

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

**Application for 1315 16th Street, NW
(Square 195, Lot 846)**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by LHO Washington Hotel Three, LLC (the “Applicant”) in support of its application pursuant to 11-U DCMR § 504.1(f), 11-C § 1500.3(c), and 11-X DCMR § 901.2, for special exception relief to construct a new rooftop penthouse containing a restaurant use as an addition to an existing hotel building in the MU-15 District at 1315 16th Street, NW (Square 195, Lot 846) (the “Site”).

Pursuant to 11-Y § 300.15 of the Zoning Regulations, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or the “Board”) no fewer than 21 days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested special exception relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

I. Background

The Site consists of Lot 846 in Square 195 and is located on the east side of 16th Street, NW, one-half block north of Scott Circle. The Site is bounded by private property to the north and south, 16th Street to the west, and a 12-foot wide public alley to the east. The Site has approximately 14,918 square feet of land area and is improved with an existing hotel building. As shown on the Zoning Map included in the application materials, the Site is located in the MU-15 Zone District and is within the Sixteenth Street Historic District.

As shown on the Certificates of Occupancy attached hereto, the existing building was constructed circa 1964 as an apartment house with ground floor office space.¹ In 1978, the building was converted to hotel use and has been operated as a hotel ever since. *See* Certificates of Occupancy for hotel use and dining room in 1978, a gift shop in 1979, and the current Certificate of Occupancy for hotel use with 137 rooms in 2008. According to records of the Department of Consumer and Regulatory Affairs, the existing building has a height of approximately 90 feet and a density of approximately 5.99 floor area ratio (“FAR”).²

¹ *See also* BZA Appeal No. 7206-07-08, dated April 23, 1963, approving roof structures and professional office use on the first floor of the building, also attached.

² At the time that the building was constructed it was located in the SP Zone District, which permitted a maximum height of 90 feet, a maximum density of 6.0 FAR, and both hotel and apartment house uses as a matter-of-right. Hotel use was permitted as a matter-of-right until May 16, 1980, such that the conversion to hotel use in 1978 did not require a special exception.

The existing building contains a restaurant on the ground floor and approximately 137 hotel rooms above. The existing penthouse contains mechanical space only at varying heights. This application proposes to construct a penthouse addition that will house a restaurant use as an expansion of the hotel's ground floor restaurant. The proposed penthouse will add approximately 2,235 square feet of habitable space that will contain the restaurant, restrooms, storage, and circulation. Approximately 191 square feet of mechanical space will be added for a new lift and stair to the penthouse, and approximately 231 square feet will be located below a covered outdoor canopy.

The proposed restaurant will be open from 11am to 11pm (outside) and 12am (inside) Sunday through Thursday, and from 11am to 12am (outside) and 1am (inside) on Friday and Saturday. The restaurant will not have a kitchen; instead, the restaurant will serve food prepared in the kitchen of the existing ground floor restaurant and servers will transport the food to diners in the penthouse via the existing elevators to the 10th floor and a proposed new low-rise elevator from the 10th floor to the roof. The restaurant will be available to reserve for small gatherings. There will also be an outdoor deck. No amplified recorded or live music will be permitted on the deck.

Pursuant to 11-C DCMR §§ 704.1 and 901.6, additional parking and loading facilities are not required for the hotel expansion or restaurant use. Currently, cars access the on-site parking via an existing curb cut on 16th Street on the southern portion of the Site. A below-grade garage houses 17 parking spaces and 18 additional surface parking spaces are located at the rear of the Site. Hotel guests, visitors, and restaurant patrons can utilize an existing short-term passenger loading zone at the front of the building, while delivery trucks load and unload at the rear of the Site. None of these existing facilities or operations will change as a result of the proposed penthouse and restaurant use.

II. Special Exception Relief

Under the 2016 Zoning Regulations, hotel use is within the “lodging” use group category and is permitted only as a special exception in the MU-15 District. *See* 11-B DCMR § 200.2(u) and 11-U DCMR § 504.1(f). Therefore, in order to expand the existing hotel use, the Applicant requests a special exception pursuant to 11-U DCMR § 504.1(f). The Applicant also requests special exception relief pursuant to 11-C DCMR § 1500.3(c), which permits penthouse restaurant use as a special exception.

A. Standard of Review

Pursuant to D.C. Code §6-641.07(g)(2) and 11-X DCMR § 901.2, the Board is authorized to grant special exceptions where it finds the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map, will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, and will meet such special conditions as may be specified in 11-Z DCMR Chapter 9. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion...

is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

B. Special Exception for Hotel Use in the MU-15 District

Pursuant to 11-U DCMR § 504.1(f), lodging use is permitted as a special exception in the MU-15 District, subject to the following conditions:

1. *The height, bulk, and design of the lodging use shall be in harmony with existing uses and structures on neighboring property;*

The lodging use has occupied the existing building for almost 40 years. The expanded hotel restaurant use will be in the penthouse only, and the penthouse will comply with all height, bulk, and design requirements set forth in 11-C DCMR Chapter 15.

2. *To ensure that the height, bulk, and design is in harmony with existing uses and structures on neighboring property, the Board of Zoning Adjustment may require special treatment in the way of design, building setbacks, screening, landscaping, sign controls, and other features as it deems necessary to protect neighboring property;*

As noted above, the building containing lodging use is already constructed, and the proposed penthouse will comply with all height, bulk, and design requirements. The penthouse has been designed to be compatible with the existing building’s architecture and materials, as well as with surrounding structures. Specifically, the new penthouse structure will be designed as a low, horizontal massing that incorporates light colored metal panels and large glass openings with dark colored aluminum mullions. The existing penthouse will be painted a complementary color to blend in and reduce visibility. An exterior wood roof deck with a glass guardrail will wrap the penthouse to the west and south. Landscaping on the roof will include planters on the roof deck and a green screen facing south.

3. *The approval of the lodging use shall result in a balance of residential, office, and lodging uses in the applicable zones in the vicinity of the lodging use;*

The building containing lodging use is already constructed and has operated as a hotel for almost 40 years. The penthouse addition will add approximately 2,657 square feet³ to the existing building, which will not affect the existing balance of residential, office, and lodging uses in the vicinity of the Site.

³ Includes proposed new penthouse habitable, mechanical, and covered outdoor canopy space, combined.

4. *The gross floor area devoted to function rooms and exhibit space shall not exceed fifteen percent (15%) of the gross floor area of the hotel;*

The gross floor area devoted to function rooms and exhibit space is less than 15% of the of the gross floor area of the hotel and will not change as a result of the proposed penthouse addition.

5. *The lodging use shall be located within one thousand three hundred feet (1,300 ft.) of the Central Employment Area or a Metrorail station as measured from the entrance of the lodging use closest to the main lobby and guest registration desk to the edge of the Central Employment Area or the entrance to the Metrorail station, following public rights-of-way;*

As shown on Figure 1, the lodging use is located approximately 440.5 feet from the Central Employment Area.

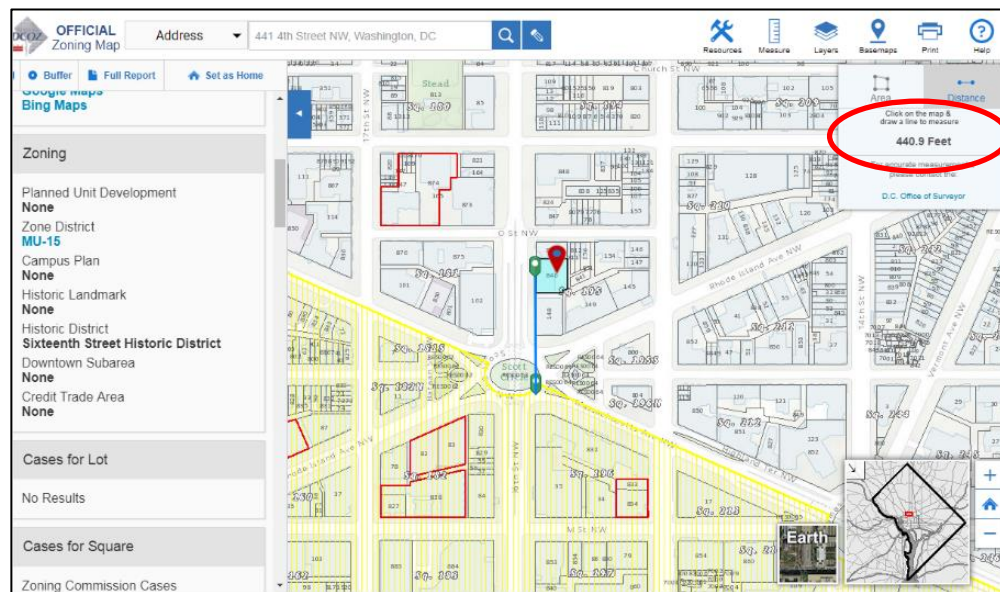


Figure 1 – Distance to Central Employment Area

6. *The Board of Zoning Adjustment may require more or less off-street parking spaces and loading berths than required by this title to accommodate the activities of the lodging use, so as to avoid unduly impacting parking or traffic on the surrounding streets; and*

The existing building contains 35 on-site parking spaces and no formal loading facilities. Pursuant to 11-C DCMR §§ 704.1 and 901.6, an addition to an existing building triggers additional parking and loading requirements only when the gross floor area of the building is expanded or enlarged by 25% or more, which is not proposed in this case.

The Site is located approximately a half mile from the Dupont Circle Metrorail station and the Farragut North Metrorail station, and is located along at least ten

different Metrobus routes. Carshare, bikeshare, and other ride-hailing services, including taxis, are extremely convenient to the Site. Moreover, walkscore.com gives the Site a 98/100, which is considered a “Walker’s Paradise.” Thus, hotel guests, visitors, restaurant patrons, and employees can easily access the Site through a variety of transportation options.

Loading for the hotel and existing restaurant currently occurs at the rear of the building adjacent to the on-site surface parking, and will continue to operate in this manner.

7. *The location and design of driveways, access roads, and other circulation elements of the lodging use shall be located to avoid dangerous or other objectionable traffic conditions;*

The Applicant does not propose any changes to the existing location and design of driveways, access, and other circulation for the existing lodging use.

C. Special Exception for Restaurant Use in the Penthouse

Pursuant to 11-C DCMR § 1500.3, a penthouse may house a “nightclub, bar, cocktail lounge, or restaurant use” with special exception approval by the Board of Zoning Adjustment under Subtitle X, Chapter 9.

In this case, the restaurant use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. By definition, a hotel in the District of Columbia must have a restaurant. The proposed use will simply expand the building’s existing restaurant operation on the ground floor into the penthouse. Other hotel restaurants are located in the immediate vicinity of the Site, including within the same square. A restaurant use in the penthouse will provide a unique and enjoyable dining option for hotel guests and visitors and will not create any adverse effects. Moreover, the proposed restaurant use is consistent with the goals of the penthouse regulations to provide habitable space in penthouses and to provide contributions to the Housing Production Trust Fund for the production of affordable housing. The penthouse structure itself will also comply with all development standards set forth in 11-C DCMR § 1500.

In addition, the proposed restaurant use will not tend to affect adversely the use of neighboring property. The Site is located on 16th Street, NW, with non-residential uses directly to the north (The Washington Center for Internships and Academic Seminars), west (Embassy of the Commonwealth of Australia and the First Baptist Church of Washington DC), and southeast (the Darcy Hotel). Directly to the east is a public alley and surface parking for the surrounding buildings. Immediately to the south and northeast are residential buildings (the General Scott Condominiums to the south and three row dwellings fronting O Street across the public alley to the north). The Applicant will ensure that these residential uses are not negatively impacted by the proposed restaurant use by limiting hours from 11am to 11pm (outside) and 12am (inside) Sunday through Thursday, and from 11am to 12am (outside) and 1am (inside) on Friday and Saturday, prohibiting any amplified recorded or live music, and providing down-facing lighting on the roof.

Therefore, the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.

III. Affected Advisory Neighborhood Commission

As required under 11-Y § 300.8(1), the Applicant has apprised Advisory Neighborhood Commission (“ANC”) 2B of the request for zoning relief. Prior to submitting this application, the Applicant met individually with the Single Member District representative for the Site and with the chair of ANC 2B’s Zoning, Preservation, and Development Committee to review the project generally and solicit feedback. The Applicant will continue to work with ANC 2B leading up to the public hearing, including presenting the application at a regularly scheduled ANC 2B public meeting and requesting a formal vote on the application.

The Applicant also met with a representative of the General Scott Condominium, the residential building located directly to the south of the Site, to present the application and begin to determine whether the zoning request would raise any concerns for building residents. The application was received favorably, and similar to the ANC, the Applicant will continue to coordinate and communicate with the General Scott Condominium throughout the BZA process.