

**Report of the Economic Development and Zoning (ED&Z) Committee of the Advisory  
Neighborhood Commission (ANC) 6A  
Sherwood Recreation Center (640 Tenth (10th) Street NE)  
November 19, 2014**

Present:

Members: Missy Boyette, Dan Golden, Justin Thornton, Michael Hoenig,  
Commissioners: Nick Alberti, Commissioner-Elect Matt Levy  
Dan Golden chaired the meeting.

The meeting convened at 7:00 pm.

### **Community Comment**

There were no community comments at the beginning of the meeting.

### **Status Reports**

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

1. The ANC voted to recommend Bureau of Zoning Adjustment (BZA) approval of the request for relief from the parking requirement for the property at 1802 D St NE (case heard by ED&Z Committee in October 2014), with conditions as outlined by the Committee.
2. The ANC voted to support Zoning Commission approval of the construction of a new dormitory at Gallaudet University.

#### **Other**

1. The ANC voted to approve the H Street Signage Guidelines as proposed and authored by the ED&Z Committee.
2. The ANC reluctantly accepted the resignation of Charmaine Josiah from the ED&Z Committee with appreciation for all her hard work over the years.

#### **Old Business**

**BZA 18891 (1401 F St NE):** The applicant had been seeking variances for lot occupancy, height, FAR, parking requirement, relief from roof structure requirements, and a special exception due to size of the lot in the H Street overlay.

- The applicant clarified that the design has changed such that the height relief and the roof setback relief are no longer issues that will require a variance.
- Regarding FAR, the applicant is asking for an additional FAR relief of 0.8 (previous scheme requested 1.2).
- Regarding parking relief, the applicant stated that they intend to provide parking on site, to offer money to first-time residents for use toward SmarTrip or car share accounts, and to restrict RPP and VPP for the entire building under a covenant tied to the property.
- Regarding requested relief from FAR, the applicant explained that the FAR relief is driven by the shape of the lot, and that the uniqueness of its triangular shape creates practical difficulty. The applicant stated that research has shown that most of the triangular lots in ANC6A are owned by the government, and that the two triangular lots that are not government-owned are zoned R-4. The applicant stated that the efficiency of the floor plate is such that a typical floor plate would be 87% efficient, with a core factor of around 43%; in the case of this property, the core factor is being calculated at around 22%, with the floor plate resulting in awkward unit sizes and unit mix.

- The revision to the plans since the previous presentation is such that the scheme has been reduced by one (1) unit and one (1) bedroom. In addition, the revised structure would now occupy 92% of the lot on the first floor and 97% of the lot on the additional floors.
- Jeff Goins of PGN Architects stated that the trash for residential and commercial uses has been consolidated into one location, loading will occur at the existing curb site, and the building occupies about 44% of the open area of the land (as bound by site curbs). Design modifications include a 'notch' that has been located in the northwest (NW) corner of the building. Additionally, the cornice has been defined by change in material. The height reduction has been achieved by designing the structure to use post-tensioned slabs. At the base of the building, the architect proposes to alternate three (3) types of masonry stones.
- The owner described a desire to commission a local artist to install a piece of art in the public space adjacent to the lot.
- Committee members provided comments. One member inquired as to whether this property would qualify for Residential Parking Permits (RPP). Applicant responded that the property owner could apply due to the property changing from commercial to residential use; in this case, owner would have to request RPP. In addition to the covenants precluding the obtaining of RPP by each unit owner, the bylaws would provide that no RPP permits could be obtained by the residents (subject to a regular check by the condominium association and a financial penalty in the event an RPP permit had been obtained) and an additional covenant would preclude this provision of the bylaws from ever being changed.
- Chairman Dan Golden stated that while the Committee appreciates the efforts that have been made, the relief from FAR remains as an issue. Mr. Golden pointed out that 4.0 is allowed by zoning, 4.8 with inclusionary zoning; this proposal is requesting approval for an FAR of 5.6. He added that he still is not convinced as to why such a large increase in density is seen as an appropriate request. Mr. Golden stated the fact that the cited necessity for the FAR variance is to some degree self-inflicted and a consequence of the applicant seeking approval for 100% lot occupancy (in lieu of the by-right amount of 75%). In addition, because of the proposed increased lot occupancy, there would actually be more density by floor than is typically the case under a given FAR. The applicant responded that density can be defined in many forms - number of units, height, physical feel of the lot. Mr. Golden stated that parking could be an issue here; owner stated that the building contains thirty-three (33) residential units.
- ANC 6A Commissioner Nick Alberti inquired as to how the H Street overlay comes into play with this property. Mr. Goins stated that the building provides ground floor retail per the overlay requirements. Committee member asked how many units are being provided to being the FAR from 4.8 to 5.6. The owner stated that this equates to five (5) units.
- Committee member Michael Hoenig stated that he finds the parking relief issue to be a considerable request, in that the applicant is proposing providing zero (0) parking in lieu of the required twenty-nine (29) spaces. Committee member Justin Thornton clarified that, once motion(s) is/are made, the applicant would need to come back to the Committee for approval on items that are being denied.

The Committee made a motion to recommend that the ANC write a letter to the BZA in support of the proposed lot occupancy. Motion was seconded. Motion was approved 4:0.

The Committee made a motion to recommend that the ANC write a letter to the BZA in opposition to the proposed FAR. Motion was seconded. Motion was approved 3:1.

The Committee made a motion to recommend that the ANC write a letter to the BZA in support of the proposed parking requirement variance, with provisions for covenants such that residents would not be allowed to obtain RPP, inclusion of a provision in the by-laws that would provide for an enforcement mechanism in the event a resident obtained RPP, and an additional covenant that would preclude this provision of the bylaws from being amended or removed. Motion was seconded. Motion was approved 3:1.

The Committee made a motion to recommend that the ANC write a letter to the BZA in support of the special exception from the H Street Overlay to allow construction of a multi-family residential building. Motion was seconded. Motion was approved 4:0.

### New Business

1. **BZA 18883 (1251 F Street, NE):** Applicant is seeking a special exception from the on-site parking requirement. The applicant's representative stated that the existing rowhouse at 1251 F Street NE will be replaced with a new rowhouse and that the new structure will be matter-of-right. He described that the existing site abuts five (5) parking spaces in the rear and that the requirement is for one (1) on-site parking space for the site.

Chairman Golden stated that the rendering provided by the applicant had been circulated to the Committee members and that the Committee has concerns regarding the design of the new structure. He inquired as to whether the applicant would be willing to work with the Committee to address these concerns. The applicant responded that they are concerned with aesthetics, that the house on the property now is ugly, and that they are open to suggestions. The applicant requested an understanding of the reaction to the variance prior to addressing changes to the design. Applicant did clarify that the new façade will be brick and will contain two (2) units.

Mr. Golden stated that, in view of the fact that there is no way to access the property by car (access to the rear of the property is blocked by a number of additional lots, not owned by the applicant, each of which contains a garage), the applicant appears to satisfy the standard for the parking variance. Prior to making a motion, it was noted that the applicant will work with the committee on the design prior to the December 11, 2014 ANC meeting. It was also clarified that the applicant is no longer requesting variance from the open-court width requirements as stated in applicant's submission to BZA. Applicant agreed to provide an updated rendering of the building that could be shared with the ANC prior to its December 2014 meeting.

The Committee made a motion to recommend that the ANC write a letter to the BZA in support of the parking variance. Motion was seconded. Motion was approved in vote 4:0.

2. **ZC 14-20 (Rezoning of NW Portion of Square 1070):** Commissioner Nick Alberti explained the background for this case. The issue of the current zoning of Square 1070 came to the ANC's attention when questionable building construction within a property on this square led the neighbors to discover that the entire western portion of the square is zoned C-2-A. This square is mostly residential. The request is that the eight (8) residential properties on the north half and five (5) properties up to the alley (alley runs north-south) be rezoned as R-4 (the northwest (NW) corner of the square). The ANC has sent a map amendment to the Zoning Commission. They have to prove that the proposal is consistent with the comprehensive plan/future land use. The Zoning Commission looks at whether it will make any existing conditions non-conforming; it has been determined

that the amendment will not make any existing conditions non-conforming. Signatures have been acquired from thirteen (13) of the fourteen (14) property owners.

Committee member Justin Thornton inquired as to whether anyone in the area that would be rezoned has applied for a loan; if so, the rezoning may devalue their property if they were planning on doing work. Todd Sperry, neighbor, stated that a permit application was submitted in 2013. Mr. Thornton inquired as to whether attempts have been made to contact the owner of the one property who has not signed paperwork regarding the zoning change. Commissioner Alberti responded that neighbors have sent emails and have posted notices to announce today's meeting. In addition, Mr. Alberti personally emailed the property owner in question to advise him of the meeting. Mr. Alberti reported that the comprehensive plan states a desire to transition Fifteenth (15<sup>th</sup>) Street to residential use (discourage commercial use), conserve residential uses, renovate housing stock and discourage tear-down of homes. The Office of Planning has provided comments that would appear to be consistent with rezoning being appropriate in this case.

The Committee made a motion to recommend that the ANC continue to support the rezoning of the NW portion of Square 1070 in light of the report that was submitted. Motion was seconded. Motion was approved in a vote 4:0.

3. **257 Warren Street NE:** Chairman Golden explained that zoning relief from the lot size and lot width requirements for this property was granted two (2) years ago in conjunction with the applicant's proposal to subdivide three (3) lots into two (2) properties. At that time, the ED&Z had recommended that the ANC oppose the relief; the ANC, however, took no position, and the BZA approved the relief. Since that time, the variance has expired, and the developer has petitioned for an extension due to personal health issues.

Matt Levy (ANC Commissioner-Elect) stated that the community concern is related to the number of units, the parking variance and height. Mr. Golden stated that, procedurally, unless there is some changed circumstance or other issue relating to whether there is good cause for the extension itself, there is no real basis to oppose the request. In Mr. Golden's view, it would not be appropriate to revisit the merits of the underlying case at this point.

The Committee made a motion to take no action. Motion was seconded. Motion was approved in a vote 4:0.

4. **Zoning Commission Hearing on Amendments re: "Pop-Ups" and Other Density-Related Issues:** Chairman Golden explained that the Zoning Commission is considering amending the Zoning Code to address "pop-ups," which have become a hot topic in ANC6A where R-4 zoning provides forty feet (40') of height as matter-of-right. The proposal would change the height limit to thirty-five feet (35'), but up to 40' with special exception. Other proposed amendments in the Zoning Commission proposal would include a change to the definition of "mezzanine", which is defined as a floor level that takes up less than 1/3 of the floor area and does not count as a "story". Currently, someone in the R-4 zoning district can go up to three (3) stories with an additional mezzanine at the top of the structure. The proposal would change the Zoning Code to count a mezzanine as a story. The third part of the proposal suggests amending the maximum permitted height of a roof structure from eighteen feet (18') to ten feet (10'). The final proposed amendment would require a special exception before an R-4 property may be converted to an

apartment house (provided there is a minimum 900 square foot per unit); currently, this may be done by right.

The Committee was supportive of the proposed regulations. It was noted with regard to the building height and apartment house conversion provisions that they would not flatly prohibit the relief in question, but instead would require special-exception review, which would allow for a case-by-case assessment of light, air, and privacy issues. Mr. Golden also noted that the apartment house conversion changes may not have much impact in ANC6A as the lot sizes are generally smaller than in those neighborhoods, such as Mount Pleasant, where this appears to have become a major issue.

The Committee made a motion to recommend that the ANC write a letter to the ZC in support of reducing the maximum permitted building height in the R-4 district to 35' with 40' permitted by special exception. Motion was seconded. Motion was approved in vote 4:0.

The Committee made a motion to recommend that the ANC write a letter to the ZC in support of amending the definition of a "mezzanine" to state that it shall be counted as a story. Motion was seconded. Motion was approved in vote 4:0.

The Committee made a motion to recommend that the ANC write a letter to the ZC in support of reducing the maximum permitted height for a roof structure from 18' to 10'. Motion was seconded. Motion was approved in vote 4:0.

The Committee made a motion to recommend that the ANC write a letter to the ZC in support of requiring a special exception for the conversion of any R-4 property to an apartment house. Motion was seconded. Motion was approved in vote 4:0

The meeting adjourned at 9:00 pm.

**Next Scheduled ED&Z Committee Meeting:  
Wednesday, December 17, 2014  
7:00-9:00 pm  
640 10th Street NE  
Sherwood Recreation Center, Second (2<sup>nd</sup>) Floor**