

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 20943
WCP 1207 H Street LLC
1207 H Street, NE (Square 1004, Lot 342)

HEARING DATE: September 27, 2023

DECISION DATE: September 27, 2023

SUMMARY ORDER

RELIEF REQUESTED¹. The application requests the following relief in order to raze an existing structure, and to construct a new, detached, six-story with below-grade parking and penthouse, 184-210 dwelling unit, mixed-use building in the NMU-7B/H-A zone²:

- Special Exception from the new construction or enlargement requirements of Subtitle H § 907.1, pursuant to Subtitle H § 5200.2 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 39 (Final Revised).)³

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6A, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (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.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on July 13, 2023, at which a quorum was present, the ANC voted to support the application. (Exhibit 43.) The ANC report raised no issues or concerns; however, the ANC's recommendation included a condition addressing amplified sound hours on the roof deck. The Board adopted this as a condition of the Order.

¹ Effective August 25, 2023, the Zoning Commission approved text amendments that established new zone district names and reorganized the zoning regulations. (See Zoning Commission Orders 18-16 and 19-27.) While the original application was filed prior to August 2023 and included the old zoning provisions, this order reflects the new changes that were in effect at the time of the Board's vote at the conclusion of the public hearing.

² This property is subject to IZ+, pursuant to Zoning Commission map amendment case 22-03.

³ The self-certification form was revised to reflect the changes from the Zoning Commission text amendments as noted above.

ANC Commissioner 6A02 Mike Velasquez testified in support of the application at the Public Hearing.

OFFICE OF PLANNING (“OP”) REPORT. OP submitted a report recommending approval of the application. (Exhibit 37.) OP’s report included a condition similar to the ANC’s condition regarding mitigation of any potential sound impacts from the roof deck. The Board adopted this as a condition of the Order.

DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT. DDOT submitted a report indicating that it had no objection to the application because it concluded that the relief would not result in any adverse impacts to the District’s transportation network. (Exhibit 38.) DDOT’s recommendation was conditioned on the Applicant implementing a transportation demand management plan. The Applicant testified they were in agreement with the condition and the Board adopted this as a condition of the Order.

PERSONS IN SUPPORT. The Board received a letter from a neighbor in support of the application. (Exhibit 28.)

Robert Pittman testified in support of the application at the Public Hearing.

PERSONS IN OPPOSITION. Abigail Nydam testified in opposition to the application at the Public Hearing.

OTHER PUBLIC INPUT. Eddie Curry testified neither in opposition nor support of the application at the Public Hearing.

CONCLUSIONS

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.

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 special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

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 the requested relief:

- Special Exception from the new construction or enlargement requirements of Subtitle H § 907.1, pursuant to Subtitle H § 5200.2 and Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibits 34A1 through 34A5 and 40 of the record, as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITIONS**:

1. No amplified sound shall be played on the roof deck after 11:00 pm, subject to compliance with applicable statutory or regulatory noise restrictions.
2. The Applicant shall designate a community liaison to work with the ANC regarding the project.
3. The Applicant shall have design flexibility, as long as additional zoning relief is not necessary, for 184 to 210 dwelling units, which includes IZ+ requirements.
4. The Applicant shall implement the Transportation Demand Management plan listed in Exhibit 38 of the case record.

VOTE: 3-0-2 (Frederick L. Hill, Chrishaun S. Smith, and Robert E. Miller to APPROVE; Lorna L. John not present, not participating; 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 3, 2023

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, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE

DEPARTMENT OF BUILDINGS 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 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.