

**Report of the Economic Development and Zoning (ED&Z) Committee of the Advisory  
Neighborhood Commission (ANC) 6A  
Sherwood Recreation Center, 640 Tenth (10<sup>th</sup>) Street NE  
September 16, 2015**

**Present**

Members: Dan Golden (Co-Chair), Michael Hoenig, Missy Boyette, Laura Gentile  
Commissioners: Stephanie Zimny  
Dan Golden chaired the meeting.

**Community Comment**

Pat Schaub reported that her neighbor at 1120 Park Street NE is building a structure next to her property that differs from what was included in the drawings submitted to the Board of Zoning Adjustment (BZA) when zoning relief was sought. She asked that the ANC weigh in; her appeal will be heard by BZA on November 10, 2015.

**Status Reports**

**Resolution of Previously Heard BZA/HPA Cases**

The ANC voted to write to the Department of Housing and Community Development (DHCD) in support of the application for DHCD funding made by the E Street Cooperative, which owns the property at 1431 E Street NE.

The ANC voted to write to BZA in support of the request for a special exception to permit the construction of the spiral staircase proposed at the rear of 1617 Gales Street NE.

The ANC voted to write to BZA in support of the request for a variance from the off-street parking requirement to permit the construction of a new rowhome at 1028 D Street NE.

**Old Business**

None

**New Business**

**901 H Street NE (ZC 10-19; Request for Extension of Order):** The applicant presented the history of this project, H Street Connection, for which they are seeking a letter of support for a second extension of the Zoning Commission order approving their Planned Unit Development (PUD) application.

The applicant provided a timeline, stating that the PUD approval had been originally granted in January 2011 for an eight (8) story structure, new construction (seven (7) floors/420 residential units, with retail at ground level and three levels of below-grade parking); at that time, the project was assuming phased construction. In March 2013, the applicant received their first extension of the PUD application. This was granted due to unfavorable market conditions and conflicts with the existing leases on the property.

More recently, in early 2014, the applicant was looking for a residential developer to join the project. In June 2014, the developer selected W.C. Smith. Subsequently, in July 2014, the applicant involved Torti Gallas Urban as the architect, who were involved in the original PUD application. The applicant stated that, since the PUD application was first granted, the layout, materials, etc., for the project have not changed.

The applicant stated that they have been unable to meet the milestone to start construction in January 2016, but they did achieve the other requirements (submitting for building permit, recording PUD covenant). In addition, the applicant has completed geotechnical and environmental testing, conducted the Preliminary Design Review Meeting (PDRM) with the District Department of Transportation (DDOT), submitted water and sewer plans, engaged Washington Gas and commenced raze activities. The applicant continues to work with various tenants on their lease termination dates; some will begin to vacate at the end of this month, with a few others vacating on December 13, 2015. 7-11 will also relocate from their current location, which has been a lengthy agreement to navigate, as the applicant had no right to terminate its existing lease.

The applicant explained that it is willing to ask for a one (1) year application extension. It expects that razing will occur during the first two quarters of 2016 and that takedown will have occurred by August 2016. Once construction commences, the applicant intends to deliver the project at the end of 2018. The request for extension has not yet been filed; applicant hopes to do so two (2) weeks from today. The applicant identified the length of the negotiation process with 7-11 as the “good cause” justifying an extension of the Zoning Commission order granting its PUD application

The Committee made a motion to recommend that the ANC write a letter to the BZA in support of the proposed PUD extension. Motion was seconded. Motion was approved 5:0.

**1336 Emerald Street, NE (BZA 19085):** Applicant, Mr. Hiroshi Jacobs (architect and owner) is seeking several variances (lot size, lot occupancy, rear yard setback, and court width) as well as a special exception related to the proposed building height. Dan Golden asked whether the applicant was also requesting an exception related to section 223, as the BZA website states that he is; he stated this is not the case and that, with the exception of the building height, a variance is the appropriate relief. The applicant explained that the project involves a third (3<sup>rd</sup>) floor addition on top of an existing two (2) story row house and the construction of a shed at the rear of the property. The size of the lot poses challenges such that the third (3<sup>rd</sup>) floor cannot be achieved by right.

Regarding the variances and special exception, the applicant reviewed the issues by presenting diagrams, photos and architectural drawings. A rear yard setback variance is being requested, for which the applicant stated that there is precedent due to the fact that “every house on the street” is in violation of the required setback. The applicant explained that the proposed rear shed will be constructed of materials that will match the new proposed rear deck. Regarding the third floor height that is being proposed, the applicant provided 3-D photo/model views to approximate what would be seen during the approach to the home. He also provided shadow and light studies. Mr. Jacobs explained that the primary cladding material will be real cedar, which will weather to a gray color in time, and that the rear shed and deck will also be cedar.

Regarding the addition being proposed, Mr. Jacobs expressed that the reason for the third (3<sup>rd</sup>) floor is so that he and his wife may stay in the neighborhood with a growing family. He stated that he wants to allow for responsible growth in the neighborhood, and that dense cities are sustainable.

Committee members asked questions or provided comments. Co-chair Golden asked about the standard for the variance, specifically asking whether the exceptional character that is being presented for this case is the size of the lot itself. Mr. Jacobs said yes, that the size of the lot and the lack of the basement is the claimed hardship. Mr. Golden responded by stating that these characteristics were shared by many of the lots on Emerald Street and that the proposal exacerbates the existing condition of the property, i.e. the already inordinately dense nature of the construction on the lot given the lot’s small size and the already-greater-than 60% lot occupancy, and he

questioned the applicant as to whether he had received letters of support from adjacent neighbors. Mr. Jacobs stated that he and his wife have received letters of support from one adjacent neighbor as well as the next neighbor over, but not from the other adjacent neighbor; he stated that the other adjacent neighbor has expressed concern about the possibility of rodent issues during construction. Committee Member Laura Gentile asked whether he had the letters for the Committee to see; Mr. Jacobs responded by stating that the neighbors from 1338 and 1340 Emerald Street are present at the meeting and that they have the letters.

Committee Member Michael Hoenig stated that, related to the burden of proof required for a variance, he does not see the burden of proof being met in this case. Committee Member Missy Boyette inquired as to whether the rear deck should count against lot occupancy since it appears that it is over four feet (4') above grade. Ms. Boyette asked why the proposed roof height could not be held to the thirty-five foot (35') height limit; Mr. Jacobs stated that the pitch of the roof is intended for future solar panels and in order to provide sufficient clerestory windows to allow light to penetrate the middle of the house, but that he is willing to adjust the roof pitch and, thus, the height. Ms. Gentile inquired about the effect of shade of the proposed addition on to the adjacent neighbor homes; Mr. Jacobs provided light/shadow studies and explained that he sees a small amount of impact, for example at 3:00 pm on the summer solstice.

The committee opened up the discussion to audience comments. The neighbor from 1338 Emerald Street stated that he and his wife have a ten (10) month old child and they have had an opportunity to review the project with Mr. Jacobs; he stated that, while they initially had some concerns about the construction, they are pleased with the design and with the setback from the existing street façade. He added that he feels it is important for houses to grow if the homeowner, and not a developer, initiates the growth, and he sees it as an exceptional example.

The 1340 Emerald Street neighbor stated that his primary concern with the addition was related to impact on light on his property; however, he stated that, based on Mr. Jacobs' analysis, he believes his east-facing wall will get the same amount of light with or without the third (3<sup>rd</sup>) floor. He added that Hiroshi designed the KIPP School and he would be proud to have good design on the street.

A neighbor, Gladys, from 1329 Emerald Street stated that she bought her house in 1984 because of the character of the street and that she is concerned that this proposed project is setting precedent for a change to the character of the street, which she does not wish to introduce. Another neighbor explained that he appreciated the Jacobs' transparency and outreach to neighbors, but that he does not feel it is appropriate to go up above two stories and that he is concerned about precedent with pop-ups; he also believes that the project is not consistent with zoning law (believes that the intent of the law should apply to projects such as this one) and that the project does not meet the criteria for the variances/special exception. Another neighbor discussed the rationale for the new height limitations and cited the stated goal of avoiding an irregular, jagged approach to building heights.

Another neighbor who was present with his young child stated that he believes someone can grow a family without putting an addition on to their home; he added that, even if this project is done responsibly, other later projects may not be. Another neighbor who lives across the street from the proposed project stated that he will see this addition every day; he explained that he has created a petition against the addition and has received twenty-seven (27) signatures from residents of Emerald Street as well as ten (10) residents on F Street; the petition has also been signed by the resident of 1334 Emerald Street, Cynthia Kinney). A neighbor from 1304 E Street who is also an architect stated that he feels it is important to bring good design to the neighborhood and that he finds this project to be very thoughtful. Another neighbor from 1359 E Street (across the alley and

one house east of the subject property) stated that the view will matter and that, with the addition, his view will be impacted; he stated that he does not believe this project is dealing with what density really is, and that he also has concerns about the deck and the current lack of maintenance (weeds) under the existing deck. Finally, a neighbor who used to live at 1346 Emerald Street and now lives on F Street, stated that he supports the project; he said that he moved to F Street so that he could build a pop-up on his home without getting permission; he added that, if Hiroshi and Anna choose to enlarge their house in order to be able to stay in their house and keep schools improving, he believes they have the right.

Mr. Jacobs stated that he does not want a narrow definition of character becoming the definition of the neighborhood.

Mr. Golden made a motion to recommend that the ANC write a letter to the BZA opposing the variances and special exception as the proposed project does not meet the standard for variance and the special exception does not meet the standard. Motion was seconded. Motion was approved in vote 5:0.

**1313 to 1323 Linden Court, NE (BZA \_\_\_\_\_):** The Applicant team present included Meridith Moldenhauer of Griffin, Murphy, Moldenhauer and Wiggins, Christine from Square 134 Architects and Jim with Monarch Homes.

Jim stated that his company is “new to the neighborhood”, as they are Virginia builders and this will be their first project in DC. He explained that they build in infill communities and that they want to start positive initiatives in the community.

Christine explained that the project looks to transform an existing carriage house into single family residential units with the end unit being a studio apartment with retail at the ground floor. She explained that the carriage house was originally constructed as single-family homes. The site on which the carriage houses sit is self-contained.

Meridith Moldenhauer explained the zoning and the relief being sought. She explained that the existing site is zoned C-2-A, which has a fifty-foot (50') height limit, but that this site is different because it is an alley structure. The relief being requested is:

1. Relief due to the fact that the carriage house fronts on a thirty-foot (30') alley and the other alley along the side is fifteen feet (15') wide;
2. Relief for lot occupancy - Lots 2, 3 and 4 are seventy-five percent (75%), Lot 1 is a larger percentage because of a jog in the property line; Lot 5 is seventy-five percent (75%) residential lot occupancy;
3. Relief from rear yard setback;
4. Relief from the thirty foot (30') height limit for an alley structure to be able to provide a thirty-nine foot (39') height; and
5. Relief of the Floor Area Ratio (FAR) such that Lot 1 has 0.2 FAR and additional FAR is being requested for commercial use on Lot 5 (1.7 for commercial).

Ms. Moldenhauer added that there is no use variance being requested and that the property is not within the H Street Overlay. She explained that the application has not yet been filed but that the applicant will likely will file on Friday. The existing site is currently commercial use on the property.

Christine described the units and parking. She explained that the plans provide parking at each unit. The first (1<sup>st</sup>) level is intended to be a live-work space for each residential unit, which opens to a

patio at the back of the site. The intent for the commercial space is that it will activate the corner, perhaps a bike store or a florist. The building sets back five feet (5') from the original façade structure at the corner lot. The exterior façade design will maintain the existing brick façade, with the addition on top wrapped with metal panel.

Committee members asked questions. Commissioner Stephanie Zimny asked whether the garage doors for each unit would be wood; Christine replied that yes, they would be wood. Regarding the parking garages, Ms. Moldenhauer explained that the site was originally built as six narrow individual homes, then was converted to garage use. She added that the intent is to maintain parking by having an enclosed parking garage inside at the first (1<sup>st</sup>) level of each unit, which creates a challenge to the square footage of each unit. Ms. Moldenhauer further explained that lot 1, which is a corner lot that is slightly smaller due to its irregular shape, will be a unit that is the same size as the others, thus the unique condition of the irregular site poses the practical condition. For the commercial property, Ms. Moldenhauer explained that there is a need for an additional 0.2 FAR in order to create a space that will be desirable.

Regarding precedent, Ms. Moldenhauer explained that there is precedent for granting relief for alley width requirement; she stated that, in 1958, the City was trying to reduce the number of low-income multi-family units being built in alleys. Ms. Moldenhauer agreed to send examples of other alley relief cases approved by the BZA to Mr. Golden.

The applicants explained that they have letters of support from the two (2) immediate adjacent neighbors.

Ms. Boyette inquired about the reason for the façade setback above the existing brick structure on lot 5 at the thirty foot (30') wide alley, specifically why the roofline of the other units does not continue over this lot as well. Christine stated that they can re-examine this. Mr. Golden asked if the applicants would be willing to sit down at a later time to discuss the design. Joel Kelty, community member, stated that he owns commercial property on this alley and that he is concerned about the proposed garages on the ground level, in that they will not activate the alley and instead are "too suburban". Mr. Golden asked whether the property would be Residential Parking Permit (RPP) eligible; Ms. Moldenhauer stated that she believes it will be.

The applicants agreed to return to present at the October 2015 ED&Z Committee meeting, once they have filed their application for zoning relief with BZA.

**Next Scheduled ED&Z Committee Meeting**  
**Wednesday, October 21, 2015**  
**7:00-9:00 pm**  
**640 10th Street NE**  
**Sherwood Recreation Center, Second (2<sup>nd</sup>) Floor**