

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application of 2221 14th Street LLC
2221 14th Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

2221 14th Street LLC ("Applicant"), an affiliate of the Douglas Development Corporation, seeks a modification of Board of Zoning Adjustment ("BZA") Order No. 18157 in order to reduce the number of required parking spaces from ten to zero. The modification is necessary due to the significantly increased construction difficulties associated with the Metrorail "zone of influence" that affects the below-grade areas of the property and high costs associated with remediation of contaminated soil.

By order dated February 1, 2011, the BZA approved application No. 18157, which granted area variances from the court requirements of section 776 and the parking requirements of subsection 2101.1, 2115.1, 2115.4, and 2117.5; and special exceptions from the rear yard requirements of section 774, the roof structure setback and enclosure height requirements of subsection 770.6, and the roof structure height requirements of the Arts Overlay under subsection 1902.1, to allow the construction of a new 30-unit apartment building in the Arts/C-3-A District at 2221 14th Street, N.W. (Square 234, Lot 165 (former lots 28 and 124-127)). A copy of BZA Order No. 18157 is attached as Exhibit A. The property contains 5,530 square feet of land. It is located in the Arts/C-3-A District at the southeast corner of 14th Street and Florida Avenue, N.W. With respect to the parking relief, the Board authorized the Applicant to reduce the number of required parking spaces from 15 to 10 spaces.

The Metrorail tunnels for the Green Line, between the Columbia Heights and U Street/African-American Civil War Memorial /Cardozo stations, run underneath 14th Street immediately adjacent to the property. The property was formerly occupied by a gas station and contained numerous underground storage tanks ("UST"). Several other gas stations were located in the immediate vicinity to the property, which also contained a number of USTs. Many of the USTs failed, leaching contaminants into the soil. Due to the topography, many of the contaminants from surrounding USTs were directed to this property. As a result, the property contains significant amounts of contaminated soil.

In 2011, the Applicant began actively pursuing building permits for the project, and initiated several meetings and discussions with the Washington Metropolitan Area Transit Authority ("WMATA") to coordinate excavation, sheeting and shoring of the property, given the adjacency of the Metrorail tunnels. The Applicant also undertook further study of the soil

conditions. Based on the WMATA construction requirements in the zone of influence and soil remediation work, the cost of construction for the below grade space increased exponentially.

II. Relief Requested

The Applicant seeks a modification to the approved parking variance to reduce the number of spaces from ten to zero. The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

A. Exceptional Condition or Situation

The WMATA zone of influence in portions of the below-grade area of the site, as shown on the drawing attached as Exhibit B, and the extent of contaminated soil on the property are exceptional conditions affecting compliance with the parking requirements.

B. Resulting Practical Difficulty

In order to excavate the below-grade parking garage as approved under BZA Order No. 18157, the Applicant would have to meet specialty construction standards imposed by WMATA that dramatically increase costs for the below grade level and that significantly exceed initial estimates. Additionally, the Applicant must undertake expensive soil remediation measures in compliance with the District's Environmental Health Administration requirements. These additional costs are so significant that the project becomes untenable, particularly for a small residential project with just 30 units. Because there are so few units over which to spread the costs, it becomes too expensive to complete the project.

C. No Harm to Public Good or Zone Plan

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. The property is within several blocks of the U Street Metrorail Station and can also be accessed by several Metrobus lines. Consequently, the elimination of parking spaces at the site will not harm the public good or threaten the integrity of the zone plan. In fact, the elimination of parking spaces reduces dependency on automobiles and helps alleviate adverse traffic conditions. The Applicant will provide ample parking spaces for bicycles on the ground floor of the building, which will further encourage the use of alternative transportation means.

III. Conclusion

Pursuant to section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. Through the Applicant's written statement, and through testimony and evidence presented at the public hearing, the Applicant will demonstrate how it meets its burden of proof to obtain the Board's approval of the requested relief.

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