

February 14, 2020

**via IZIS**

Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

**Re: BZA Case No. 20065 – 1818 Rhode Island Avenue, NE; Prehearing Submission.**

Dear Members of the Board:

On the previous set of plans, submitted just prior to the hearing on January 29, 2020 (Exhibit 44C), the Applicant satisfied C § 805.3, which required long-term bicycle racks to be located in a storage room or garage. The proposed spaces were previous located in a storage room at the front of the building on the lowest level. Between the hearing on January 29<sup>th</sup> and this submission, the Applicant met with DDOT to discuss a solution for the lift in public space. DDOT and the Applicant worked together to come up with a solution for the accessibility and public space issues, but that solution included a re-design of the main level and lower level in order to make the accessible entrance at the lower level rather than at the main level. The plans were revised accordingly and were submitted as Exhibit 50A.

In order to make the building accessible via the lower level, the Applicant had to eliminate the bicycle storage room at the front of the building to accommodate the lower level entrance door. As a result of that change, the bicycle spaces have been relocated to a corridor on the lower level and the proposed racks do not meet the requirements of C § 805.3. The Applicant is already seeking relief pursuant to C § 807.2 from the requirement that at least 50% of the bicycle stalls be horizontal stalls (C § 805.9). The Applicant thought that Section C § 807.2

would also permit relief from C § 805.3 (storage room) under the same standards as the relief already requested.

The Office of Planning recently informed the Applicant that it considers relief from C § 805.3 to be variance relief. Variance relief would require the Applicant to meet a higher burden of proof and re-notice, further extending the hearing and increasing costs. However, if the Applicant were to eliminate all bike parking provided, then it could apply for a special exception under C-807.2 which states: The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction in the minimum number of long-term or short term bicycle parking spaces required for a use or structure. As this was likely not the intention of the Zoning Regulations, the Applicant is still planning to provide six (6) long-term bicycle parking spaces, but is requesting to amend and ask for relief pursuant to C-807.2 from the requirements of C-802.1 (minimum number of bicycle parking spaces).

This requested relief from the minimum bicycle parking requirements of C § 802.1 pursuant to C § 807.2 will eliminate the need to ask for relief from any of the long-term bicycle parking space requirements under C § 805 because those requirements only apply to required spaces and the Applicant is not providing any required spaces. Although no “required” spaces are being provided, the Applicant is still providing six (6) long-term bicycle parking spaces (three (3) in the lower level and three (3) at the rear of the Property). This request is similar to the request for parking relief in that the Applicant is technically providing the spaces, but because it cannot meet the access requirements for vehicle parking or storage requirements for bicycle parking, it cannot count the spaces towards the number of “required” spaces. The bicycle parking regulations were presumably drafted to encourage more bicycle parking, not eliminate it. If the Applicant were required to get variances, it would be forced to eliminate the spaces and

would then be permitted to request special exception relief. Doing so would hurt the project and eliminate six (6) bike parking spaces, which was likely not the intent of the bicycle regulations.

Regarding the requested relief, section C-807.2(a) states that the BZA may grant relief if the Applicant can demonstrate that “due to the physical constraints of the property, the required bicycle parking spaces cannot be provided on the lot or, in the case of short-term bicycle parking spaces, on abutting public space.” As described above, due to issues with accessibility, the Applicant cannot physically locate the required bicycle parking spaces in the building without losing a unit. If the Applicant is forced to eliminate a unit, then it would not even be required to provide bicycle parking spaces because the bicycle regulations only apply to projects with eight (8) or more units.

Enclosed please find an updated self-certification form reflecting the updated relief and a revised TDM. As the Applicant has increased the number of long-term bicycle spaces from five (5) to six (6), the TDM had to be updated accordingly. Thank you for considering this request.

Sincerely,

*Martin P Sullivan*

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Martin P. Sullivan, Esq.

*Alexandra Wilson*

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Alexandra Wilson, Esq.

BZA Case No. 20065  
February 14, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on February 14, 2020, an electronic copy of this Prehearing Submission was served on the following on behalf of the Applicant, Dilan Investments LLC.

Office of Planning  
Stephen Cochran  
[stephen.cochran@dc.gov](mailto:stephen.cochran@dc.gov)

Advisory Neighborhood Commission 5C

Jacqueline Manning  
*Chairperson*  
[5C04@anc.dc.gov](mailto:5C04@anc.dc.gov)

Jeremiah Montague, Jr.  
*SMD*  
[5C07@anc.dc.gov](mailto:5C07@anc.dc.gov)

*Martin P Sullivan*

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Martin P. Sullivan, Esq.  
Sullivan & Barros, LLP  
1155 15<sup>th</sup> Street, NW  
Suite 1003  
Washington, DC 20005  
202-502-1704