

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



**BZA Application No. 20291-C
2100M STREET NW OWNER
2100 M Street, NW, (Square 72, Lot 75)**

HEARING DATE (20291):	October 7, 2020
DECISION DATE (20291):	October 7, 2020
ORDER ISSUANCE DATE (20291):	October 21, 2020
1ST TIME EXTENSION DECISION DATE (20291-A)	November 30, 2022
2ND TIME EXTENSION DECISION DATE (20291-B):	October 9, 2024
MODIFICATION WITHOUT HEARING DECISION DATE (20291-C):	October 9, 2024

**SUMMARY ORDER ON REQUEST FOR
MODIFICATION WITHOUT HEARING**

Pursuant to notice, at its October 9, 2024, public meeting, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) deliberated on a request for a modification without hearing to BZA Order No. 20291 to construct a 4-story addition with penthouse and convert to a 400-unit apartment house, an existing 8-story office building in the D-5 zone. The Board considered the request for a modification without hearing under Subtitle Y § 703 of Title 11 of the DCMR (Zoning Regulations of 2016, the “**Zoning Regulations**” to which all references are made unless otherwise specified). For the reasons stated below, the Board **APPROVES** the request for modification.

ORIGINAL APPLICATION.¹ In Application No. 20291, the Board approved the request by 2100 M STREET PROPERTY OWNER, LLC (the “**Applicant**”) for a special exception under Subtitle C § 1504.1, from the penthouse setback requirements of Subtitle C § 1502.1, and pursuant to Subtitle X, Chapter 10, for variances from the setback requirement of Subtitle I § 201.6, from the closed court area requirements of Subtitle I § 207.1, and from the loading berths requirements of Subtitle C § 905.2. The Board issued Order No. 20291 on October 21, 2020. (Exhibit 2C of the record for Case No. 20291-C.) The approval was subject to a Transportation Demand Management (“**TDM**”) Plan condition and a Loading Management Plan (“**LMP**”) condition.

¹ In 2007, the Board approved Application No. 17696 for relief under the Zoning Regulations of 1958 to expand an existing office building at the subject property.

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PREVIOUS TIME EXTENSIONS. In 2022, the Board granted the Applicant's first request for a two-year time extension until October 21, 2024 in Order No. 20291-A. On October 9, 2024, the Board granted the Applicant's second request for a two-year time extension until October 21, 2026 in Order No. 20291-C.

PROPOSED MODIFICATION. On August 30, 2024, the Applicant submitted a request for a modification without hearing to Order No. 20291 to construct a 4-story addition with penthouse and convert to a 400-unit apartment house, an existing 8-story office building in the D-5 zone. (Exhibits 1-3.) The Applicant submitted revised plans reflecting these modifications. (Exhibit 2E.) The Applicant also proposed revisions to the TDM Plan and LMP to reflect the conversion from office to residential use. (Exhibit 5A.)

NOTICE OF THE REQUEST FOR MODIFICATION. Pursuant to Subtitle Y §§ 703.10-703.11, the Applicant provided proper and timely notice of the request for a modification without hearing. (Exhibit 2.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commissions ("ANC") 2A and 2B.

ANC 2A REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 6, 2024, at which a quorum was present, the ANC voted to support the modification. (Exhibit 7.) The ANC report raised no issues or concerns.

ANC 2B REPORT. ANC 2B did not submit a written report into the record.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the modification. (Exhibit 4.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. The Board received a letter from DDOT noting DDOT's agreement with the Applicant's proposed updated conditions. (Exhibit 6.)

CONCLUSIONS

The Board determines that the Applicant's request complies with Subtitle Y § 703.7, which defines a modification without hearing as a "proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board." Based upon the record, the Board concludes that in seeking a modification without hearing, the Applicant has met its burden of proof under Subtitle Y § 703.7.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute

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binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

DECISION

Based on the case record, the Board concludes that the applicant has satisfied the burden of proof for a modification without hearing to construct a 4-story addition with penthouse and convert to a 400-unit apartment house, an existing 8-story office building in the D-5 zone.

Accordingly, it is **ORDERED** that the modification request is **GRANTED** consistent with the plans shown in Exhibit 2E of the record, subject to the following **CONDITIONS**, which shall replace and supersede the conditions of BZA Order No. 20291:

- A. The Applicant shall implement the following Transportation Demand Management (TDM) Plan:
1. The Applicant shall identify Transportation Coordinators once the building has opened. There will be Transportation Coordinators for the residential component and each retail tenant. The Transportation Coordinators shall act as points of contact with DDOT, goDCgo, and Zoning Enforcement and will provide their contact information to goDCgo.com.
 2. The Transportation Coordinators shall conduct an annual commuter survey of building employees and residents on-site, and report TDM activities and data collection efforts to goDCgo once per year.
 3. The Transportation Coordinators shall develop, distribute, and market various transportation alternatives and options to the residents and retail employees, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.
 4. The Transportation Coordinators shall subscribe to goDCgo's residential newsletter and receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
 5. Transportation Coordinators shall demonstrate to goDCgo that retail tenants with 20 or more employees are in compliance with the DC Commuter Benefits Law to participate in one of the three transportation benefits outlined in the law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), and the Parking Cash-Out Law.

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6. The Transportation Coordinators shall provide welcome packets to all new residents that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines, carpool and vanpool information, Guaranteed Ride Home (GRH) brochure, and the most recent DC Bike Map. Brochures can be ordered from DDOT's goDCgo program by emailing info@godcgo.com.
7. The Applicant shall provide a one-year Capital Bikeshare membership for each residential unit at initial leasing.
8. The Transportation Coordinators shall provide residents and retail employees who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments (MWCOC) or other comparable service if MWCOC does not offer this in the future.
9. A copy of the Loading Management Plan (LMP) shall be provided to the Transportation Coordinators so they are aware of this commitment.
10. The Applicant shall post all transportation and TDM commitments on building website, publicize availability, and allow the public to see what has been promised.
11. At least 26 short- and 135 long-term bicycle parking spaces shall be provided.
12. Long-term bicycle storage rooms shall accommodate non-traditional sized bikes, including cargo, tandem, and kids' bikes. A minimum of 7 spaces shall be designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of 14 spaces shall be designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of 68 spaces will be placed horizontally on the floor (or bottom rack of a two-tiered rack). There shall be no fee to the residents or employees for usage of the bicycle storage room and strollers shall be permitted to be stored in the bicycle storage room.
13. A minimum of 30 dual port electric vehicle (EV) charging stations (60 spaces) shall be installed.

B. The Applicant shall implement the following Loading Management Plan (LMP):

1. A loading dock manager shall be designated by the building management who will be on duty during delivery hours. The dock manager shall be responsible for coordinating with vendors and residential and retail tenants to schedule deliveries.
2. A lease provision shall require all tenants to use only the loading area for all deliveries and all move in/move-out activities.

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3. The dock manager shall schedule residential loading activities so as not to conflict with retail deliveries. All residential loading will need to be scheduled with the dock manager and it is anticipated that residential loading will take place primarily during afternoons/evenings, when the retail loading activity is minimal.
4. The dock manager shall monitor inbound and outbound truck maneuvers and shall ensure that trucks accessing the loading dock do not block vehicular, bike, or pedestrian traffic along 21st Street NW except during those times when a truck is actively entering or exiting a loading berth.
5. Service vehicle/truck traffic interfacing with 21st Street NW traffic shall be monitored during peak periods and management measures shall be taken, if necessary, to reduce conflicts between truck and vehicular movements.
6. The dock manager shall schedule deliveries using the berth such that the dock's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the dock is full, that driver shall be directed to return at a later time when a berth will be available so as to not compromise safety or impede traffic flows on 21st Street, NW. The dock manager will monitor the timing of the residential deliveries to see if any adjustments need to be made to ensure any conflicts between the retail loading and residential loading activities are minimized.
7. Residents utilizing moving trucks greater than 35 feet in length shall be required to obtain "Emergency, No Parking" signs during the duration of the move. The fees for this service will be paid by the resident.
8. Trucks using the loading dock shall not be allowed to idle and shall follow all District guidelines for heavy vehicle operation, including but not limited to, DCMR 20 – Chapter 9, Section 900 (Engine Idling), the goDCgo Motorcoach Operators Guide, and the primary access routes shown on the DDOT Truck and Bus Route Map (godcgo.com/freight).
9. The dock manager shall be responsible for disseminating suggested truck routing maps to the building's tenants and to drivers from delivery services that frequently utilize the development's loading dock. The dock manager shall also distribute flyer materials, such as the MWCOG Turn Your Engine Off brochure, to drivers as needed to encourage compliance with idling laws. The dock manager shall also post these materials and other relevant notices in a prominent location within the loading area.

In all other respects, Order No. 20291 remains unchanged.


VOTE: 3-0-2 (Frederick L. Hill, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; Lorna L. John and Carl H. Blake not present, not participating)

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

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

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: October 16, 2024

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.