



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD

THIS FORM IS FOR NON-PARTIES ONLY. IF YOU ARE A PARTY PLEASE FILE A FORM 150 – MOTION.

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 19187

I, Rachelle Nigro hereby request the following relief:

- ☐ Accept an untimely filing of _____
- ☒ To reopen the record to accept comment regarding omission of all Conditions in the Applicant's Draft Order

Points and Authorities:

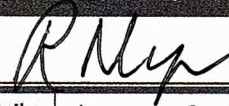
Accept an untimely filing: Please state each and every reason you believe the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your request to accept an untimely filing, including relevant references to the Zoning Regulations or Map. If you require more space, please use a separate piece of paper.

Reopen the Record: Please state each and every reason you believe the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your request to reopen the record, including relevant references to the Zoning Regulations or Map. **The document(s) that you are requesting the record to be reopened for, must be submitted separately from this form. No substantive information should be included on this form.**

Please see letter. All conditions presented to the Board must be clear in the Draft Order which they are not.

These condition were agreed upon by the community and the Advisory Neighborhood Commission.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22-2405)

Date:	4/4/2016	Signature:	
Name:	Rachelle Nigro	E-Mail:	nigroanc6e@gmail.com
Address:	437 New York Ave. NW, Washington, DC 20001		
Phone No(s).:	202-236-3329	Fax No.:	

Board of Zoning Adjustment
District of Columbia
CASE NO. 19187
EXHIBIT NO. 39

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

Rachelle Nigro
Commissioner, SMD 6E04
437 New York Avenue, NW
Washington, DC 20001

April 4, 2016

Submitted via EMAIL

Ms. Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th St, NW, Suite 210S
Washington, DC 20001

RE: BZA #19187. Concern Regarding Omission of all Conditions in the Applicant's Draft Order.

Dear Members of the Board,

As a SMD 6E04 Commissioner, I wanted to register my concern regarding the Draft Order (Exhibit 37) submitted by the applicant in BZA case #19187. This project is in my district and we have worked for many months with the developer to come to an agreeable list of Conditions. Specifically,

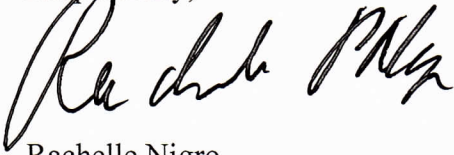
- 1) The residents in the project will not be eligible for Residential Parking Permit ("RPP") or future version thereof, as administered by DDOT/DMV/Other relevant DC agencies.
- 2) The project must create excess parking spaces that would be first made available to the residents in the 200 foot radius of the project.

I find it unfortunate that the Applicant did mention the conditions in their proposed Draft Order, but not in the location where it has legal and enforceable consequence - on the last page of the Order which binds the Order with the Conditions.

The applicant agreed to the combined list of Conditions in their two Addendums to Prehearing statement - Exhibits 27 and 34. The first was submitted by the Applicant immediately following the ANC meeting where I insisted that the RPP language be made enforceable. The second was submitted after the Applicant came to an agreement with one of my constituents. The second addendum clarifies the details and procedures how excess parking spaces will be made available to the residents in the 200 foot radius.

My constituents feel very strongly that all of the negotiated conditions must be made binding as part of your order. The conditions are not against any zoning regulations, so there is no reason for the Board to intervene and remove any one of them. Further, the list of Conditions represents a set that only makes sense as a whole - removing any one condition would weaken the entire set.

Respectfully,



Rachelle Nigro
Commissioner, SMD 6E04

List of Conditions to be Included on the last Page of the Final Order

(As the Applicant, In Good Faith, Should have Proposed in their Draft Order)

1. Reduced Massing and Removal of the Penthouse.
2. Revised Façade on Ridge St. to resemble rowhome on Ridge St.
3. Neighborhood Servicing Retail Space.
4. Increased parking to approximately 29 spaces requested by ANC 6E04 or 27 space as agreed upon in Exhibit 37
5. Reduced Unit Count to 22 units.
6. Residential Parking Permit (RPP) Restriction which prohibits residents from obtaining residential parking permits by including restrictions in the condominium documents recorded against the property to include:
 - 1) The Applicant/Condo Board shall include in its condominium documentation a provision that prohibits residents/owners from obtaining a Residential Parking Permit ("RPP") for the Property from the D.C. Department of Motor Vehicles ("DMV"), under penalty of fines(s) against the condominium unit owner. *Exhibit 37, Finding of Fact 20 (G)(i).*
 - 2) The Applicant/Condo Board shall obtain written authorization from each owner, either through a deed provision or another written document that allows the DMV to release to the Applicant/Condo Board any and all records of that resident/owner requesting or receiving an RPP for the Property. *Exhibit 37, Finding of Fact 20 (G)(ii).*

- 3) The Applicant/Condo Board shall monitor resident/owner compliance with the RPP lease restriction by requesting from the DMV, every six months, any and all records of residents/owners requesting or receiving RPPs for the Subject Property, and shall provide annually to the Condominium Board the results of its inquiries. *Exhibit 37, Finding of Fact 20 (G) (iii).*
- 4) The Applicant/Condo Board shall record a covenant against the Property among the Land Records of the District of Columbia prohibiting any owner of the property from obtaining an RPP for the building approved in this BZA Order. *Exhibit 37, Finding of Fact 20 (G) (iv).*
- 5) 1212-1218 4th Street, LLC agrees to provide a minimum of twenty-seven (27) parking spaces as part of the redevelopment of the Properties. *Exhibit 37, Draft Order Page 2, Condition 1.*
- 6) 1212-1218 4th Street, LLC agrees to limit the number of spaces available to the residents leasing or owning the dwelling units on the Properties to one parking space per dwelling unit or not to exceed twenty-two (22) parking spaces being utilized by residents of the Property. *Exhibit 37, Draft Order Page 2, Condition 2.*
- 7) 1212-1218 4th Street, LLC agrees to make the parking spaces available to all property owners within two hundred feet (200 ft.) (hereinafter referred to as “200 Footers”) as follows: Six (6) months after the issuance of a Certificate of Occupancy for the Properties or six (6) months after seventy-five percent (75%) of the dwelling units for the Properties have been sold or leased, whichever date is later, notice shall be given to the 200 Footers stating that said 200 Footers shall have thirty (30) days from the date of the notice to send a letter of intent to purchase or lease the remaining parking spaces available after parking spaces have been offered to the residents owning or leasing unit at the Properties. The parking spaces shall be available to the 200 Footers for purchase or lease on a first-come, first-server basis. *Exhibit 37, Draft Order Page 2, Condition 3.*
- 8) The purchase price of parking spaces sold to the 200 Footers shall be at a 15% discount of Market Price: i.e. Market Price minus 15%. If spaces are rented, rental rate to the 200 Footers shall be at a 15% discount of Market Price. *Exhibit 37, Finding of Fact 20 (F).*