

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19099 of RP 3701 NW LLC, pursuant to 11 DCMR § 3103.2¹, for variances from the lot occupancy requirements under § 772.1, and the off-street parking requirements under § 2101.1, to allow the construction of a new mixed-use building with 21 residential units and ground floor retail in the GA/C-3-A Zone District at premises 3701 New Hampshire Avenue, N.W. (Square 3030, Lot 805).

HEARING DATE: November 17, 2015

DECISION DATE: December 8, 2015

DECISION AND ORDER

RP 3701 NW LLC (the “Applicant”) submitted this self-certified application on July 29, 2015, for the property located at 3701 New Hampshire Avenue, N.W. (Square 3030, Lot 805). The application was filed pursuant to 11 DCMR § 3103.2 for variances from the off-street parking provisions under § 2101.1, in order to provide no parking spaces where 12 are required, and from the lot occupancy provisions under § 772.1, in order to allow a lot occupancy of approximately 96% for the residential floors, where a maximum 80% is permitted. (Exhibit 1.) Following a public hearing, the Board of Zoning Adjustment (the “Board” or “BZA”) voted to approve the application subject to conditions.

Preliminary Matters

Notice of Application and Notice of Public Hearing. By memorandum dated August 13, 2015, the Office of Zoning sent notice of the application to the D.C. Office of Planning; the District Department of Transportation (“DDOT”), Advisory Neighborhood Commission (“ANC”) 4C, the ANC within which the Site is located; Single Member District ANC 4C08; and the Councilmember for Ward 4. (Exhibits 14-18.)

¹ This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was decided by the Board of Zoning Adjustment (“the 1958 Regulations”), but which were repealed as of September 6, 2016 and replaced by new text (“the 2016 Regulations”). The repeal of the 1958 Regulations has no effect on the validity of the Board’s decision or the validity of this order.

A public hearing was scheduled for November 17, 2015. Pursuant to 11 DCMR § 3113.12, the Office of Zoning mailed notice of the public hearing to the Applicant, the owners of property within 200 feet of the subject property, ANC 4C, and ANC 1A, which is the ANC located across the street from the subject property, on August 19, 2015. (Exhibits 19-22.) Notice of the public hearing was also published in the *D.C. Register* on August 28, 2015. Finally, the Applicant confirmed by affidavit that it had posted notice of the public hearing on the subject property on October 29, 2015. (Exhibit 26.)

Requests for Party Status. In addition to the Applicant, ANC 4C and ANC 1A were automatically parties in this proceeding. No other individuals or organizations filed timely requests for party status.

Applicant's Case. The Applicant provided testimony and evidence from Lex Lefebvre, a representative of the property owner, Jeff Goins of PGN Architects, an expert in architecture, and Jami Milanovich of Wells + Associates, an expert in transportation. The Applicant and its expert witnesses described the project, explained the need for the various forms of zoning relief requested, and addressed issues regarding potential adverse impact.

OP Report. By report dated November 10, 2015 and through testimony at the public hearing, OP recommended approval of the application. (Exhibit 30.)

DDOT Report. By report dated November 10, 2015 and through testimony at the public hearing, DDOT found the parking relief requested to be appropriate based on the characteristics of the subject property and the Transportation Demand Management Plan ("TDMP") the Applicant proposed. (Exhibit 29.)

ANC Reports. ANC 4C submitted a written report dated November 9, 2015 indicating that, at a regularly scheduled and duly noticed public meeting held October 14, 2015 with a quorum present, the ANC voted 5-4 to oppose the parking variance. The ANC raised six specific items of concern in its report: (1) the transportation study submitted in support of the application cited areas in Northern Virginia and Ward 3 of the District, which are not an accurate comparison to the Site; (2) the Applicant's plan to lease off-site parking spaces for three years is not a long-term solution to mitigate the problem; (3) the project would place additional pressure on the limited parking supply in the area, particularly near the Georgia Avenue-Petworth Metro Station; (4) granting parking relief would negatively impact the safety and welfare of residents near the site, particularly seniors; (5) granting variance relief would be detrimental to the public good; and (6) DDOT should restrict residents of the proposed project from applying for the Residential Permit Parking ("RPP") program. (Exhibit 28.) ANC 4C submitted a second written report dated November 16, 2015, concerning the public meeting held October 14, 2015, to clarify that, in addition to voting 5-4 to oppose the parking variance, the ANC voted 5-4 to support the variance for lot occupancy, based on the project's unique lot size and shape. (Exhibit 45.)

ANC 1A submitted a written report dated September 10, 2015 indicating that, at a regularly scheduled and duly noticed public meeting held September 9, 2015 with a quorum present, the ANC voted 8-3-1 to support the application. ANC 1A concluded that the project's impact on

traffic and the neighboring properties would be negligible and based its decision on a review of the applicant's documentation and presentation. The ANC conditioned its support on three conditions: that the loading zone for the project be moved to the north of the site and the curb cut along Rock Creek Church Road be removed (subject to necessary public space approvals), that trash dumpsters will be housed interior to the project, and that a rat abatement program be instituted before and during construction. (Exhibit 25.) The Applicant agreed to incorporate these conditions into its project.

Persons in support. The Board heard testimony and received evidence from persons in support of the application. (Exhibits 37, 38, 39, 40, 41, 42, and 44.) These individuals noted that the site was appropriate for the project proposed, that parking and lot occupancy relief were appropriate for this location, and that the requested parking relief in particular was reasonable given the site's small shape and location adjacent to a Metro entrance.

Persons in opposition. The Board heard testimony and received evidence from persons in opposition to the application. (Exhibits 31, 32, 33, 35, 36, 43, 46, 47, and 48.) The individuals in opposition raised concerns regarding increased parking in a congested area, relocation of the Chuck Brown mural, affordable housing, local hiring, and potential tenants in the retail space.

Post-hearing submissions. At the close of the hearing, the Board requested additional information from the Applicant regarding potential RPP restrictions and other parking-related information, as well as responses to issues raised by the community. The Applicant submitted the materials requested by the Board and included replies to the community concerns. (Exhibits 50, 50A.)

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The subject property is a triangular parcel located at 3701 New Hampshire Avenue, N.W. (Square 3030, Lot 805) (the "Property"). The Property is located at the intersections of New Hampshire Avenue, N.W., Georgia Avenue, N.W., and Rock Creek Church Road, N.W. The Property has a lot area of approximately 4,772 square feet.
2. The Property is small and triangular in shape. It has an unusual and atypical lot configuration. It narrows quickly at the intersection of three streets.
3. The Property also has an atypical extent of street frontage, all within close proximity to a major intersection. The Property also does not have any alley access.
4. The Property is currently improved with a two-story building previously utilized primarily as a restaurant. The Property is also the location of a mural depicting Chuck Brown ("Mural"), which is painted on the Georgia Avenue, N.W. façade of the existing building on the site. (Exhibit 11.)

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5. The Property is located directly across New Hampshire Avenue, N.W. from the Georgia Avenue – Petworth Metrorail station.
6. Along the Georgia Avenue corridor, there are many multi-story mixed use buildings with ground floor retail and residential uses.
7. To the east of the Property, the area consists mostly of row homes, as well as one- to two-story commercial buildings. (Exhibits 4 and 11.)
8. The site is not located in a historic district nor is the building on the Property currently designated as a historic landmark listed in the D.C. Inventory of Historic Places or the National Registry of Historic Places.
9. The Property is zoned C-3-A and is part of the Georgia Avenue Neighborhood Commercial Overlay (“GA”).
10. The C-3-A Zone District permits mixed use residential-retail buildings as a matter of right. The C-3-A Zone District permits a building height of 70 feet (11 DCMR § 770) and a floor area ratio (“FAR”) of 4.8 (with the Inclusionary Zoning bonus) as a matter-of-right. (11 DCMR § 771.)
11. Pursuant to 11 DCMR § 1327.3, goals of the Georgia Avenue Overlay include: (a) to encourage additional residential uses along the Georgia Avenue corridor; (b) to encourage improved commercial uses; and (c) to encourage vertically-mixed uses within a quarter mile of the Georgia Avenue-Petworth Metrorail Station along Georgia Avenue, from Park Road, N.W. to Shepherd Street, N.W.

The Applicant’s Project**Building Design**

12. The Applicant proposes to construct a five-story residential and retail building (the “Project”). The Project will have a building height of approximately 64 feet, one inch and an FAR of 4.8, consisting of approximately 22,840 square feet in total. (Exhibit 9.)
13. The Applicant proposes to have the Mural’s original artist repaint the Mural either on the new Project building or in another area of the neighborhood. (Exhibit 50).
14. The Project will provide ground floor retail and 21 residential units. The residential units will include approximately 2,023 square feet of affordable residential space, or three total units, with one unit priced for households earning 50% of the Washington, D.C. Area Median Income (“AMI”) and two units priced at 80% AMI. The Applicant’s proposal would exceed the Inclusionary Zoning set-aside requirements in Chapter 26 of the Zoning Regulations. (Exhibits 9 and 50.)

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15. The Project will have a lot occupancy of approximately 96%, while the Zoning Regulations permit a maximum lot occupancy of 80% for residential uses or 100% for commercial uses. (11 DCMR § 772.1.)
16. The core of the proposed structure occupies a large percentage of the structure, which creates an inefficient building design. (Exhibit 27A2 at 13.) In order to comply with the lot occupancy requirements of § 772.1, an alternative plan would require moving the core of the building, which would decrease the active street frontages and the retail space.

Parking

17. The Applicant proposes to provide no parking spaces on site.
18. The lot size and configuration constrain the Applicant from providing the required number of parking spaces on the surface of the lot itself, as the lot is small and narrows near the intersection of three streets.
19. The lack of alley access would require parking to be entered off of a street in close proximity to a major intersection.
20. Creating below-grade parking spaces would yield approximately one or two parking spaces, per each level of below-grade parking. Because of the narrow shape of the lot, creating a ramp to access below-grade parking would require a steep grade to access below-grade parking and would result in the removal of the retail use on the ground floor.
21. The lot's narrow width would not allow for excavation of the site to provide sufficient below-grade parking, ramps for two-way circulation, or a turning radius to efficiently access a parking garage.
22. To mitigate the potential impacts of the parking variance, the Applicant proposes a Transportation Demand Management Plan ("TDMP"), which includes a Resident Parking Permit ("RPP") restriction. (Exhibit 50.)
23. Other elements of the Applicant's TDMP are: (1) providing a \$25 SmarTrip card to all residents during the first 10-year period of the Project, and (2) providing a one-year membership to all new residents to either Capital Bikeshare or a car-sharing service for the first 10-year period of the Project. (Exhibit 27B, Exhibit 50, Transcript ("Tr.") Hearing of November 17, 2015, at 16-18.)
24. At the request of DDOT, the Applicant removed its proposal to offer free off-site parking to residents seeking parking spaces, as this effort may incentivize car ownership among residents of the building. Instead, the Applicant offered to assist residents to find and lease off-street parking for the first three-year period of the Project for up to 12 spaces in the Property vicinity. (Exhibit 27B, Exhibit 50, Tr., p. 16-18.)

Zoning Relief

25. The GA/C-3-A Zone District permits lot occupancy of 80% for residential uses or 100% for commercial uses. (11 DCMR § 772.1.) The first floor of the Project will be commercial and will meet the lot occupancy requirements.
26. The residential floors exceed the lot occupancy requirement, as the Project has a lot occupancy of approximately 96% for the residential floors, and therefore requires variance relief from § 772.1. (Exhibit 9.)
27. The GA/C-3-A Zone District requires owners to provide parking: (i) for retail use, one (1) space for each 300 square feet in excess of 3,000 square feet, and (ii) for multi-family residential use, one space for every two dwelling units. (11 DCMR § 2101.1.) Thus, this site would require a total of 12 parking spots (11 for the residential use and one for retail use).
28. The Project proposes no parking spaces, and therefore, requires variance relief from § 2101.1.

CONCLUSIONS OF LAW

Variances

Standard of Review

The Applicant seeks two area variances pursuant to § 3103.2 to permit relief from the lot occupancy and parking requirements in order to construct a mixed-use residential and retail building providing 21 new residential units.

The Board is authorized under § 8 of the Zoning Act (D.C. Code § 6-641.07(g)(3)) to grant area variances, as provided in the Zoning Regulations, where, by reason of extraordinary or exceptional situation or condition of a specific piece of property, the strict application of the Zoning Regulations would result in a practical difficulty for the applicant, provided that the relief will not cause substantial detriment to the public good or substantial impairment of the intent, purpose, and integrity of the Zoning Regulations and Zoning Map. (See 11 DCMR § 3103.2.)

As discussed below, the Board concludes that the Applicant has met its burden of proof for area variances from 11 DCMR §§ 772.1 and 2101.1.

Extraordinary or Exceptional Condition

The Applicant has demonstrated that the Property is affected by a confluence of factors, which create an exceptional condition due to the lot shape, size, and street frontage. Specifically, the lot is uniquely small and triangular in shape, with an atypical lot configuration. The Property also has a unique and exceptional extent of street frontage, all within close proximity to a major intersection. Two sides of the lot narrow quickly at the intersection of three streets. In addition,

the Property also does not have alley access.

Practical Difficulties

The Board also finds that strict application of the Zoning Regulations with respect to the lot occupancy and off-street parking requirements would cause practical difficulty to the Applicant. With regard to lot occupancy, the Board finds that the small size of the lot causes the Project to conform to the lot's unique shape. Although the structure occupies approximately 96% of the lot, the Project nonetheless yields a relatively inefficient building, due to the core taking up a large percentage of the structure. To require the Project to comply with the lot occupancy requirements would yield an exceptionally inefficient building, which would likely require moving the core of the building. Further, moving the core of the building would decrease the active street frontages and the retail space, both of which are goals of the Georgia Avenue Overlay pursuant to 11 DCMR § 1327. The Board credits OP's report, which also highlights the inefficiency of a building complying with lot occupancy and the consequences of moving the building core that amounted to a practical difficulty for the Applicant.

With regard to parking, the Board finds that the atypical street frontage, small lot size, and other exceptional circumstances at the Property create a practical difficulty for the Applicant to provide the required parking. First, the lot is too small to provide the necessary number of parking spaces. In addition, the lack of alley access would require parking to be entered off of a street in close proximity to a major intersection. The Board further finds that requiring the Applicant to provide below-grade parking spaces would be impractical, as the lot size and configuration would require a steep grade to access below-grade parking. Additionally, the Board finds that providing parking would remove much of the retail use on the ground-floor, in contradiction of the Georgia Avenue Overlay. The Board credits OP's report, which also noted the exceptional circumstances that lead to a practical difficulty for the Applicant, that because of the Property's shape and size, below-grade parking would be impractical.

No Substantial Detriment to Public Good or Substantial Impairment of the Zone Plan

Based on the findings of fact and for the reasons discussed above, the Board also concludes that the requested area variances will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property. In so doing, the Board concludes that the proposed mixed-use building with retail and residential uses is consistent with the Zoning Regulations and Maps.

In so finding, the Board has carefully considered the community concerns raised regarding the Project.² ANC 4C and persons in opposition raised concerns regarding the parking constraints in

² The Board notes that many of the persons in opposition discussed other concerns related to development in the area such as local hiring, local tenants in the retail space, and affordable housing. While these items are of concern generally to the Board, they are not germane to the decision regarding these area variances. The Board appreciates the community's comments and the Applicant's responses to those comments (Exhibit 50); however, the Board does not have the jurisdiction to consider those comments in its review of the variance application.

the area. These individuals explained that residents in the wider Ward zones were driving to the Property's vicinity to park and ride the Metro, thus making parking difficult for neighborhood residents. The Board finds, however, that these concerns relate to a larger parking issue in the area, and are not specific to the proposed Project.

Further, the Applicant's Transportation Demand Management Plan ("TDMP") and other measures mitigate the Project's adverse impacts on the neighborhood and public. The Applicant's TDMP has been adopted by the Board as conditions of this order. In its report, OP noted that the parking relief requested would not cause a substantial detriment to the public good given the Applicant's strong TDMP and the Project's proximity to transit. (Exhibit 30.) DDOT, in its report, concurred, and as discussed above, made suggestions regarding the TDMP, which the Applicant has incorporated. (Exhibit 29.) The Board credits the reports of OP and DDOT in finding that, to the extent that the Project's lack of parking could cause concerns, the Applicant has taken sufficient steps to mitigate potentially related adverse impacts. The Board also finds that the Project furthers the intent, purpose, and integrity of the Zone Plan by providing a transit-oriented development and furthering the goals of the Georgia Avenue Overlay.

Great Weight

Section 13(b)(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Code § 1-309.10(d)(A)), requires that the Board's written orders give "great weight" to the issues and concerns raised in the written recommendations of the affected ANC. In this case, both ANC 1A and ANC 4C are "affected," therefore the Board has accorded ANCs 1A and 4C the "great weight" to which they are entitled. In doing so, the Board fully credited the unique vantage point that both ANC 1A and ANC 4C hold with respect to the impact of the requested zoning relief on the ANC's constituents. While both ANCs approved the lot occupancy variance, ANC 1A supported the parking variance while ANC 4C voted 5-4-0 to deny the parking variance.

In its first written report, ANC 4C raised six specific items of concern in its report: (1) the transportation study submitted in support of the application cited areas in Northern Virginia and Ward 3 of the District, which are not an accurate comparison to the Site; (2) the Applicant's plan to lease off-site parking spaces for three years is not a long-term solution to mitigate the problem; (3) the Project would place additional pressure on the limited parking supply in the area, particularly near the Georgia Avenue-Petworth Metro Station; (4) granting parking relief would negatively impact the safety and welfare of residents near the site, particularly seniors; (5) granting variance relief would be detrimental to the public good; and (6) DDOT should restrict residents of the proposed project from applying for the Residential Permit Parking ("RPP") program. (Exhibit 28.)

In response to the issue raised by ANC 4C, the Board requested that the Applicant provide additional evidence and testimony to support the accuracy of its transportation study, including specific analysis of the parking conditions surrounding the Site. The Board also considered the ANC's concern regarding the Applicant's plan to assist residents in leasing off-site parking spaces, and ultimately determined that this approach was preferable to the Applicant's initial

proposal to provide free off-site parking, which was opposed by DDOT. As discussed above, the Board found that the proximity to the Georgia Avenue-Petworth Metro Station would not be detrimental to the public good, as it would provide opportunities for residents to use public transit. Further, the Board determined that the concern regarding residents from elsewhere in the District driving to the Property's vicinity to park and ride the Metro was an issue of general concern, rather than one specific to the proposed project. Finally, the Board was persuaded by ANC 4C's recommendation to restrict residents of the proposed project from applying for RPP, and that restriction is a condition of the Board's order.

The Board has carefully considered ANC 4C's opposition to the parking variance, and for the reasons stated above, the Board has found that the Applicant's efforts in design and mitigation regarding parking result in a Project that will not harm the public good.

In reviewing a variance application, the Board is also required under D.C. Official Code § 6-623.04 (2001) to give "great weight" to the recommendation of OP. For the reasons stated in this Order, the Board finds OP's report and testimony to be persuasive.

Based upon the record before the Board and having given great weight to the ANC 1A, ANC 4C, and OP reports filed in this case, the Board concludes that in seeking variances from the lot occupancy requirements under §772.1, and the off-street parking requirements under §2101.1, 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.

It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 27A³ AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall include in the condominium bylaws, public offering statement, purchase agreement, and deeds, a provision prohibiting unit owners from obtaining a Residential Parking Permit ("RPP") for the Property from the D.C. Department of Motor Vehicles ("DMV"), and shall also include a provision allowing the DMV to release to the Home Owners Association ("HOA") any and all records of those owners requesting or receiving an RPP for the Property. The Condominium Bylaws shall include a provision that makes it a violation of the HOA rules and/or bylaws for a resident of the Property to obtain an RPP.

³ The Applicant shall have flexibility to modify such plans to address any minor changes required by the building code or other regulations, so long as the minor changes do not require any additional areas of zoning relief.

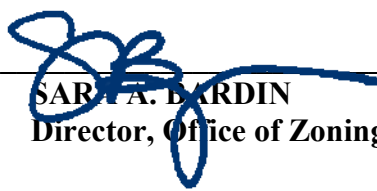
2. If the building is developed as a rental building, the building manager shall obtain written authorization from each resident through a lease provision that allows the DMV to release to the building manager any and all records of that resident requesting or receiving an RPP for the Property.
3. The HOA, if the building is developed as a condominium building, or the building manager, if the building is developed as a rental building, shall monitor resident compliance with the RPP restriction by requesting from the DMV, every twelve (12) months, any and all records of residents requesting or receiving RPPs for the Property.
4. If the building is developed as an apartment building, prior to obtaining a certificate of occupancy for the approved building, the Applicant shall record a covenant against the Property among the Land Records of the District of Columbia prohibiting any resident of the Property from obtaining an RPP for such individual's use of the building as a covenant running with the land for the life of the project.
5. If the building is developed as a rental building, the building manager shall include in its residential leases a provision that prohibits tenants from obtaining an RPP for the Property from the DMV. Each of these parking restrictions shall be prominently featured in each residential lease as a rider that is separately initialed by each residential tenant. Any violations of the above parking restrictions shall be treated as an automatic default under the lease and provide grounds for termination of such lease. Such lease shall set forth that landlord shall use prompt and reasonable efforts, consistent with District of Columbia landlord tenant laws, to terminate such lease and remove the tenant from the premises, in the event of such default.
6. The Applicant shall secure up to twelve (12) parking spaces in nearby parking facilities for exclusive use by the Project's residents for a period of three (3) years after the issuance of the first certificate of occupancy for the project, as set forth below:
 - a. The Applicant will negotiate a lease or other contractual arrangement ("Lease") from an operator ("Lessor") of one or more nearby parking garage(s) that provides the Applicant with up to twelve (12) monthly parking passes ("Passes") to the extent that they are available:
 - i. The Passes shall be dedicated for the exclusive use of project residents or persons affiliated or associated with the Project, to provide access at any time to parking spaces in said garage(s) 24 hours a day, seven days a week, 52 weeks a year.

- ii. The Passes shall require the garage operator to grant persons holding such Passes immediate and continuous access to, and use of, a parking space in the garage.
 - iii. Parking spaces for which the Passes provide access shall be located within ¼ mile of the Project.
- b. The Applicant shall sublease or assign such spaces to residents in the Project at market rates.
7. The Project shall be designed in a manner that will allow for loading supporting commercial uses to occur from New Hampshire Avenue and the curb cut along Rock Creek Church Road is to be removed, as shown on the plans approved by this Order, subject to approval through the public space permitting process.
8. Trash dumpsters shall be housed interior to the project, as shown on the plans approved by this Order.
9. A rat abatement program shall be instituted by the Applicant before and during construction.
- VOTE: 3-0-2** (Marnique Y. Heath, Frederick L. Hill, and Michael G. Turnbull (by absentee ballot) to APPROVE; Jeffrey L. Hinkle not present, not voting; one Board seat 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: _____


SARAH A. BARDIN

Director, Office of Zoning

FINAL DATE OF ORDER: September 30, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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 SUBTITLE A § 303, 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.