

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 20291 of 2100 M Street Property Owner LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 1504.1, from the penthouse setback requirements 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, to renovate and expand an existing 11-story office and retail building in the D-5 Zone at premises 2100 M Street, N.W. (Square 72, Lot 75).

HEARING DATE: October 7, 2020
DECISION DATE: October 7, 2020

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") 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") 2A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 16, 2020, at which a quorum was present, the ANC voted to support the application. (Exhibit 40.)

OP Report. The Office of Planning submitted a report recommending approval of the application. (Exhibit 37.)

DDOT Report. The District Department of Transportation submitted a report, dated September 29, 2020, stating that it has no objection to approval of the application. (Exhibit 38.) DDOT recommended that, for the life of the project, the Applicant shall implement 12 conditions from the Transportation Demand Management ("TDM") Plan, six conditions from the Loading

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EXHIBIT NO.2B

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Management Plan (“LMP”) (both proposed by the Applicant in its August 21, 2020 Transportation Statement (Exhibits 33A1-33A2)), and one condition related to the low ceiling clearance.

Persons in Support. A letter in support was submitted from BSREP II Dupont Circle LLC, owners of the adjacent property at 1143 New Hampshire Avenue, NW. (Ex. 44.)

Variance Relief

The Applicant seeks relief under Subtitle X § 1002.1 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.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty, in the case of an area variance, or an undue hardship, in the case of a use variance, in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under Subtitle C § 1504.1, from the penthouse setback requirements Subtitle C § 1502.1.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

Pursuant to 11 DCMR Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED REVISED PLANS¹ AT**

¹ In granting the certified relief, the Board made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and

EXHIBITS 34A1 through 34A5 – UPDATED ARCHITECTURAL PLANS – PARTS 1, 2, 3, 4, AND 5 - and SUBJECT to the following CONDITIONS:

A. The Applicant shall implement the following **Transportation Demand Management (TDM)** Plan, for the life of the project, as proposed in the August 21, 2020 Transportation Statement:

1. The Applicant shall identify Transportation Coordinators for the planning, construction, and operations phases of development. There shall be a Transportation Coordinator for each tenant and the entire site. The Transportation Coordinators shall act as points of contact with DDOT, goDCgo, and Zoning Enforcement.
2. The Applicant shall provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year. All employer tenants shall be required to survey their employees and report back to the Transportation Coordinator.
3. Transportation Coordinators shall develop, distribute, and market various transportation alternatives and options to the 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. Transportation Coordinators shall receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.
5. The Applicant shall notify goDCgo each time a new office tenant moves in and provide TDM information to each tenant as they move in.
6. The Applicant shall provide links to CommuterConnections.com and goDCgo.com on property websites.
7. The Applicant shall implement a carpooling system such that individuals working in the building who wish to carpool can easily locate other employees who live nearby.
8. The Applicant shall distribute information on the Commuter Connections Guaranteed Ride Home (GRH) program, which provides commuters who regularly carpool, vanpool, bike, walk, or take transit to work, with a free and reliable ride home in an emergency.
9. The Applicant shall provide employees who wish to carpool with detailed carpooling information and shall refer them to other carpool matching services sponsored by the

certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

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Metropolitan Washington Council of Governments (MWCOG) or other comparable service if MWCOG does not offer this in the future.

10. The Applicant shall meet ZR16 requirements for showers and lockers for use by employees. Six showers and 61 lockers would be required if the project were new construction.
11. The Applicant shall exceed ZR16 short- and long-term bicycle parking requirements. Long-term bicycle parking shall be provided free of charge to all employees. Sixteen short-term and 100 long-term bicycle spaces shall be provided.
12. Long-term bicycle storage rooms shall accommodate non-traditional sized bikes, including cargo and tandem bikes.

B. The Applicant shall implement the following **Loading Management Plan (LMP)**, for the life of the project, as proposed in the August 21, 2020 Transportation Statement:

13. 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 office and retail tenants to schedule deliveries.
14. 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.
15. 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.
16. The dock manager shall schedule deliveries using the berths 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.
17. 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).
18. 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

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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.

19. The Applicant shall install a low clearance bar at the garage entry noting the height of the ceiling clearance.

VOTE: 4-0-1 (Frederick L. Hill, Lorna L. John, Chrishaun S. Smith, and Peter G. May to APPROVE; one Board seat vacant).

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 21, 2020

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 AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 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

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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.

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.