

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 7096-A/7097-A¹
Van Ness, LP
4400 Connecticut Avenue, N.W. (Square 1971, Lot 2)
and 3415 Yuma Street, N.W. (Square 1971, Lot 26)

DECISION DATE (7096 and 7097):	January 16, 1963
HEARING DATE (7096-A and 7097-A):	November 6, 2024
DECISION DATE (7096-A and 7097-A):	November 6, 2024

SUMMARY ORDER ON REQUEST FOR
MODIFICATION WITH HEARING

Pursuant to notice, at its November 6, 2024, public hearing, the Board of Zoning Adjustment (“**Board**” or “**BZA**”) deliberated on a request for a modification with hearing to BZA Order Nos. 7096 and 7097 to reduce the number of required parking spaces to an existing hotel in the MU-7B and R-1B zones. The Board considered the request for a modification with hearing under Subtitle Y § 704 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 APPEALS.² In Appeal Nos. 7096 and 7097, the Board approved the request by Selma M. Mott and Irving C. Murray, Jr., et al. Trustees on behalf of Lessee Alfred B. Bornstein (the “**Applicant**”) for a variance from the use provisions of the R-1-B District to permit erection of a three level parking structure (one level below grade, one level at alley grade and one level above alley grade) upon lot 26, in square 1971 located at rear 4400 Connecticut Avenue, N.W. to provide accessory off-street parking for structure to be erected upon lot 2 in square 1971 known as 4400 Connecticut Avenue, N.W. and to permit roof structures in accordance with the provisions of

¹ The case record can be found in the Interactive Zoning Information System (“IZIS”) only under case number “7096A”.

² In earlier years, cases seeking relief from the zoning regulations were referred to as “appeals”. Therefore, for the purposes of this order, instead of “application”, the term “appeal” will be used when referring to the underlying cases - 7096 and 7097 - on which this modification is based.

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Section 3308 of the Zoning Regulations.³ The Board granted Appeal Nos. 7096 and 7097 on January 16, 1963 (Exhibit 6.) The approval was subject to one condition:

1. The parking spaces authorized under the terms of this order are required parking spaces which will require the owner of the land upon which such parking is to be located to agree to become a party to a covenant with the District of Columbia to run with the land and to be binding upon him and his successors in title, which require that the area approved for required off-street parking shall be reserved exclusively for that purpose so long as the improvements to be served existing or so long as said accessory off-street parking is required by the Zoning Regulations.

PROPOSED MODIFICATION. On July 10, 2024, the Applicant submitted a request for a modification with hearing⁴ to Order No. 7096/7097. (Exhibits 1-22.) The proposed modification included a reduction in the required number of parking spaces for an existing hotel from 78 to 41 spaces. The Applicant submitted a plat reflecting these modifications. (Exhibit 12.) The Applicant also proposed to modify Condition No. 1 to read as follows:

“The parking spaces authorized under the terms of this order are non-required parking spaces for the existing hotel use on Lot 2 in Square 1971, but shall nonetheless continue to be reserved exclusively for that purpose for so long as the parking structure on Lot 26 in Square 1971 exists. Upon raze or demolition of said parking structure, the Board’s approval of the parking structure and parking spaces authorized under the terms of this order shall cease, and use of Lot 26 in Square 1971 shall revert to what is permitted under zoning at such time. The Board’s approval of this modification shall permit the Applicant, including its successors and assigns, to extinguish the parking covenant previously required under BZA Appeals #7096 and #7097 as it is no longer required.”

Based on the proposed modifications, the Applicant requests:

- Special Exception from the vehicle parking spaces reduction requirements of Subtitle C § 701.10, pursuant to Subtitle C § 703 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 35 - revised; Exhibit 22 - updated; Exhibit 2 - original.)

NOTICE OF THE REQUEST FOR MODIFICATION. Pursuant to Subtitle Y § 704.5, the Applicant served the request for a modification with hearing on the parties to the original application. (Exhibit

³ The references in the original order are to the 1958 Zoning Regulations.

⁴ At the time of filing, such modifications were referred to as “*modifications of significance*”. Per Text Amendment No. 22-25 by the Zoning Commission, a *modification of significance* is now referred to as a “*modification with hearing*.” (See ZC Order No. 22-25, effective August 2, 2024.)

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7.) The Board referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 3F.

ANC REPORT. The ANC did not submit a report to the record.

A copy of the signed meeting minutes from the ANC's October 15, 2024 meeting indicated the ANC voted to support the modification. (Exhibit 36.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the modification. (Exhibit 30.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT submitted a report indicating that it had no objection to the modification. (Exhibit 31.) The DDOT report was conditioned upon the Applicant implementing a Transportation Demand Management (TDM) Plan for hotel use, with the elements as described in the report. The Board adopted the TDM Plan as part of this order.

CONCLUSIONS

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a modification without hearing⁵ requires a public hearing and shall be processed as a modification with hearing. The Applicant's request complies with Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications with hearing.

As directed by Subtitle X § 901.2 and Subtitle Y § 704, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception and modification with hearing.

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

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for a modification with hearing to reduce the number of required parking spaces to an existing hotel in the MU-7B and R-1B zones, and for the requested relief:

⁵ See, Subtitle Y § 703.7.

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- Special Exception from the vehicle parking spaces reduction requirements of Subtitle C § 701.10, pursuant to Subtitle C § 703 and Subtitle X § 901.2

Accordingly, it is **ORDERED** that the modification request is **GRANTED** consistent with the plat shown in Exhibit 12 of the record, subject to the following **CONDITIONS**, which shall replace and supersede the condition of BZA Order No. 7096/7097:

1. The parking spaces authorized under the terms of this order are not required parking spaces for the existing hotel use on Lot 2 in Square 1971. This order shall not require the aforementioned parking spaces to be reserved for the existing hotel use on Lot 2 in Square 1971. This order shall not require the owner of the land upon which such parking is located, nor its successors and assigns, to agree to a covenant with the District of Columbia that would run with the land that binds or requires the accessory off-street parking. Upon raze or demolition of said parking structure, the Board's approval of the parking structure and parking spaces authorized under the terms of this order shall cease.
2. The Applicant shall implement the TDM plan as described in the DDOT report in Exhibit 31:
 - (a) Identify a Transportation Coordinator. The Transportation Coordinator shall act as point of contact with DDOT, goDCgo, and Zoning Enforcement and shall provide their contact information to goDCgo;
 - (b) Front office and customer-facing staff shall be provided training by goDCgo (either in-person or webinar) to learn of the non-automotive options for traveling to the property;
 - (c) Provide welcome packets to all new hotel guests that should, at a minimum, include the Metrorail pocket guide, brochures of local bus lines (Metrobus), and the most recent DC Bike Map;
 - (d) Provide guests with goDCgo's Get Around Guide by making it available on the property website and in printed format for front office or customer-facing staff;
 - (e) Transportation Coordinator shall subscribe to goDCgo's hospitality newsletter and receive TDM training from goDCgo to learn about the transportation conditions for this project and available options for implementing the TDM Plan;
 - (f) Post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links shall be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for guests and employees discouraging use of on-street parking in Residential Permit Parking (RPP) zones; and
 - (g) Provide comprehensive transportation information and directions on hotel website, including promoting the use of non-automotive modes of transportation and links to

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website for goDCgo, Capital Bikeshare, DC Circulator, and the Washington Metropolitan Area Transit Authority (WMATA).

In all other respects, Order No. 7096/7097 remains unchanged.

VOTE: 4-0-1 (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Anthony J. Hood to APPROVE; Lorna L. John not present, not participating)

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: November 19, 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 § 702.2, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS, UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

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

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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.