

LAW OFFICES
GRIFFIN, MURPHY, MOLDENHAUER & WIGGINS, LLP

MARK G. GRIFFIN (DC, MD)
BRIAN P. MURPHY (DC, MD)
ASHLEY E. WIGGINS (DC, MD, VA)
MERIDITH H. MOLDENHAUER (DC, MD)
Y. AJOKI AGBOOLA (MD, DC*)
SAMANTHA MAZO (DC, MD)
PATRICIA MILLERIOUX (DC)
DIRECT DIAL: 202-530-7158
FENDING
DIRECT EMAIL: smazo@washlaw.com

February 19, 2016

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

Re: Application No. 19169 –317 K Street NW (Square 526, Lots 20, 21, 804, 805, 824, 825 & 829)

Informational Draft Order

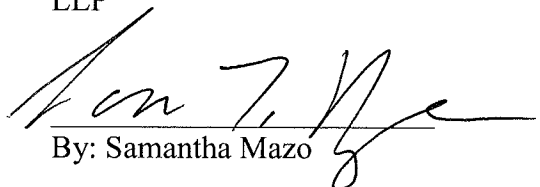
Chairperson Heath and Honorable Members of the Board:

On behalf of 311 K Street LLC, the applicant in this case, please find a draft order that is being submitted for informational purposes in response to the Board's request. This case has no parties in opposition, and the Application is supported by ANC 6E, the Office of Planning, and the District Department of Transportation. Accordingly, the Applicant requests that a summary order be issued should the Board grant the relief requested on February 23, 2016 when the case is scheduled for a decision.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP


By: Samantha Mazo

Board of Zoning Adjustment
District of Columbia
CASE NO. 19169
EXHIBIT NO. 43

Cc: Advisory Neighborhood Commission 6E
c/o Marge Maceda, Chair (via email)
Steve Cochran, Office of Planning (via email)
Jonathan Rodgers, District Department of Transportation (via email)

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

INFORMATIONAL DRAFT ORDER¹

Application No. 19169 of 311 K Street LLC pursuant to 11 DCMR § 3103.2 for a variance from the requirements for rear yard (§ 774.1), parking (§ 2101.1), and loading (§ 2201.1) to allow construction of a hotel with approximately 200 rooms and 2,040 sq. ft. of hotel bar and public space, as well as approximately 30 residential units, in the DD/C-2-C Zone District, Housing Priority Area A, at premises 317 K Street NW (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829).

HEARING DATE: February 9, 2016
DECISION DATE: February 23, 2016

DECISION AND ORDER

This application was submitted on October 16, 2015, by 311 K Street LLC (the “Applicant”), the contract purchaser of the property that is the subject of the application. The application requests variance relief under § 3103.2 of the Zoning Regulations for the requirements for rear yard (§ 774.1), parking (§ 2101.1), and loading (§ 2201.1)² to allow construction of a hotel with approximately 200 rooms and 2,040 sq. ft. of hotel bar and public space, as well as approximately 30 residential units, in the Downtown Development (“DD”) Overlay District/C-2-C Zone District at premises 317 K Street NW (Square 526, Lots 20, 21, 804, 805, 824, 825, and 829) (the “Property”). Following a public hearing, the Board voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated October 26, 2016, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 6; Advisory Neighborhood Commission (“ANC”) 6E, the ANC in which the Property is located; and the representative for ANC Single Member District 6E07. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed letters on October 28, 2016, providing notice of the hearing to the Applicant, ANC 6E, and the owners of all property within 200 feet of the Property. Notice of the hearing was published in the *D.C. Register* on November 6, 2015 (62 DCR 14271).

¹ This draft order is for informational purposes only and is submitted for the sole purpose of responding to the Board’s request. There are no parties in opposition, and the Application is supported by ANC 6E, the Office of Planning, and the District Department of Transportation. Therefore, the Applicant requests that a summary order be issued should the Board grant the relief requested.

² The initial application requested relief only for rear yard and parking requirements. However, the Applicant subsequently revised the application to add a request for loading relief. (Exhibits 29, 34.)

Party Status. The Applicant and ANC 6E were automatically parties to this proceeding. No other persons requested party status.

Applicant's Case. The Applicant provided evidence and testimony describing the proposed project (the "Project") — to construct a 14-story mixed-use building containing a hotel with approximately 200 rooms and 2,040 sq. ft. of hotel bar and public space, as well as approximately 30 residential units on the building's top three floors. The Applicant asserted that the application satisfies all of the requirements for the relief requested.

OP Report. By memorandum dated January 19, 2016, the Office of Planning recommended approval of the application. OP's analysis concluded that the Applicant had met all the requirements for variance relief. (Exhibit 30.) At the February 9, 2016 hearing on the application, OP staff stated that the Applicant met the variance test with respect to rear yard and parking. With respect to loading relief, OP stated that the Applicant satisfied the first two prongs of the variance test, but that OP deferred to DDOT with respect to the third prong of the test — that the relief will not cause substantial detriment to the public good and will not substantially impair the intent, purpose, or integrity of the Zone Plan.

DDOT Report. DDOT submitted three memoranda regarding the Project. In a memorandum dated January 19, 2016, (Exhibit 31) DDOT indicated that it had received the Applicant's Comprehensive Transportation Review ("CTR") later than is typical for such submissions and that it was continuing to coordinate with the Applicant to receive additional information, particularly with respect to the requested loading relief. On January 22, 2016, the Applicant filed a request to continue the hearing originally scheduled for January 26, 2016 to February 9, 2016, to provide additional time to work with DDOT. (Exhibit 35.)

In a report dated February 2, 2016, (Exhibit 36) ("First Supplemental Report") DDOT stated that, based on the initial plans, the proposed 20-foot service delivery space would be unlikely to be used due to its difficult-to-access location in the corner of the garage. DDOT stated that this would externalize loading functions to the curbside, and that DDOT would be unlikely to grant this level of curbside use in the permitting process. DDOT further stated that, while the Applicant had revised its plans to improve maneuverability to the service delivery space, the plans did not address proximity to the elevators and grading issues DDOT had raised. DDOT stated that it objected to the requested relief unless a functional service delivery space would be provided with direct access to the elevator core.

At the February 9, 2016 hearing on the application, DDOT staff stated that DDOT did not object to relief with respect to the required 30-foot loading berth, understanding the difficulty in providing the berth. Rather, DDOT stated that the proposed loading/service area would be less likely to be used because of its distance from the elevator core, the ramping leading in the building's garage, and the lack of a dedicated service corridor. DDOT further stated that, based on the Applicant's testimony at the hearing regarding further revisions to the loading plan, it would be willing to work with the Applicant regarding these changes. DDOT staff testified that DDOT had no objection to the parking variance request.

Following the hearing, the Applicant submitted revised plans with a new loading plan providing the 20-foot service space on the same level as the elevator and approximately 55 feet from the elevator core. (Exhibit 40 and 41.) DDOT subsequently submitted a report dated February 16, 2016, (Exhibit 42) (“Second Supplemental Report”) stating that it no longer had any objection to the application, as revised, subject to the following conditions:

- (1) That the Applicant limit the financial incentive component of its traffic demand management (“TDM”) plan to bikeshare and carshare memberships only, as these are more effective means of encouraging long-term changes in travel behavior;
- (2) That the Applicant provide a minimum of eight short-term bicycle parking spaces in public space near the Project’s entrance; and
- (3) That the Applicant strengthen its loading management plan (“LMP”) to require any delivery using a truck 20 feet or less in length to use the on-site service delivery space.

ANC Report. By letter submitted January 11, 2016, ANC 6E indicated that it discussed the application at a duly noticed meeting on January 5, 2016, and voted, with a quorum present, 5-1-1 to support the application. (Exhibit 26.) The ANC stated that the Applicant had addressed the ANC’s concerns by: identifying the number of available parking spaces in nearby garages; agreeing to provide valet parking on site; identifying potential valet parking spaces on the site plan; and obtaining letters of intent from four nearby garage facility managers documenting the ability to accommodate surplus vehicles from the Project.

Persons in support or opposition. No persons appeared to testify in support or opposition of the Application.

FINDINGS OF FACT

The Property and Surrounding Area

1. The Property has approximately 10,767 sq. ft. of land area and is located in Northwest Washington, D.C., at the intersection of 4th and K Streets, NW, in the Mount Vernon Triangle neighborhood.
2. The Property is classified within the DD/C-2-C Zone District and is located in Housing Priority Area A.
3. The Property is currently improved with three one- to three-story commercial buildings that, combined, are approximately 5,495 sq. ft. in size.
4. Directly across 4th Street from the Property is a high-rise residential apartment building.
5. The properties along 4th Street between K Street and L Street are either under review for development or under construction. The owner of the property directly to the north, at 1035 4th Street, has submitted a building permit application for an approximately 223-unit residential building. A curb cut just north of the Property’s rear lot line has been approved by DDOT’s Public Space Committee to access that building. Just north of that property, a

project at 1031 4th Street NW (the “Ellisdale Project”) has been approved for 124 residential units and approximately 5,890 sq. ft. of retail pursuant to *Application No. 18749 of 1031 4th Street LLC*. The Ellisdale Project also includes a 30-foot on-street truck loading space and is currently under construction.

6. Across K Street from the Property are surface parking lots. The Property is approximately one block from the I-395 interstate highway underpass, and it is located on the eastern boundary of the Mount Vernon Triangle.
7. The Property is located approximately 0.5 miles from three Metrorail Lines: the Yellow and Green Lines at the Mt. Vernon Square/Convention Center Metro Station, and the Red Line at the Gallery Place/Chinatown Metro Station.
8. Metrobus routes X2, D4, P6, 80, 70, and X2, and the DC Circulator bus all stop within 0.2 miles of the Property.
9. The Property is within close proximity to a number of bikesharing and carsharing programs. Capital Bikeshare stations are located at 5th and L Street NW (one block away, 17 docks), 5th Street and Massachusetts Avenue NW (two blocks away, 18 docks), and at 3rd and H Streets NW (one block away, 14 docks).

The Project and Relief Requested

10. The Project is to construct a 14-story, mixed-use building containing hotel and apartment uses.
11. The hotel use will occupy the second through eleventh floors of the building and will contain approximately 200 rooms and approximately 2,040 gross sq. ft. of hotel bar and public space.
12. The apartment house use will occupy the twelfth through fourteenth floors of the building and will contain approximately 30 units.
13. At the request of DDOT, the Applicant consolidated all circulation and access to a single curb cut off of 4th Street NW.
14. Section 774.1 of the Zoning Regulations requires a minimum rear yard of 15 feet in the C-2-C District.
15. The Project will not provide a rear yard, but will provide a compliant court to the rear. Accordingly, the Applicant requests relief from § 774.1.
16. Under § 2101.1, the Project is required to provide eight parking spaces for the apartment house (one space for every four of the Project’s 30 units). Further, the Project is required

to provide 100 parking spaces for the hotel rooms (one space for every two of the Project's 200 sleeping rooms), and 14 spaces for the hotel bar/lounge area (one space for every 150 sq. ft. of the largest function space, which is 2,040 sq. ft.). Altogether, the Project is required to provide 122 parking spaces

17. The Project will have two levels of below-grade parking containing 46 spaces, to be managed by valet operators. The Applicant requests relief for the remaining 76 spaces.
18. Under § 2201.1, the Project is required to provide one 30-foot loading berth, one 100-foot loading platform, and one 20-foot service/delivery space.
19. The Project will provide a 20-foot service/delivery loading space.
20. The 20-foot service/delivery loading space will be located on the same level as the elevator core (Floor G1), and it will be located approximately 55 feet from elevators. As designed, the 20-foot loading space satisfies the location and access requirements of §§ 2203 and 2204, as well as the 10-foot vertical clearance requirement of § 2201.5. (Exhibits 40, 41.)
21. Due to the consolidation of access onto 4th Street, the Project will not provide the required 30-foot loading berth or 100-foot platform. Thus, the Applicant requests relief for these requirements.
22. The Project will provide a 30-foot curbside loading space located in one of two valet parking spaces as shown in Exhibit 41.

Exceptional Situation

23. The Property forms an irregular, wide "L" shape, as an assemblage of seven different lots.
24. The Property is a corner lot with a lot area of 10,767 sq. ft., which is relatively small considering the intended mix of uses. The Applicant is unable to assemble more land for the Project due to the other pending and/or approved developments planned for the area.
25. K Street is flanked by a broad, approximately 50-foot-wide public sidewalk area. Because of the pedestrian-friendly nature of this wide sidewalk, DDOT informed the Applicant that it will not approve a curb cut for the Property's frontage on K Street.
26. The Property has no rear alley access. Because DDOT will not approve a curb cut for the Property's frontage on K Street, all vehicular access must be from 4th Street NW.
27. The Property has a high water table that restricts excavation to two levels, due to groundwater being at a depth of 20 feet.

Practical Difficulty

28. Due to the Property's unusual "L" shape, if the Applicant provided the required rear yard, the rear of the "dogleg" lots would continue to extend beyond the rear of the other lots, resulting in a non-conforming court and thereby necessitating additional zoning relief.
29. Providing a compliant rear yard would require further narrowing the floor plate, already constrained by the small size of the Property and the design needed to accommodate the Property's "L" shape.
30. The ramping and staircases for the Project are designed to accommodate the central elevator core, located based on fire and building code requirements. Providing a compliant rear yard would likely prevent the Project from accommodating the ramping area needed to support below-grade parking, which would trigger the need for additional variance relief.
31. The "L" shape of the Property creates an area in the northeast corner of the site that is too wide and shallow to efficiently park multiple vehicles.
32. The Property's high water table prevents the Applicant from providing any more than two below-grade levels of parking.
33. Because the Property has no rear alley, a parking elevator, which requires rear alley access, is not an option. Accordingly, below-grade parking must be accessed via a ramping system.
34. The Property's small lot area and odd shape make it difficult to efficiently accommodate the necessary ramping, central elevator core, lobby, trash rooms, staircases, bike room, and other required below-grade mechanical and operational spaces. These areas account for more than 20% of the total available, below-grade area. In light of these conditions, and the Property being limited to two below-grade levels, the Project can only provide 46 parking spaces below grade.
35. The truck turning diagrams provided at Exhibit 29D demonstrate the difficulty in accommodating access for 30-foot trucks below grade.
36. DDOT's Design and Engineering Manual prohibits backing maneuvers through public space. However, due to the relatively small size of the lot and the prohibition on creating a curb cut on K Street, DDOT determined that a 30-foot loading berth could not be accommodated on-site without backing maneuvers.
37. Because the Property has no rear alley access, and a curb cut is not permitted from K Street, all loading must be provided from the 4th Street curb cut. If required, 30-foot truck loading

facilities would double the size of the curb cut area, which DDOT does not support due to potential negative impacts on the pedestrian network.

38. Providing the required 30-foot truck loading facilities, along with an area devoted to maneuvering space for 30-foot trucks, would significantly restrain the building's ground-floor, particularly the "back of the house" area — which includes administrative offices and storage — necessary to support the hotel use.

No Detriment to the Public Good or Zone Plan

39. Under § 720.9, "[t]he C-2-C District is designed to serve commercial and residential functions similar to the C-2-A District, but with higher density residential and mixed uses."

40. Under § 1700.2, the purpose of the DD Overlay District is to help accomplish the land use and development policies of the Comprehensive Plan relating to the affected Downtown sectors. Section 1700.3 states that "[t]he most important general purposes include the following:

- (a) To create a balanced mixture of uses by means of incentives and requirements for critically important land uses identified in the Comprehensive Plan, including retail, hotel, residential, entertainment, arts, and cultural uses;
- (b) To guide and regulate office development, which is generally favored by market forces over the other desired uses, so as to further the land use objectives for retail, hotel, residential, entertainment, arts, and cultural uses;
- (c) To protect historic buildings and places while permitting sensitive and compatible new development subject to the historic preservation review process of the Historic Landmark and Historic District Protection Act of 1978 . . . ;
- (d) To substantially achieve the specific land use and development policies for the following Downtown subareas: Retail Core, Gallery Place, Convention Center, Chinatown, Pennsylvania Avenue West, Pennsylvania Quarter, Mount Vernon Square, and Judiciary Square;
- (e) To guide the design of buildings to be generally consistent with the urban design, street orientation and design, and historic preservation policies of the Downtown Plan Element of the Comprehensive Plan;
- (f) To foster growth opportunities for and retention of small and minority businesses; and
- (g) To provide adequate and visually acceptable short-term parking and consolidated loading facilities having access primarily from streets other than F, G, and 7th Streets."

41. Although the Project will not provide a rear yard, it will provide a substantially-sized, conforming rear court on the northeast quadrant of the Property.
42. The absence of a rear yard will enable a more cohesive pedestrian environment on 4th Street, where the sidewalk will already be interrupted by curb cuts for two developments to the north, and by parking access for the Project.
43. Further reduction in the Project's ground-floor space as a result of providing a rear yard would interfere with the Project's ramping system.
44. With eight of the Project's parking spaces dedicated to the residential use, the remaining 38 spaces will be used for hotel patrons.
45. The parking garage will be managed by valet operators who will also service additional hotel parking, with spaces located at off-site facilities. Based on the letters of intent of nearby parking facilities submitted by the Applicant a sufficient number of parking spaces is available in nearby garages to accommodate the hotel's parking needs.
46. Due to the high availability of excellent non-auto transportation options, it is likely that auto usage by residents and hotel guests will be low and that the proposed on-site parking supply will be sufficient.
47. In the event that demand for parking is higher than anticipated, the Applicant has obtained letters of intent from four nearby parking facilities that identify sufficient parking availability for potential valet service usage by the subject property. (Exhibit 29B.)
48. The availability of parking spaces in private parking facilities in the vicinity will provide sufficient parking if parking demand should exceed available on-site parking supply.
49. The Applicant will implement TDM measures, as detailed below, as a condition to the requested relief.
50. The Applicant will accommodate 20-foot service deliveries at the on-site 20-foot delivery space identified in Exhibits 40 and 41. As designed, the service space results in a loading space that is likely to be utilized for deliveries and will accommodate some of the on-site loading activity while lessening the demand placed on the 30-foot curbside loading.
51. Thirty-foot loading trucks will be accommodated via a combined curbside loading area on 4th Street that may also be used for valet operations. A service corridor will connect the curbside loading area to the building's "back-of-the-house" area.

52. Based on the Applicant's CTR (Exhibit 32B), the Project is projected to generate 30-foot truck loading visits at a maximum rate of three visits per day.

53. The Applicant will implement an LMP, as detailed below, as a condition to the relief requested.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-631.07(g)(3), to grant variance relief where, "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that 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. 11 DCMR § 3103.2.

The District of Columbia Court of Appeals has read the Zoning Act and Regulations to impose a three-part test for granting an area variance. The Applicant "must show that (1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) 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." *Fleischman v. D.C. Bd. of Zoning Adjustment*, 27 A.3d 554, 560 (D.C. 2011) (quoting *Wash. Canoe Club v. D.C. Zoning Comm'n*, 779 A.2d 995, 1000 (D.C. 2005)).

The Applicant requests variance relief from the regulations regarding rear yard under § 774, parking under § 2101, and loading under § 2201. The Board concludes that the Applicant has met its burden of proof for the requested area variances.

Exceptional Circumstances

The Board finds that, based on a confluence of factors, an exceptional circumstance exists at the Property. The Property forms an irregular, wide "L" shape, as an assemblage of seven different lots. It is a corner lot with an area of only 10,767 sq. ft., which is relatively small considering the intended mix of uses. The Applicant is unable to assemble more land for the Project due to other pending and/or approved developments planned for the area. Further, because of the especially pedestrian-friendly nature of the wide sidewalk along the Property's frontage on K Street NW, DDOT will not approve a curb cut for this area. Additionally, the Property has no rear alley access. Because DDOT will not approve a curb cut on K Street, all vehicular access must be from 4th Street NW. Lastly, the Property is affected by an exceptional condition in that it has a high water table that restricts any excavation to two underground levels due to groundwater being at a depth of 20 feet.

Practical Difficulty

Due to the exceptional circumstances affecting the Property, the Applicant will face practical difficulties if zoning requirements are strictly imposed.

With respect to the required 15-foot rear yard, if the Applicant were required to meet this requirement, the “dogleg” lots on the rear of the Property would continue to extend beyond the rear of the other lots. This would result in a non-conforming court, thereby necessitating additional zoning relief. Essentially, one form of zoning relief would replace another. Additionally, providing a compliant rear yard would require further narrowing the floor plate, already constrained by the Property’s small size and the design needed to accommodate the Property’s “L” shape. Lastly, the Project’s ramping system and staircases are designed to accommodate the central core, located based on fire and building code requirements. Providing a compliant rear yard would likely prevent the Project from accommodating the ramping needed to support below-grade parking, thereby triggering the need for additional variance relief as to this aspect of the Project as well. In addition, the District’s design intentions for K Street as a landscaped boulevard and linear park spine for the Mount Vernon Triangle resulted in DDOT’s preferring that any curb cut for parking or loading be located on 4th Street. This change in the curb cut and driveway location resulted in a re-design that further exacerbated the difficulty in providing a rear yard. Together, these factors create a practical difficulty for the Applicant in providing a rear yard.

As to parking requirements, the Property’s “L” shape creates an area in the northeast corner of the site that is too wide and shallow to efficiently park multiple vehicles. Moreover, while the Project will provide two below-grade levels of parking, the Property’s high water table prevents the Applicant from providing any more than two levels. Because the Property has no rear alley, a parking elevator, which requires rear alley access, is not an option. Accordingly, below-grade parking must be accessed by a ramping system. Further, the Property’s small lot area and odd shape make it difficult to efficiently accommodate the necessary ramping, central elevator core, lobby, trash rooms, staircases, bicycle room and other required below-grade mechanical and operational spaces. These areas account for more than 20% of the total available, below-grade area. In light of these conditions, and the Property being limited to two below-grade levels, the Applicant faces a practical difficulty in providing more than 46 parking spaces.

Providing the required 30-foot loading berth and 100-foot loading platform also presents a practical difficulty for the Applicant. The truck turning diagrams provided at Exhibit 29D demonstrate the difficulty in accommodating access for 30-foot trucks below grade. Further, due to the relatively small size of the lot and the prohibition on creating a curb cut on K Street, DDOT determined that a 30-foot loading berth could not be accommodated on-site without backing maneuvers. Also, providing the required loading facilities, along with the area needed to allow trucks to maneuver to the facilities, would significantly restrain the building’s ground floor, particularly the “back of the house” area, which includes administrative offices and storage necessary to support the hotel use. The Property is vehicle-accessible only via the curb cut on 4th Street NW, while the parking garage ramp is located on the northernmost portion of the Property.

For this reason, the required loading facilities would double the size of the curb cut area, which DDOT does not support due to potential negative impacts on the pedestrian network. The resulting curb cut layout would impact the building's efficiency and configuration. For all of these reasons, providing the required loading facilities would be practically difficult.

No Detriment to the Public Good or Zone Plan

The Board concludes that the Project will not result in substantial detriment to the public good or substantial impairment of the intent, purpose, and integrity of the zone plan. The Project will contribute to the mix of uses intended for the C-2-C Zone District under § 720.9, as well as the balance between offices and other uses intended for the DD Overlay District under § 1700.3.

With respect to the requested rear yard relief, the Project proposes a conforming rear court that will ensure access to light and air along the rear lot line. Further, the absence of a rear yard will enable a more cohesive pedestrian environment on 4th street, where the sidewalk will already be interrupted by curb cuts for two developments to the north, and by parking access for the Project. Also, additional reduction in the Project's ground-floor space as a result of providing a rear yard would interfere with the Project's ramping system.

Parking relief also will not have a negative impact. Most residents are anticipated not to have cars but rather utilize public transit, given the Property's central location and surrounding public amenities. Eight of the spaces will be dedicated to the residential use, with the remaining 38 spaces to be used for hotel patrons. Valet operators will service additional hotel parking, with spaces located at off-site facilities. Due to the high availability of excellent non-auto transportation options, it is likely that auto usage by residents and hotel guests will be low and that the proposed on-site parking supply will be sufficient. In the event that demand for parking is higher than anticipated, the Applicant has obtained letters of intent from four nearby parking facilities that identify sufficient parking availability for potential valet service usage by the subject property. (Exhibit 29B.) The availability of parking spaces in private parking facilities in the vicinity will provide sufficient parking if parking demand should exceed available on-site parking supply. Moreover, the Applicant will implement TDM measures, as detailed below, as a condition to the requested relief.

Lastly, relief from loading requirements will not have any adverse impact. Based on the Applicant's CTR, the Project is projected to generate 30-foot truck loading visits at a maximum rate of three visits per day. The Applicant will implement an LMP, as detailed below, as a condition to the relief requested. Additionally, the Applicant revised its garage plan in response to concerns raised by DDOT regarding the location of the 20-foot service delivery space. (Exhibit 41.) The revised plan locates the service delivery space on the same level as the elevator core with a distance of approximately 55 feet between the two. In response to these revised plans, DDOT filed a Second Supplemental Report indicating that the Applicant had resolved the concerns initially raised regarding loading and that DDOT no longer objected to the application. (Exhibit 42.) DDOT found that, as designed, the service space results in a loading space that is

likely to be utilized for deliveries and will accommodate some of the on-site loading activity while lessening the demand placed on the 30-foot curbside loading area.

Great Weight

In deciding to grant or deny applications for zoning relief, the Board is required to give “great weight” to OP’s recommendation. D.C. Official Code § 6-623.04. The Board must demonstrate in its findings that it considered OP’s views and must provide a reasoned basis for any disagreement with it. *Glenbrook Rd. Ass’n v. D.C. Bd. of Zoning Adjustment*, 605 A.2d 22, 34 (D.C. 1992) (internal citation omitted). In this case, OP’s report recommended approval of the application. At the February 9, 2016 public hearing, OP reiterated its support, with the caveat that it deferred to DDOT’s assessment of the third prong of the variance test — detriment to the public good and impairment of the Zone Plan — with respect to loading issues. As noted above, DDOT supports the application with the Applicant’s revised loading plan. The Board finds OP’s recommendation of approval persuasive in this case.

Similarly, the Board must give “great weight” to the issues and concerns that the affected ANC raises in its written report. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)). In this case, ANC 6E submitted a letter in support of the Project, stating that the Applicant had addressed the ANC’s concerns by: identifying the number of available parking spaces in nearby garages; agreeing to provide valet parking on site; identifying potential valet parking spaces on the site plan; and obtaining letters of intent from four nearby garage facility managers documenting the ability to accommodate surplus vehicles from the Project. The Board has given the ANC the great weight due in approving the application.

Accordingly, it is **ORDERED** that the application is **GRANTED SUBJECT** to the following **CONDITIONS**:

TDM Plan

1. Assign a Transportation Management Coordinator to provide transportation information to residents, guests and employees;
2. Install a transit screen in both the residential and hotel lobbies showing real-time alternative transportation information;
3. Establish a TDM marketing program to provide detailed non-auto transportation options to residents;
4. Inform prospective guests about parking and alternative modes of transportation as part of the pre-registration and reservation process through check-in;
5. Offer daily Capital Bikeshare passes to hotel guests;

6. Offer the first occupant of each residential unit a one-time, one-year carsharing membership and application fee, a \$100 Smartrip Card, or a one-time annual Capital Bikeshare membership;
7. Provide at least 22 long-term bicycle parking spaces on-site and additional short-term bicycle parking spaces;
8. Financial incentives should be limited to bikeshare and carshare memberships; and
9. Install at least eight short-term bicycle parking spaces.

Loading Management Plan

1. Require vendors and tenants to coordinate and schedule deliveries;
2. Limit trucks to a maximum of 30 feet in length;
3. Assign a loading management coordinator;
4. Require all tenants to schedule any loading operations using a truck greater than 20 feet in length;
5. Schedule deliveries such that on-street capacity is not exceeded;
6. Prohibit deliveries from K Street;
7. Limit loading area operations to daytime hours;
8. Coordinate loading hours with valet operations so as to minimize conflicts and determine the most optimal times for loading; and
9. Instruct any delivery using a truck 20 feet in length or shorter to use the on-site service delivery space.

VOTE:

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

The majority of the Board members approved the issuance of this order.