

To the Zoning Board:

In accordance with the Memorandum from the Office of the Zoning Administrator (ZA) dated 2/12/2018, Plant The Seed Youth Treatment Services (Applicant) is hereby amending application for case (# 19677) and requesting a Special Exception(s) pursuant to Subtitle U § 203.1-(i), and under the Specific Special Exception criteria of 11 DCMR Subtitle X, Chapter 9. The relief sought is to increase the present occupancy from six (6) persons to fifteen (15) persons. The applicant proposes to increase the occupancy accordingly and requests special exception approval pursuant to subtitle X 901.2 and Subtitle U 202.1-(j) respectively.

Whereas the Proposed Use does not qualify as a “Community-Based Institutional Facility” use category under Section B-200.2(h) because the treatment is not provided to individuals under court-monitoring or government detainment.

The Zoning Administrator therefore believes that the Proposed Use instead correctly falls in the “Medical Care” use category of Section B-200.2(p) as “on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans” because the Proposed Use will be certified by DBH as a SUD Treatment Provider pursuant to the regulations in 22A DCMR 6300, et seq. DBH is the successor agency to the Department of Health’s Addiction Prevention Recovery Administration per D.C. Law 20-61, §§5113(a)(3) and 5120 (D.C. Official Code §§7-1141.07(a)(3), 7-1141.09), and therefore certifies substance abuse treatment providers under D.C. Law 13-146, §§6a & 10 (D.C. Official Code §§7-3005.01 & 7-3009). Although the “Medical Care” use category is not used in the R-2 zone, the closely related “Health Care

Facility” (defined in Section B-100.2) is allowed pursuant to Sections U-202.1(j) and 203.1(i). A Health Care Facility is limited to facilities licensed under D.C. Law 5-48 (D.C. Official Code §44-501), but due to the series of government reorganizations since the enactment of this law, it is unclear whether substance abuse disorder treatment providers are included under the auspices of this law. A “community residence facility,” providing “a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familiar, social, or other circumstances,” is required to be licensed under D.C. Law 5-48 (D.C. Official Code §44-501(a)(4)), and so would be classified as a “health care facility.” This definition of a “community residence facility” appears to encompass the Proposed Use – except that a community residence facility specifically excludes under 18-year olds except for persons with intellectual disabilities. Nonetheless, it is unclear why the Zoning Regulations would treat a community residence facility required to be licensed under D.C. Law 5-48 different from an identical facility that happens to treat under 18-year olds as is the case for the Proposed Use. Therefore, the ZA determines that the most appropriate category for the Proposed Use is as a “Health Care Facility,” and thus it would be eligible as a matter of right up to 8 individuals, not including staff, under Section U-202.1(j), or between 9 and 300 individuals as a Special Exception under Section U-203.1(i).

Respectfully,

Michael Davis

