

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

Application of Thomas Jefferson Real Estate, LLC

ANC 8F

**STATEMENT OF THE APPLICANT**

This is the application of Thomas Jefferson Real Estate, LLC (the “**Applicant**”) for a Modification With Hearing to Order No. 19616 to allow continued lodging use at 818 Potomac Avenue SE (Square 930, Lot 23) (“**Property**”) without a time restriction. With this application, the Applicant requests that the previously-approved loading special exception be reapproved and not restricted to a term. The Property is located in the NMU-7B/ES zone and contains approximately 9517 square feet of land area.

**I. Background**

Pursuant to Order No. 19616, final on January 9, 2018, the Board of Zoning Adjustment (“**BZA**” or “**Board**”) approved special exception relief from the lot occupancy, ground floor designated use, and penthouse setback requirements to allow the construction of a new four-story plus habitable penthouse 49-unit residential apartment building with underground parking (the “**Project**”). The Project began construction in July 2019 and opened in May 2021.

Then, pursuant to Order No. 19616A, final on July 14, 2021, the Board approved a modification of significance and special exceptions to change the use of the building from residential to lodging. While the Applicant did not propose any physical changes to the Project, the use change to lodging required relief from the loading requirements and the long-term bicycle parking requirements for showers and clothing lockers. Since 2021, the Applicant has operated the Project as lodging in accordance with Order No. 19616A. A site plan of the Project is included.

With its approval of this modification and these special exceptions, the Board imposed seven conditions, including a five-year term that will expire on July 24, 2026.

Now, with this application, the Applicant requests that the Board approve some of the same relief that it already approved in 2021. The Applicant proposes continued lodging use in the Project so that 48 apartments may continue to be rented furnished on a short-term (nightly) basis. The Applicant is not proposing any changes to the design, massing, or other physical aspects of the Project. The Project will remain as approved and permitted, and operations will continue as they have been for the past five years. The Applicant is simply requesting that the Board allow this lodging use to continue as-is without a term, and nothing new is proposed. Other than the term (#6) and the use change (#7), the Applicant does not propose any changes to the Conditions (#1-5) in Order No. 19616A.

Lodging use is permitted as a matter of right in this zone, and the maximum permitted FAR in the zone is the same regardless of use.<sup>1</sup> Except for the relief initially granted for residential use, the Project conforms to all development standards in the zone for lodging use, other than loading.<sup>2</sup>

Lodging use in the Project has a loading requirement that does not exist for residential use, so the Project was permitted and constructed without loading.<sup>3</sup> For lodging use, the required loading for the Project is one (1) loading berth since the loading requirement for lodging is based on gross floor area.<sup>4</sup> There is no ability to accommodate loading in any event.

In Case No. 19616A, the Applicant requested relief from, and the Board approved, the requirement for showers and clothing lockers that accompany the long-term bicycle parking

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<sup>1</sup> See Subtitle H §§ 704.1 & 6008.1(f)

<sup>2</sup> With the change to lodging use, the Project conforms to the lot occupancy requirement for which relief was previously granted for residential use, making it more conforming in that respect.

<sup>3</sup> There is no loading required for a residential building with fewer than 50 units per Subtitle C § 901.1.

<sup>4</sup> See Subtitle C §§ 901.1 & 901.5(a) for the loading requirement.

requirement. Since then, the Applicant repurposed one of the two-bedroom apartments into a management office, which includes two (2) showers and two (2) clothes lockers as required under Subtitle C §§ 806.4 & 806.5. Accordingly, the Project now complies with this requirement and no longer needs relief.

Also in Case No 19616A, the Applicant requested, and the Board approved, a change to the principal use from that approved in Order No. 19616, pursuant to Subtitle A §§ 304.10(d) & 304.13. However, in accordance with the text amendment recently approved by the Zoning Commission in Case No. 25-12, the Zoning Administrator is authorized to change the principal use from that approved in a BZA Order when the new use is permitted as a matter of right in the zone. Accordingly, since lodging use is permitted as a matter of right in this zone, this relief is no longer necessary and obviates the need for Condition #7 in Order No. 19616A.

## **II. Nature of Relief Sought**

The Applicant requests that the Board reapprove a special exception from the loading requirements in Subtitle C § 901.1.

## **III. Jurisdiction of the Board**

The Board has jurisdiction to grant the relief requested pursuant to Subtitle C § 909.2, Subtitle X § 900.2, and Subtitle Y § 100.3 of the Zoning Regulations.

## **IV. The Application Satisfies the Criteria for the Requested Special Exception Relief from the Loading Requirements**

As noted above, the Applicant requests reapproval of special exception relief from the loading requirement because loading is required for lodging use but is not required for residential use. Relief from the loading berth required by Subtitle C § 901.1 is permitted as a special exception, subject to the specific requirements in Subtitle C § 909.2 and the general provisions of

Subtitle X § 901.2. For the reasons set forth below, the Project continues to satisfy these requirements.

1. *The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this chapter, or in Chapters 6 or 11 of Title 24 DCMR (C § 909.2(a)).*

As shown in the included site plan, the Property does not have access to a public alley. Therefore, any vehicular access to the Project requires a curb cut. The Project already has one curb cut on L Street to access the parking. Most of the parking is below grade accessed via an automated system, and the ADA-required accessible parking space is provided at grade next to the underground parking entrance and between the new building and a historic row dwelling. Loading could not be accommodated from this curb cut because a berth would obstruct access to parking or require removal of parking. Therefore, the existing L Street curb cut cannot be used to accommodate loading, and a second curb cut would be necessary.

A second curb cut to accommodate loading facilities would violate 24 DCMR § 605.8, which states, “All curb cuts and driveways shall meet the specifications of and be permitted by the District Department of Transportation.” DDOT’s curb cut and driveway specifications are set forth in the Design and Engineering Manual (“**DEM**”). First, under Section 31.5(a) of the DEM, “DDOT policy is that, absent a compelling need, there should be no more than one curb cut per building.” Second, under Section 31.5.2(h) of the DEM, multiple curb cuts serving the same property must be at least 12 feet apart. Third, a driveway accessed by a curb cut must be at least 60 feet from an intersection (Section 31.5.5(a) of the DEM), and the minimum distance between adjacent curb cuts on separate properties is 24 feet (Section 31.5.5(b) of the DEM).

A second curb cut on any of the Property's street frontages to access loading would violate the specifications from the DEM described above. A second curb cut on L Street separated from the existing curb cut by at least 12 feet would either confront the historic row dwelling on the Property, which could not accommodate loading, or it would be less than 60 feet from the intersection of L Street and 9<sup>th</sup> Street. Along 9<sup>th</sup> Street, the Property has 89 feet of frontage, which means there is nowhere that a curb cut could be located that would be more than 60 feet from both the 9<sup>th</sup> and L Street intersection or the 9<sup>th</sup> Street and Potomac Avenue intersection. Similarly, along Potomac Avenue, the Property has 78 feet of frontage. To be at least 60 feet from the Potomac Avenue and 9<sup>th</sup> Street intersection, a curb cut on Potomac Avenue would have to be located in the westernmost 18 feet of frontage. However, this location also would violate the specifications because, under Section 31.5.2 of the DEM, a curb cut must be offset at least six (6) feet from the property line to the west, and the curb cut must be at least 18 feet wide for two-way circulation; thus, all of this cannot be accommodated in the 78 feet of street frontage.

The violations of DDOT's specifications for curb cuts are notwithstanding the fact that a curb cut in any location would not be able to accommodate loading in any event. The building façade occupies its entire frontages along both 9<sup>th</sup> Street and Potomac Avenue, meaning that part of the building would have to be removed and the Project entirely reconfigured to accommodate a loading berth. This curb cut and building façade opening on either street would severely disrupt the streetscape and most likely would not be approved by the HPRB in any event.<sup>5</sup>

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<sup>5</sup> The design of the Project was subject to HPRB review since the Property is located in the Capitol Hill Historic District.

2. *The requested relief 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 (X § 901.2).*

Granting relief from the required loading berth will be in harmony with the general purpose and intent of the Zoning Regulations and Maps to limit adverse impacts from loading activity, and the experience of the last five years has demonstrated that from granting the relief has not resulted in any meaningful adverse impacts. The Project's limited loading activity has been and will continue to be accommodated from on-street in accordance with the previously-submitted Loading Management Plan, and the Applicant has implemented and will continue to implement the previously-submitted Transportation Demand Management Plan.<sup>6</sup> The limited loading operations are only for trash removal and linen exchanges. These loading activities occur on Tuesdays and Fridays for trash removal and on Mondays and Thursdays for linen exchanges. The trash and linen trucks stop in front of the existing curb cut that accesses the parking area to load trash and exchange linens. Trucks stop briefly, for only as long as the pickup or exchange takes.

The amount of loading activity at the Project has shown to be limited, and the Project has operated for the past five years without any major impacts or disruptions to the neighborhood due to loading activities. With furnished short-term apartments, the Project does not have move-ins or move-outs by residents since guests arrive with only personal belongings. In addition, since the Project does not have a restaurant/food service or any public gathering or event spaces, there are not (and will not be) any regular or large deliveries of food, beverages, or equipment. Thus, as has been demonstrated by the last five years of operations, the impacts on the surrounding streets from

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<sup>6</sup> The Loading Management Plan and the Transportation Demand Management Plan are in the record for Case No. 19616A at Exhibit 26.

on-street loading are and will continue to be nominal, and neighboring properties have not been and will not tend to be adversely affected by granting relief again from the loading requirements.

## V. List of Publicly Available Documents

1. Zoning Regulations and Zoning Map of the District of Columbia, available at [dcoz.dc.gov](http://dcoz.dc.gov).
2. Orders of the District of Columbia Zoning Commission and Board of Zoning Adjustment, available at [dcoz.dc.gov](http://dcoz.dc.gov).

## VI. List of Documents Included with this Application

1. BZA Order No. 19616
2. BZA Order No. 19616A
3. Site plan of the Project
4. Names and addresses of property owners located within 200 feet of the Property

## VII. Conclusion

For all the above reasons, the Applicant is entitled to the modification and special exception relief without a term in this case.

Respectfully submitted,  
GOULSTON & STORRS, P.C.

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/s/  
Cary Kadlecek

## **Certificate of Service**

The undersigned hereby certifies that copies of this document were delivered by electronic mail to the following on June 24, 2026.

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