

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18688 of Lock 7 Development LLC, pursuant to 11 DCMR § 3103.2, for a variance from the height requirements under § 770, a variance from the floor area ratio requirements under § 771, and a variance from the off-street parking requirements under § 2101.1, to allow a mixed-use residential and ground floor retail development in the C-2-A District at premises 1348 – 1356 Florida Avenue, N.E. (Square 4068, Lots 116, 144, 145, 146, and 147).

HEARING DATES: January 14, 2014 and February 4, 2014

DECISION DATE: February 11, 2014

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 5D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5D, which is automatically a party to this application. ANC 5D submitted a written resolution, which indicated that at a properly noticed, regularly scheduled public meeting held on December 17, 2013, with a quorum of Commissioners present, the ANC voted unanimously (5:0:0) to conditionally support the application. (Exhibit 49.)

The Office of Planning ("OP") submitted a timely report on January 7, 2014, indicating that it did support the variance relief from the off-street parking requirements under § 2101.1, but could not support the Board granting the variance relief from the height requirements under § 770 or the floor area ratio ("FAR") requirements under § 771. (Exhibit 32.) By its letter, dated January 7, 2014, the District Department of Transportation ("DDOT") submitted a report of "no objection" to the application. (Exhibit 31.)

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Letters of support for the application were submitted by neighbors Renee Garcia, Jamie Smith, Jose A. Garcia, Michael L. Crisci, Brian Camus, Sebastian Sergi, Jerome Bailey, Lori Steenhoek, Lee Wells, Lawrence Wooten, Bernadine Okoro (Exhibit 29), Robert Mann-Thompson (Exhibit 28), and Robert Traina. (Exhibit 25.) Also, the OP report indicated that the Trinidad Neighborhood Association had provided a letter dated December 8, 2013, indicating their support of the application. (See, Exhibit 32.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2 for variances from the strict requirements of the height requirements under § 770, the FAR requirements under § 771, and the off-street parking requirements under § 2101.1, to allow a mixed-use residential and ground floor retail development in the C-2-A District. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR § 3103.2 that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED SUBJECT TO THE APPROVED PLANS AT EXHIBITS 34 AND 37 WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall designate a member of the property management team as the Transportation Management Coordinator (TMC) to ensure that information identifying programs and incentives for using alternative modes of transportation is disseminated to tenants of the building.
2. The Applicant shall install an electronic information display providing real time information related to nearby trains, buses, carshare, and bikeshare.
3. The Applicant shall offer all new tenants, if renting the residential units, or the first subsequent owner, if selling the residential units as condominiums, a \$100 car sharing membership, a \$150 Capital Bikeshare membership, or a \$200 SmartTrip card.

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4. The Applicant shall include links to CommuterConnections.org and goDCgo.com on the property management website.
5. The Applicant shall provide at least 30 secure bicycle parking spaces in a bicycle storage room.
6. The Applicant shall restrict 17 units from obtaining a Residential Parking Permit (RPP) to offset the 17 spaces of parking relief sought, enforced through the following means:
 - a. Recordation of a covenant that runs with the land for the life of the project; and
 - b. Inclusion of the restriction in 17 of the residential leases if rented or in the recorded condominium declaration if sold as condominiums.

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

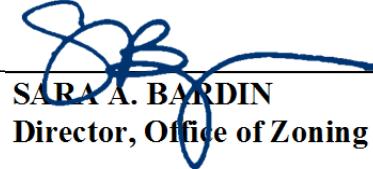
A majority of the Board members approved the issuance of this summary order.

VOTE: **4-0-1** (Lloyd L. Jordan, Jeffrey L. Hinkle, S. Kathryn Allen (by absentee vote), and Marcie I. Cohen (by absentee vote), to Approve; the third Mayoral appointee vacant.)

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: February 20, 2014

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, 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 § 3130.6 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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PURSUANT TO 11 DCMR § 3125, 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, 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 § 3205, 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.