

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18801 of Fort Lincoln Multifamily Housing LLC and Fort Lincoln Joshua Barney Townhouse LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the loading requirements under section 2201, and a special exception under section 2516, to erect more than one building on a record lot, in order to construct 103 townhouses and three multi-family buildings with a total of 260 units in the R-5-D and C-2-B Districts on the north side of Commodore Joshua Barney Drive, N.E (Square 4325, Parcel 173/149 and a portion of Parcel 1784/4)

HEARING DATES July 22, 2014¹ and July 29, 2014

DECISION DATE July 29, 2014

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2 (Exhibit 4.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *DC Register*, and by mail to Advisory Neighborhood Commission ("ANC") 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. The ANC submitted a letter in support of the application, indicating that at a properly noticed special public meeting of the ANC, with a quorum present, the ANC voted 5.0 to support the application. (Exhibit 44.) The Office of Planning ("OP") submitted a report that recommended approval of the requested variance and stated its general support for the application, but could not recommend approval of the requested special exception without additional information and design refinements (Exhibit 41.) In response to OP's comments in its report, the Applicant submitted revised plans and a loading management plan and agreed to conditions proposed by OP (Exhibits 48 and 49.) The Applicant also submitted a restrictive covenant addressing a permanent open space area in the northern part of the property and a

¹ The case was postponed from the public hearing date of July 22, 2014 at the Applicant's request.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone (202) 727-6311

Facsimile (202) 727-6072

E-Mail dcz@dc.gov

Web Site www.dcoz.dc.gov

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Revised Sheet A-1 (site plan) modifying the drive aisle for the loading berths (Exhibit 50) At the public hearing on July 29, 2014, OP testified that it was now in support of the application. The Department of Transportation had no objection to the application. (Exhibit 42)

A letter in opposition was submitted by Kenneth Dauer on behalf of himself and his wife, Nicole Ledesma-Dauer. (Exhibit 45)

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2201 No parties appeared at the public hearing in opposition to this 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 OP and ANC reports filed in this case, the Board concludes that in seeking a variance from § 2201, 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 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

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 for a special exception from § 2516, to erect on a record lot, in order to construct 103 townhouses and three multi-family buildings with a total of 260 units in the R-5-D and C-2-B 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

The Board concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1 and 2516, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with 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 IS HEREBY GRANTED SUBJECT TO THE REVISED PLANS AT EXHIBITS 48A-G AND THE REVISED SITE PLAN AT EXHIBIT 50 AND THE FOLLOWING CONDITIONS.**

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1. The Applicant shall provide an open space easement or similar instrument in order to ensure that the 9.4 acres identified as "Proposed Permanent Open Space" on Sheet A-1A remains undeveloped in the future
2. The Applicant shall include in the HOA documents a provision that prohibits drivers from parking in their driveways if, in so doing, the vehicle would block the sidewalk or extend into the street
3. The Applicant shall implement the measures contained in the Applicant's Loading Management Plan at Exhibit 49

VOTE: **4-0-1** (Lloyd J. Jordan, Robert E. Miller, Marnique Y. Heath, and Jeffrey L. Hinkle, to APPROVE, S. Kathryn Allen, not present or participating)

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

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

ATTESTED BY:


SARA A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: August 8, 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

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

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**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**