

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

**APPLICATION OF
DEPARTMENT OF GENERAL SERVICES**

**BZA CASE NO. 21177
DECISION DATE: MARCH 18, 2025**

**APPLICANT'S OPPOSITION TO
ANC 2G'S MOTION FOR RECONSIDERATION**

INTRODUCTION

Advisory Neighborhood Commission 2G (“ANC 2G”) has failed to meet the threshold required for reconsideration under Y § 700.7. A motion for reconsideration must state the ways in which the final order is claimed to be erroneous and the relief sought. Y § 700.7. While ANC 2G has identified its desired relief, reversal of the Board’s Decision, and restated its prior concerns, it has failed to identify any error, misapplication of fact, or material omission in the Board’s findings that would justify reconsideration. The Board of Zoning Adjustment (“Board”) carefully considered the full record, including testimony from ANC 2G and its witnesses, and issued a well-reasoned Decision and Order on March 18, 2025. The ANC’s motion merely repackages arguments previously made and rejected, and it does not present new evidence, legal error, or changed circumstances that would warrant reversal of the Board’s decision. As articulated below the ANC’s motion for reconsideration should be denied.

ARGUMENT

I. The Board’s Conclusion Regarding the Release of “No-Papered” Detainees was Supported by the Record and Provides No Basis for Reconsideration

ANC 2G contends that the Board erred in concluding that no-papered detainees, individuals who are not formally charged, will not be released directly from the Central Cell Block (“CCB”). Motion at 1–2. The Board’s conclusion, however, was reasonably based on evidence in the record, including the U.S. Attorney’s Office’s representation that it does not object to reinstating pre-

COVID detainee processing protocols and testimony from the Department of Corrections Director Faust. Under those protocols, individuals are transported to Superior Court prior to release, rather than being released from the CCB. *See* Decision at 7, Findings of Fact Nos. 32 and n.8.

While the ANC raises concerns that release practices could change in the future or that delays in no-paper determinations might raise constitutional issues, these concerns are speculative and not supported by any evidence in the record. The Board appropriately evaluated the application based on the anticipated return to those established procedures and relied on credible statements from responsible agencies in doing so. Importantly, the Board's decision was based on representations made and weighing of the evidence before the Board. *See* Decision at 6-7, Findings of Fact Nos. 27, 30–33. The Board expressly determined that such operational matters—including potential future procedures or interagency decisions—were “outside the scope of the Board’s purview in this proceeding,” indicating that it considered these arguments and appropriately declined to credit them. *See* Decision at 17. Nonetheless, out of an abundance of caution and in response to community concerns, the Board imposed a condition requiring the Applicant to designate a community liaison to ensure that questions about facility operations, including transportation and traffic, can be addressed on an ongoing basis. *See* Decision at 18 (Condition No. 3). This condition demonstrates the Board’s responsiveness, but it does not alter the fact that speculative future impacts were properly found to be outside the zoning analysis—and provide no basis for reconsideration.

Because the ANC has not identified a specific legal or factual error in the Board’s conclusion, and because the record supports the finding that no-papered detainees will not be released directly from the CCB under the pre-COVID protocol, reconsideration is not warranted on this basis.

II. The Board Properly Evaluated Parking Impacts, and ANC 2G Has Not Identified Any Error Warranting Reconsideration

ANC 2G's arguments regarding the proposed parking plan do not identify any factual or legal error in the Board's Decision. The Board appropriately relied on the Applicant's testimony, expert transportation analysis, and the District Department of Transportation's ("DDOT") determination that the proposed parking and loading arrangements would not result in adverse impacts on the surrounding neighborhood. Disagreement with that conclusion does not justify reconsideration.

The ANC points to an October 29, 2024 email from DDOT (Ex. 158) suggesting that revisions made during the Preliminary Design Review Meeting ("PDRM") process could reduce the number of available parking spaces. Motion at 2. However, the PDRM process is iterative by design, and DDOT was fully aware of the ongoing refinements when it submitted comments in support of the application. The ANC's assertion that any future reduction in parking will necessarily lead to adverse impacts is speculative and not supported by any updated analysis or agency objection. The Board, after reviewing the full record, reasonably concluded that the parking plan was adequate. In doing so, it appropriately considered the agency expertise input of DDOT alongside the Applicant's expert transportation consultant, both of whom acknowledged that while the plan might be refined through the PDRM process and future permitting, those adjustments would not be so significant as to undermine the Board's findings.

Likewise, the ANC's argument that the parking layout "cannot fit" within the allocated space is based on personal observation, not on expert or technical analysis. Motion at 3. The Board reasonably credited the Applicant's detailed site plans and expert testimony over lay opinions, particularly where those plans were reviewed by DDOT and subject to public comment. In fact, the Board directly addressed this argument in its Decision. *See* Decision at 16, n.15. There, the

Board acknowledged ANC 2G's position that the proposed configuration did not comply with 18 DCMR § 2405.2(c) and would permit no more than 14 parking spaces due to required clearances near intersections. *Id* The Board also noted that the Applicant disputed the ANC's interpretation of the regulation and testified that DDOT supported the proposed configuration of the curbside lanes. Based on this record, the Board weighed the competing positions and reasonably found that the parking plan would not result in significant adverse impacts. The ANC's concern that construction is proceeding prior to final PDRM approval does not undermine the Board's decision, as zoning approval is not contingent upon completion of the PDRM process, and DDOT remains involved in reviewing final implementation details.

The ANC also raises concerns about potential impacts from a future development project across the street. Motion at 3. While a single witness did express general concerns that the presence of the CCB could negatively affect Boston Properties ability to raise capital or attract future tenants to a potential future development, his remarks related only to perceived reputational or economic impacts—not to the adequacy of the parking plan or traffic circulation associated with the application. *See* Transcript of BZA hearing from October 9, 2023, 225:13 – 226:17. The ANC's effort to recast that testimony as evidence of future parking or traffic impacts merely serves to compound on its already speculative allegations. While the existence of Boston Properties proposed development was part of the record, there is no evidence—expert, technical, or otherwise—connecting that potential future project to any additional traffic or parking burdens attributable to the CCB. The Board explicitly addressed this category of speculative impact, noting that it had considered the ANCs allegations regarding “potential detrimental impact on other developments in the area” but found that “none of the claims [were] substantiated” and that it “did not find the claims persuasive.” *See* Decision at 17, n.16

In contrast, the Board relied on credible evidence in the record, including the expert transportation analysis submitted by the Applicant and DDOT's independent review, both of which concluded that the proposed use would not result in adverse traffic impacts. *See* Decision at 14 -15. The Board's charge is to evaluate the proposed use and its likely impacts based on the record—the record here supports the conclusion that the parking plan will not create adverse effects on the surrounding area.

CONCLUSION

Because the ANC has not identified any new evidence, changed conditions, or error in the Board's findings, its motion does not meet the standard for reconsideration. Moreover, the Board complied with its legal obligation to give the ANC's positions and arguments great weight, acknowledging the relevant issues raised and explaining with particularity why it did or did not find them persuasive. Accordingly, the motion should be denied.

Respectfully submitted,

COZEN O'CONNOR



Meridith Moldenhauer

Certificate of Service

I hereby certify that on this 4th day of April, 2025, a copy of the Applicant's Response to ANC 2G's Motion for Reconsideration was served, via email, as follows:

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