

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 20014 of Addisleigh Park Washington Properties LLC, as amended, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle U § 513.1(n) from the prepared food shop requirements of Subtitle U § 512.1(d)(3); under Subtitle C § 1500.3 from the penthouse regulations of Subtitle C § 1500; under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5; under Subtitle C § 909.2 from the loading requirements of Subtitle C § 901.1, under Subtitle G § 1201 from the rear yard requirements Subtitle G § 405.2, and pursuant to Subtitle X, Chapter 10, for an area variance from the floor area ratio requirements of Subtitle G § 402.1, to construct a new two-story commercial building with a cellar level and penthouse habitable space at premises in the MU-4 Zone at premises 1803 Rhode Island Avenue, N.E. (Square 4209, Lot 5).

HEARING DATE: May 15, 2019 and June 12, 2019
DECISION DATE: June 12, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 46, Tab A (Revised); Exhibit 4 (Original).)¹

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 5C.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on April 15, 2019, at which a quorum was present, the ANC voted 5-0-0 to support the application. (Exhibit 37.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 34.)

¹ The application was amended to change the request for loading relief from an area variance to a special exception.

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DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application, on the conditions that the Applicant implement a Transportation Demand Management plan and a Loading Management Plan. (Exhibit 45 (Supplemental); Exhibit 33 (Original).) The Applicant agreed to these conditions.

Persons in Support. Two letters were submitted by neighbors in support of this application (Exhibits 29 and 39.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 for an area variance from the floor area ratio requirements of Subtitle G § 402.1.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the 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.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exceptions under Subtitle U § 513.1(n) from the prepared food shop requirements of Subtitle U § 512.1(d)(3); under Subtitle C § 1500.3 from the penthouse regulations of Subtitle C § 1500; under C § 703.2 from the minimum parking requirements of Subtitle C § 701.5; under Subtitle C § 909.2 from the loading requirements of Subtitle C § 901.1; and under Subtitle G § 1201 from the rear yard requirements of Subtitle G § 405.2.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

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It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS² AT EXHIBIT 46, TAB B, AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall implement the following Transportation Demand Management (“TDM”) plan:
 - a. Identify Transportation Coordinator(s) for the planning, construction, and operations phases of development. The Transportation Coordinator(s) will act as points of contact with DDOT, goDCgo, and Zoning Enforcement and develop, distribute, and market various transportation alternatives and options to the tenants and/or employees;
 - b. Post all TDM commitments on website (if provided by Applicant), publicize availability, and allow the public to see what commitments have been promised;
 - c. Provide bicycle parking beyond what is required by the Zoning Regulations: four additional short-term and three long-term bicycle parking spaces; and
 - d. For the first five years that the building is open, the Applicant shall offer the choice of either an annual Capital Bikeshare or an annual carshare membership to employees.

2. The Applicant shall implement the Applicant’s proposed Loading Management Plan (“LMP”):
 - a. All delivery vehicles will access the Site via Rhode Island Avenue. In accordance with DDOT’s “Truck and Bus Through Routes and Restrictions” map, trucks will not be permitted to use 20th Street, N.E.;
 - b. Delivery trucks unload/load from Rhode Island Avenue, N.E. between 7:00 a.m. and 4:00 p.m. and between 6:30 p.m. and 7:00 p.m. on weekdays. Deliveries will not be permitted between 4:00 p.m. and 6:30 p.m. when rush hour restrictions are in place on weekdays;
 - c. On weekends, deliveries may occur between 7:00 a.m. and 7:00 p.m.;
 - d. Commercial deliveries will typically be made by trucks that are 20 to 30 feet;
 - e. Deliveries made from vehicles larger than 30 feet will need to be scheduled in advance;
 - f. Deliveries are anticipated between the hours of 7:00 a.m. to 4:00 p.m.;
 - g. Trucks will not be allowed to idle and must follow all District guidelines for heavy vehicle operation including but not limited to DCMR 20 – Chapter 9, Section 900 (engine idling);

² In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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- h. A trash room with dumpsters is located on the Hamlin Street side of the building;
- i. All trash removal will occur on Hamlin Street;
- j. It shall be the responsibility of building management to inform all building tenants of this LMP and its conditions;
- k. The building manager will coordinate delivery schedules with tenants such that more than two deliveries do not occur at a time;
- l. The LMP may be updated by the property manager once the project is complete, as needed.

VOTE: 3-0-2 (Frederick L. Hill, Lorna L. John, Anthony J. Hood to APPROVE; Lesylleé M. White and Carlton E. Hart not participating.)

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

A majority of the Board members approved the issuance of this order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 19, 2019

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION,

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RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.