

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of
National Association of Realtors

BZA Application No:

STATEMENT OF THE APPLICANT

This application is made by the National Association of Realtors (the “**Applicant**”) to the Board of Zoning Adjustment (“**Board**”) to modify prior approval by the Board as well as request additional special exception relief from the strict requirements of Subtitle C §§ 901 and 905 of the Zoning Regulations to facilitate the removal of loading facilities at 500 New Jersey NW (Square 627, Lot 13) (the “**Property**” or “**Building**”) as part of the Applicant’s selective upgrade to the building lobby and surrounding public space.

I. NATURE OF RELIEF SOUGHT

In Board of Zoning Adjustment Order No. 16930 (“**Order**”), the Board granted variance relief from the height, FAR, and loading requirements under the 1958 Zoning Regulations. The Board also granted special exception relief from the roof structure requirements. Here, the Applicant requests that the Board:

- (1) modify the plans approved in the Order,
- (2) modify the Order to remove Condition 3, and
- (3) grant special exception approval under Subtitle C § 909.2 from the service/delivery space and loading platform requirements of Subtitle C §§ 901.1 and 905.4, to allow for the elimination of both spaces.

Because the modification requires additional zoning relief, a public hearing is required.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle X § 900.2 of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY, SURROUNDING AREA, AND PRIOR ZONING HISTORY

The Property consists of approximately 8,285 square feet of land area and is in the East End neighborhood. Located in Square 627, the Property is bounded by four major streets: F Street to the north, New Jersey Avenue NW to the east, E Street NW to the south, and 1st Street NW to the west. 1st Street NW and New Jersey Avenue NW intersect at the north end of the Property, creating a unique triangular shape. The surrounding properties are all in the D-3 Zone District, representing high density commercial development, and the Property is isolated from other buildings by wide rights-of-way. Surrounding developments include the Georgetown University Capitol Campus, Washington Court Hotel, and Hyatt Regency Washington on Capitol Hill.

The Property is zoned D-3 and improved with an office building. Originally constructed circa 2004 pursuant to the Order, the Building is 130 feet tall and was constructed to a 10.59 FAR. The Property has 25 parking spaces within the property lines and an additional 43 in a public space vault. The Order granted variance relief from the height, FAR, and loading requirements as well as special exception relief from the rooftop structure requirements in the 1958 Zoning Regulations. Notably, the Board approved variance relief from the 30-foot loading berth requirement, with the Applicant offering a loading area within public space abutting the Building and a curbside loading zone on First Street as alternatives to accommodate the Building's loading needs. The Building also included a service and delivery space within the Building. See BZA Order No. 16930, Finding of Fact 11.

IV. DESCRIPTION OF THE MODIFICATION AND SATISFACTION OF THE APPLICABLE CRITERIA FOR A MODIFICATION

Today, the Building serves as the headquarters for the Applicant, the National Association of Realtors, as well as space for other office and retail tenants. The Applicant proposes to improve the existing office building by renovating the lobby, reconfiguring the internal service areas and back of house space, and removing the indoor and outdoor loading facilities as part of a wholesale enhancement of the public space surrounding the Building (“**Project**”).

The Project will increase the Building’s attractiveness by bumping out the curtain wall of the lobby to create additional space and scale for the entryway, creating an improved and welcoming entrance that will allow the Applicant to retain current tenants and attract new tenants in the market for premium office space.¹ Further, the Project’s improvements to the public space will enhance the overall pedestrian experience and significantly increase the amount of planted and landscaped space around the Building. A detailed set of architectural plans depicting the proposed modifications are attached as Exhibit A (the “**Plans**”).

Pursuant to Subtitle Y §§ 703 and 704, the Board may approve modifications to prior approvals. Such approvals generally do not require a hearing when their impact may be understood without witness testimony, and examples include changes to conditions of approval or redesigns and relocations of architectural elements. Y §703.7. If the Board determines a hearing is required, the Board’s hearing is limited to the impact of the modification on the subject of the original application. Y § 704.6.

Here, the Project requires modification of the plans approved in the Order to remove the outdoor loading area in public space as well as the interior service/delivery space and loading

¹ Any additional FAR generated by the bumpout will be balanced out by the removal of FAR from elsewhere in the building.

platform as well as make other changes as shown on the Plans to accommodate the Project. The Applicant also requests the removal of Condition 3 of the Order, which was tied to the outdoor loading area that is proposed to be removed. While modifications to plans and conditions are ordinarily the types of modifications that may be approved without a hearing under Subtitle Y § 703, the changes to the loading areas also require relief from Subtitle C §§ 901.1 and 905.4 and thus a public hearing is required.

The Board's 2002 Order found that the Building satisfied the variance test for relief from the 30-foot loading berth requirement because of (1) the small size and narrow, triangular shape of the lot; (2) the practical difficulty in complying with the berth requirement caused by the unusually small lot size and configuration; and (3) the conclusion that the internal service/delivery space should adequately satisfy the loading needs of the Building. In concluding that the relief would not substantially impair the intent, purpose, and integrity of the zone plan or cause substantial detriment to the public, the Board also noted that the Applicant had proffered the outdoor loading area in public space and observed that the Property had access to a curbside loading zone on 1st Street near the service bay. See BZA Order No. 16930 at pgs. 5, 10-11. The Building also included one internal 20-foot service/delivery space and one internal 100-square foot loading platform.

Here, the modifications will not substantially change the Building's impact on surrounding properties. The outdoor loading area adjacent to the building that was proffered as a mitigation measure has been rarely used to accommodate truck deliveries; instead, such activity has happened out at the curbside loading area. Instead, the outdoor loading area has generally been used to store trash containers and dumpsters. Similarly, the service/delivery space within the Building has been rarely used, as its proximity to the lobby means that exhaust fumes can seep into the lobby. This

occurrence often results in the Applicant directing vehicles to not park in the space. With the proposed reconfiguration, a relocated service area within the building will allow for trash, recycling, and other materials to be stored inside the Building and then rolled out to the curb on trash days. This not only eliminates the visual intrusiveness of such loading but also allows for the current outdoor paved area and the existing driveway to be replaced with additional landscaping, improving the pedestrian experience. The curbside loading space on 1st Street is anticipated to remain and continue to serve as a loading area for all trash and service/delivery activity.

In addition, the modifications will not impair the integrity of the Zoning Regulations. For one, the Board already concluded that relocating the Building's primary loading facilities outside of the building was appropriate given the uniquely narrow site configuration in its original order. For another, since the original approval, the Regulations have been amended to allow for loading within a Project to be reduced by special exception rather than require a variance. This is a lesser standard that affirms the reduction in loading can be consistent with the purpose of the Regulations when the stated conditions are met. Since the Project also requires loading relief pursuant to those same conditions, granting of the modification does not undermine either the Board's original approval or the current zone plan.

V. THE APPLICATION SATISFIES THE CRITERIA FOR THE SPECIAL EXCEPTION RELIEF FROM THE LOADING REQUIREMENTS

Pursuant to Subtitle C § 901.1, the Building includes a service and delivery space and pursuant to Subtitle C § 905.4, the Building includes a loading platform. (While the Board previously granted relief from the 30-foot loading berth requirement, the associated loading platform was provided inside the Building, presumably for unloading related to the loading space located outside the building in public space). Pursuant to Subtitle C, § 909.2, the Applicant requires

special exception relief to remove the service and delivery space and eliminate the platform, so that such space may be rededicated to other uses needed to facilitate the Project.

As discussed in detail below, the application satisfies the standards for the requested relief because the nature and use of the Building generates a lower loading demand and such demand can be managed without off-street loading facilities.

A. Standard of Relief

The Board is empowered to grant special exception relief from the number of loading facilities when the applicant demonstrates the nature or use of the structure generates a lower loading demand than a more typical project. Here, the application satisfies the standard for special exception relief based on the established service and delivery patterns for the existing Building.

B. Special Exception Relief from the Service/Delivery Space and Adjacent Loading Platform Requirements

- 1. The use or structure will generate a lower loading demand than the minimum loading standards of Subtitle C §§ 901 and 905 require, as a result of the nature of the use or structure.*

The uses in the Building generate an even lower loading demand than the minimum loading standards of Subtitle C §§ 901 or the Board's prior approval, thus supporting relief from the loading requirements. As the owner, anchor tenant, and occupier of a large portion of the Building, the Applicant has actively monitored and managed usage of the Building's various loading areas. As discussed above, the interior service/delivery space and outdoor loading area adjacent to the Building have been rarely used to accommodate truck deliveries; instead, such activity happens in the curbside loading zone. This also means that the loading platform within the Building appurtenant to that outdoor loading area has not received much use.

Put another way, the service/delivery space and outdoor loading area (or its associated indoor platform) are not needed to accommodate the needs of the Building. Again, the Project will

maintain the curbside loading zone, which is proven to accommodate the loading and service needs of the Building. Furthermore, as shown on the Project plans, the Applicant will create an internal area to accommodate trash bins, carts, and dumpsters so that they no longer need to be located in the outdoor loading area abutting the Building. Finally, eliminating the indoor loading platform and service/delivery space will facilitate the reconfiguration of indoor ground floor space and further improve its efficiency despite the Property's suboptimal size and configuration.

C. General Special Exception Review Standards

1. *The requested special exception relief will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.*

Since it satisfies the specific criteria under Subtitle C § 909.2, the proposed loading area warrants the requested special exception relief. Curbside loading has been designed to accommodate the Building's loading capacity, which is consistent with the intent of the loading regulations to provide loading capacity commensurate with the building's use. Because the proposed loading area is located in a commercial area of Downtown, it will not create any negative impacts for neighboring properties. In fact, it will be a noticeable improvement from the current loading configuration because it will allow for the elimination of a driveway as well as a substantial increase in the amount of landscaped area in public space.

VI. CONCLUSION

For the above reasons, the Applicant has satisfied the standards for a modification with hearing and related special exception relief and respectfully requests approval of the application.

Respectfully submitted,

/s/
David Avitable

/s/
Derick Wallace