

Docket Item #2
BZA CASE #2003-0008

Board of Zoning Appeals
February 12, 2004

ADDRESS: 116, 118, 120 SOUTH PEYTON STREET
ZONE: CD, COMMERCIAL DOWNTOWN
APPLICANT: MODA, INC./JOHN YAGLENSKI, OWNER, BY
WILLIAM C. THOMAS, JR., ATTORNEY

ISSUE: Variance to install three curb cuts on South Peyton Street to serve three new townhouses.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
8-200(C)(5)(a)	Curb Cut	Alley or Interior Court	Street Access	Street Access

Insert sketch here.

I. OVERVIEW:

Staff recommends **denial** of the variance to provide three curb cuts on Peyton Street to provide access to three front loaded townhouses due to the following:

- the architectural character of the homes are inconsistent with the historical and architectural character of the Old and Historic District.
- the proposal is inconsistent with the zoning provision that requires access to be from an internal court or alley.
- the approval of this development would be the only access granted to “front loaded” townhouses (buildings where off-street garages are designed as part of the first floor facing the street rather than garages provided at the rear of the buildings) within the Historic District in the past 14 years, since the adoption of the current Zoning Ordinance requirement.
- the approval is contrary to the long standing policy of the City to not approve front loaded units with the Historic District and City due to the detrimental design, pedestrian and streetscape concerns that front loaded townhouses provide.
- The proposed curb cuts will significantly detract from the pedestrian streetscape of this block and potentially other blocks with the Historic District.

Since the applicant initially approached the City regarding the development of front loaded townhomes on the site, staff has consistently stated that the City would recommend denial of any application that proposed front load garages and that the application does not present a hardship supporting a variance. However, the applicant chose to proceed with the understanding that the City would be recommending denial of the proposed application before the BZA, the BAR, the Planning Commission and City Council.

II. THE IMPORTANCE OF HAVING GARAGES ACCESSED FROM AN INTERNAL ALLEY OR COURT.

The City and the Historic Districts are characterized by historic buildings and pedestrian-friendly streetscapes that create a rich sense of place for the City and make the historic district one of the most highly regarded districts in the country. The front loaded garages proposed by the applicant coupled with the numerous continuous curb cuts, and garage doors create a pedestrian environment that is degraded and is inconsistent with character of the historic district. The garage doors by their very size will be the most massive and noticeable exterior features of the proposed townhomes.



Typical Old Town block

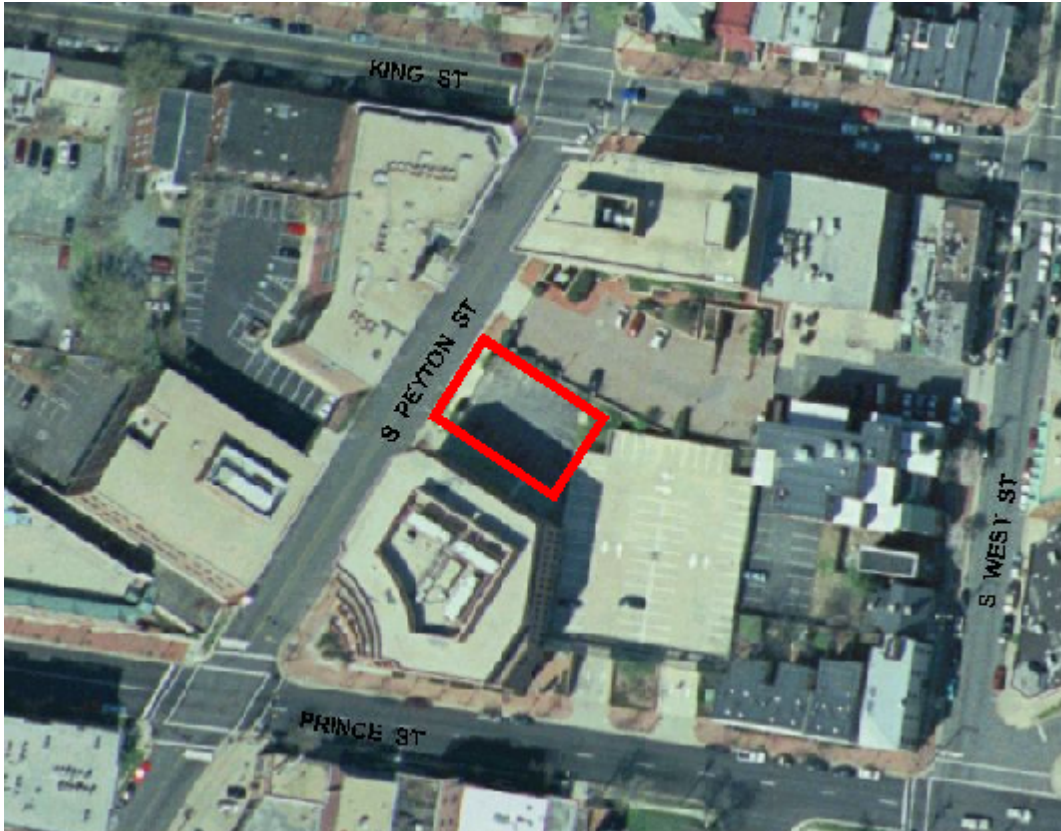


*Project similar to applicant's proposal:
units with front loaded garages*

Fortunately, within the District, within the City, and for this site there are alternatives that are possible such as access from an internal alley or court, providing two units rather than three units, and a parking reduction as discussed in more detail below.

III. PROJECT DESCRIPTION:

The applicant, is requesting approval to have three curb cuts on the site to serve three proposed townhomes on South Peyton Street. The 5,018 square feet site has 63.24 feet of frontage on South Peyton Street and is currently used as a surface parking lot. This property is located in the Old and Historic Alexandria District. The proposed curb cuts range in width from 22.00 feet to 26.00 feet.



Metered on-street parking is located on the north and south sides of this block of South Peyton Street; the proposed three curb cuts will result in the removal of approximately one on-street metered parking space. Inspection of the property during the morning and evening revealed street parking was readily available during non-peak and peak hours.

IV. CURB CUT PROHIBITION:

In 1992, the City adopted a zoning requirement that prohibits curb cuts for individual residential units in the historic district. Instead, the ordinance requires that access be provided from an internal alley or court. The purpose of this new legislative requirement was to avoid the type of developments that were occurring in the district prior to 1992, which included individual curb cuts and the associated loss of street parking and pedestrian unfriendly streetscapes. The development proposal here is precisely the type and form of development that the zoning ordinance intended to prohibit.

Development (Constructed Prior to 1992) The Current Requirement Is Intended To Prohibit:



200 block of North Pitt Street



100 block of Quay Street

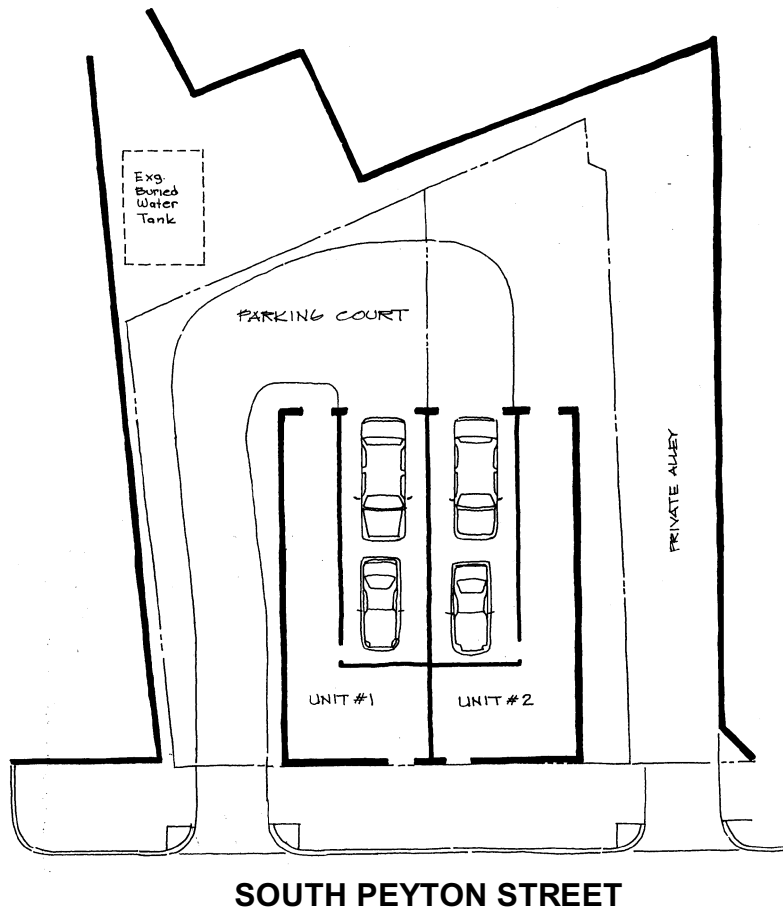
The rule has been consistently applied since the adoption of the zoning ordinance. The most recent variance approvals for curb cuts granted by the BZA include:

- 726 South Lee Street ; and
- 329 North Washington Street.

While these cases are related to curb cuts none of these are applicable to the current application. These applications permitted one curb cut, rather than the three curb cuts that are proposed by the applicant. In addition, the ability to grant a parking reduction was not possible given the availability of parking in the adjoining blocks. On the South Lee Street site the proposal was to install a curb cut for access to a parking pad similar to the neighboring townhouses also with pad parking. The North Washington Street site proposal was to restore a previously used curb cut for the existing house. In the case proposed by the applicant the proposal is for a significant intensification and change in use from the existing parking lot. Therefore, the proposed application needs to comply with current requirement to provide access from an alley or court.

Instead of allowing curb cuts for each lot, the zoning requirement states that access to parking shall be from an alley or an interior court, forcing a lot owner to use the rear of his lot for parking if that is possible. That type of arrangement is possible with the subject site although the applicant has elected not to provide rear access. Access to a rear court could be accommodated in this case if the development were for two townhouse units as depicted below. Clearly two townhouses instead of the three proposed by applicant would be an economically reasonable use of the property.

Staff Proposal



If a landowner/developer has a plan to accommodate many parked vehicles off street and in an interior court, then the ordinance envisions the possibility of a single curb cut for that purpose. However, if access from an interior court or alley is not feasible, then the lot owner may seek a waiver from the Director of Planning and Zoning for required parking. The final alternative for the lot owner is to seek relief from the BZA, in the form of a variance.

V. STAFF ANALYSIS:

The proposed application does not meet the minimum test for approval of this variance and staff therefore recommends denial. Staff has consistently told the applicant for several months that the City will recommend denial of the application and that the Board will likely recommend denial of the variance because the application does not meet the hardship test for a variance. The applicant has reasonable use of the property in that he can construct two townhouses with rear parking served from an interior court and a single curb cut, or he can build townhouses with a parking reduction. The applicant is proceeding based solely on a desire to maximize the use of the property while creating a development that will degrade the character of the historic district and is inconsistent with the intent of the zoning ordinance.

The rule that prohibits curb cuts acknowledges that off-street parking can be waived based upon the higher principle to preserve the historic streetscape, to enhance the pedestrian experience, to protect street trees, to discourage front loaded garages facing the street which detract from the streetscape and pedestrian experience and to protect the removal of limited on street parking for the exclusive benefit of the new homeowners. Based upon the character of the neighborhood staff would support elimination of the parking requirement to maintain the historic character and fabric of this street that contributes to the overall character of the historic district. The applicant is deciding not to construct the townhomes without garages or the two townhouses with rear access solely based on marketing concerns.

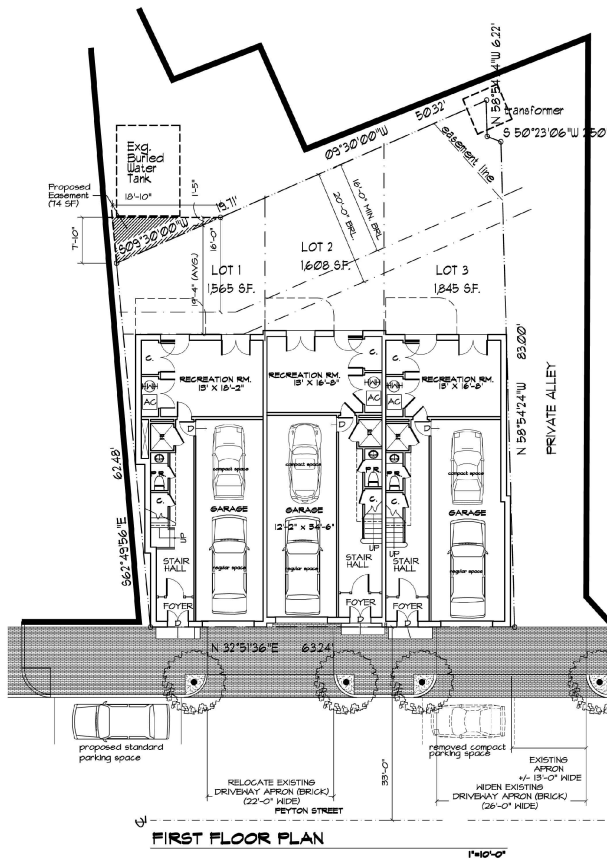
In addition to the hardship question, in the assessing of a variance application, the BZA must also consider whether the request will create harm to the neighborhood, which in this case staff construes to be the historic district. The fundamental urban design principle of having all access and service areas from an alley or the rear of the site is to create an appropriate pedestrian environment and public sidewalk and enable activity on the street within the building at the pedestrian levels. Multiple curb cuts and garages increase safety problems since pedestrians must dodge cars that are often parked in the front loaded garages; garages also create a barrier or a "no man's land" for pedestrians. In addition, the lack of windows degrade the pedestrian environment and also detract from the natural surveillance of the streets that windows provide. They create a "massive scale" for pedestrians and make the public realm impersonal. Such an appearance is inconsistent with the pedestrian scale of the historic district and is inconsistent with the intent of the City to retain the historic and traditional nature of the historic district.

The proposed application would be detrimental to this block and the historic district and could establish a precedent as an acceptable form of access and development that has not been supported in the City since 1992. The applicant contends that there are two existing curb cuts there today and wider curb cuts to serve three garages will not detract from the street. Staff acknowledges that there is only one wide curb cut that exists on the site which serves the parking lot and it has been in place prior to 1992 (the other curb cut serves a private alley which is not owned by the applicant). However, with this application or any other application when there is an intensification and conversion of use, the new development is required to be in compliance with the current zoning requirements. Therefore, because the applicant is changing the use and intensifying the use he must comply with the current rules.

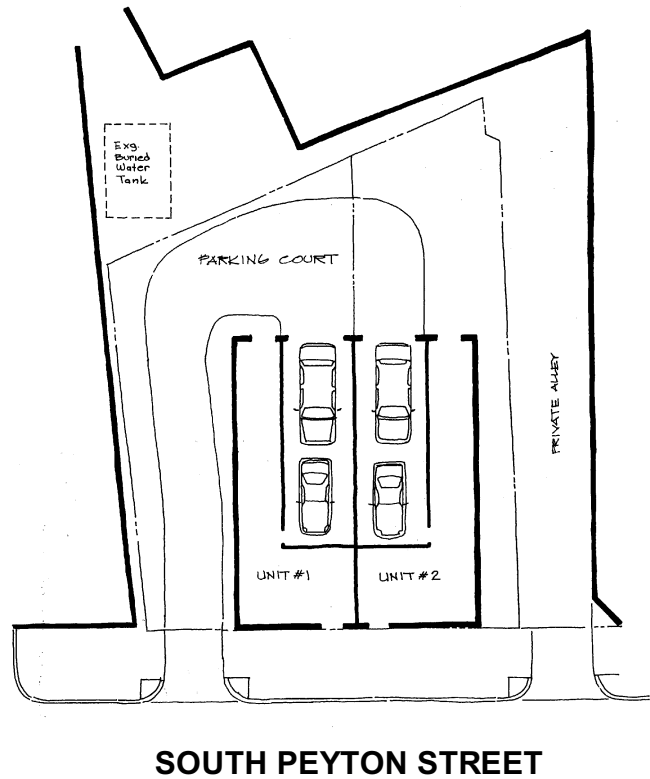
VI. CONCLUSION:

Staff recommends **denial** of the proposed curb cuts because the application does not meet the test for granting a variance, the proposal is inconsistent with the requirement to provide access from an alley or interior court and the curb cuts would detract from the character and quality of the development pattern in the historic district.

Applicant's Proposal



Staff Proposal



SOUTH PEYTON STREET

STAFF:

Eileen Fogarty, Director, Department of Planning and Zoning
 Barbara Ross, Deputy Director
 Peter Leiberg, Zoning Manager
 Jeffrey Farner, Chief of Development
 Rasheda DuPree, Urban Planner

DEPARTMENTAL COMMENTS

Transportation and Environmental Services:

- F-1 The contemporaneous development of three dwelling units will require submission of a development site plan per section 11-400 of the zoning ordinance.
- F-2 Transportation and Environmental Services is not opposed to the curb cut request.
- C-1 The applicant must comply with the Chesapeake Bay Preservation Act in accordance with Article XIII of the City's zoning ordinance for storm water quality control.

Code Enforcement:

- F-1 No comments.

Recreation (Arborist):

- F-1 No trees are affected by this plan.

Historic Alexandria (Archaeology):

- F-1 There is no significant ground disturbance for this project. No archaeological action is required.

Police:

- F-1 There are no objections to the proposed curb cut request.