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MEMORANDUM

TO: District Board of Zoning Adjustment

FROM:  Paul Goldstein, Case Manager
Joel Lawson, Associate Director Development Review

DATE: September 17, 2013

SUBJECT: BZA Case Number 18463 – Minor Modification

As background, the Board of Zoning Adjustment approved, with conditions, Application No 18463 of CAS Riegler Real Estate Development. The application requested an area variance from the lot area requirements (§ 401) to allow the conversion of and addition to an existing building into an apartment house in the R-4 District at 901 D Street NW (Square 938, Lot 809). The Applicant now requests a modification to the Order's condition number 3, which provides the following

The Applicant shall pay the cost for installing a Capital Bikeshare station at a location agreed upon by the Applicant and the ANC, provided that Capital Bikeshare is able to find a suitable location

The Applicant asserts that it did not understand the associated cost of a Capital Bikeshare station at the time the original commitment was made. As such, the Applicant seeks to modify the condition to limit any such financial contribution to \$25,000, rather than an anticipated total cost of \$75,000. Based on a discussion with a DDOT representative, OP understands that the potential \$75,000 estimation likely includes anticipated costs associated with at least one year of operation and maintenance of the station. The Applicant's modified condition would state (changes in underline bold)

The Applicant shall pay **\$25,000** of the cost for installing a Capital Bikeshare station at a location agreed upon by the Applicant and the ANC, provided that Capital Bikeshare is able to find a suitable location. **This condition shall be satisfied once the Applicant makes the payment.**

As a general matter, OP has concerns regarding such modification requests. The Applicant does not assert, for instance, that the cost of a station was not readily discoverable or that installation costs have drastically changed since the commitment was made. The Applicant instead agreed to the commitment "without knowing the full cost of installing a Capital Bikeshare station." OP finds it troubling that – even when inadvertent – an applicant can make a commitment which likely strengthened an application during the initial approval process only to later press to weaken the obligation.

Nevertheless, in this case, OP also understands that 1) the commitment did not appear to directly relate to the relief requested in the original application, 2) the commitment arose from discussions between the Applicant and ANC 6A, 3) the Applicant has indicated to OP that ANC 6A voted to support the request at its September 12, 2013 meeting, and 4) DDOT has informally expressed to OP that it has no objection to the request and that the modified commitment would be implementable. As such, OP has **no objection** to the modification.

JS/pg
Paul Goldstein, case manager

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18463
EXHIBIT NO. 44

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