WEINBAUM, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.