

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 20900 of PSG 5 Fisher SPV, LLC, as amended, pursuant to 11 DCMR Subtitle X § 901, for special exceptions under Subtitle C § 703.2 from the minimum vehicle parking requirements of Subtitle C § 701.5 and under Subtitle G § 409.1 and G § 1200 from the lot occupancy requirements of Subtitle G § 404.1 to allow an addition to an existing two-story row building for conversion to a mixed-use building (nine dwelling units and ground-floor retail space) in the MU-4 zone at 1108 Montello Avenue, N.E. (Square 4070, Lot 84).^{1, 2}

HEARING DATE: June 7 and June 14, 2023
DECISION DATE: June 14, 2023

DECISION AND ORDER

This self-certified application was filed January 31, 2023 on behalf of PSG 5 Fisher SPV, LLC (the “Applicant”), the owner of the property that is the subject of the application. Following a public hearing, the Board voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. The Office of Zoning scheduled a public hearing on the application for June 7, 2023. In accordance with Subtitle Y §§ 400.4 and 402.1, the Office of Zoning provided notice of the application and of the public hearing by letters sent on or before February 21, 2023 to the Applicant; the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); Advisory Neighborhood Commission (“ANC”) 5D, the ANC in which the subject property is located; and Single Member District ANC 5D03; ANC 6A, which was also an affected ANC within the meaning of Subtitle B § 100.2; the Department of Buildings; the Office of Advisory Neighborhood Commissions; the Councilmember for Ward 5; the Chairman of the Council; the four at-large members of the D.C. Council; and the owners of all property within 200 feet of the subject property. Notice was sent to the National Park Service on or before March 6,

¹ By orders issued August 25, 2023, the Zoning Commission approved text amendments changing the name of the zone district as well as the development standards at issue in this proceeding. (See Zoning Commission Orders 18-16 and 19-27.) This proposed order reflects the zoning provisions in effect at the time of the Board’s vote at the conclusion of the public hearing.

² The caption has been modified to reflect that the application was amended. The Applicant initially requested relief from the minimum vehicle parking requirements and subsequently added a request for lot occupancy relief. (Exhibits 4, 50.)

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2023 and was published in the *District of Columbia Register* on March 17, 2023 (70 DCR 003326) as well as through the calendar on the Office of Zoning website.

Parties. Pursuant to Subtitle Y § 403.5, the Applicant, ANC 5D, and ANC 6A were automatically parties in this proceeding. The Board received no requests for party status.

Applicant's Case. The Applicant presented evidence and testimony in support of the application from Jacob Ansbacher, representing the owner of the subject property, and Adam Crain, the project architect. The Applicant proposed to enlarge an existing building for use as a nine-unit apartment house with ground-floor retail space.

OP Report. By memorandum dated May 24, 2023, the Office of Planning recommended approval of the application. (Exhibit 46.)

DDOT Report. By memorandum dated May 26, 2023, the District Department of Transportation indicated no objection to approval of the application provided that the Applicant closed an existing curb cut, subject to DDOT approval. (Exhibit 47.)

ANC Report. By report dated June, 7, 2023, ANC 5D indicated that the Applicant's proposal was considered at a public meeting on May 8, 2023 with a quorum present.³ (Exhibit 52.)

Persons in support. The Board received letters in support of the application from residents and business owners near the subject property.

Person in opposition. The Board received a letter and heard testimony in opposition to the application from a commissioner on ANC 5D, who opposed the proposed project on grounds including that it would obstruct driver visibility and would provide small, unaffordable units.

FINDINGS OF FACT

1. The property that is the subject of this application is a corner lot on the west side of Montello Avenue, N.E. and on the north side of Florida Avenue, N.E., with an address of 1108 Montello Avenue, N.E. (Square 4070, Lot 84).
2. The subject property is rectangular, with 25 feet of frontage on Florida Avenue and 100 feet along Montello Avenue. The lot area is approximately 2,500 square feet. (Exhibit 11.)
3. The subject property is improved with a two-story row building with a cellar that was formerly used for commercial purposes. (Exhibits 15, 58.)
4. The existing building has a lot occupancy of 84 percent.
5. The existing building has a floor area ratio of 1.68. (Exhibit 50.)

³ ANC 6A did not submit a report into the record or otherwise participate in this proceeding.

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6. The subject property has a rear yard 10 feet deep. (Exhibit 50.)
7. The subject property does not have access to any public alley. (Exhibit 15.) An existing curb cut is located on Montello Avenue near the rear yard.
8. The Applicant proposed to enlarge the building at the subject property with a new third-story and penthouse addition, and to convert the enlarged building to use as an apartment house with ground-floor retail space. (Exhibit 58.)
9. The enlarged building will contain a total of nine dwelling units as well as 1,218 square feet of retail space on the first floor. (Exhibit 58.)
10. The Applicant's project will retain the building's chamfered corner at the ground floor. The planned massing of the new construction incorporated a terraced design that will step up from one story at the rear of the subject property to three stories and penthouse along Florida Avenue at the front of the building. (Exhibit 58.)
11. The new construction will increase the height of the building to 37.5 feet, where a maximum of 50 feet is permitted. (Exhibit 58; Subtitle G § 403.1.)
12. The new construction will result in a lot occupancy of 90 percent, where a maximum of 60 percent is permitted as a matter of right. (Exhibit 50; Subtitle G § 404.1)
13. The project will provide three long-term bicycle parking spaces in a storage room in the cellar of the building. Two short-term bicycle parking spaces (one inverted-U rack) will be provided along Florida Avenue.
14. An enclosure for storage of trash and recycling containers will be provided in the rear yard adjacent to Montello Avenue. (Exhibit 58.)
15. The subject property is approximately one mile from the NoMa-Gallaudet U Metro Station, approximately one-quarter mile from the H Street Corridor Streetcar line, and within a quarter mile of Priority Corridor Network Metrobus routes along Florida Avenue and Montello Avenue. (Exhibits 15, 47.)
16. A Metrobus stop is located adjacent to the Applicant's building on Montello Avenue near the intersection with Florida Avenue.
17. There are several Capital Bikeshare stations within walking distance of the subject property and various bike routes. (Exhibit 15.)
18. The subject property is within walking distance of several neighborhood commercial services including two grocery stores, a pharmacy, and several retail/restaurant uses.

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(Exhibit 15.) The H Street corridor, which provides a variety of retail and service establishments, is located approximately two blocks to the south.

19. The abutting property to the north of the subject property, fronting Montello Avenue, is developed with an apartment house. The four-story building does not have any windows on its south façade facing the subject property. (Exhibit 60.)
20. The abutting property to the west of the subject property, fronting Florida Avenue, is developed with an attached building containing an apartment house.
21. At its furthest point, the rear wall of the Applicant's building will extend 7.8 feet beyond the rear wall of the adjoining building to the west (1138 Florida Avenue N.E.). (Exhibit 58.)
22. The surrounding neighborhood contains a mix of commercial and residential structures and is predominately moderate density in character.
23. The Board previously approved zoning relief, including relief from the lot occupancy and parking requirements contained in the 1958 Zoning Regulations, to allow enlargement of the existing building at the subject property into a four-story building containing six apartments and ground-floor retail space. See Application No. 19061 (1106 Montello LLC; December 3, 2015). Three vehicle parking spaces were required for the proposed development and none would be provided, in keeping with DDOT's testimony that the subject property lacked a "curbside location ... that would meet DDOT's standards for distances from an intersection for location of a curb cut" and that vehicle access from Montello Avenue would conflict with DDOT policy to minimize the impacts of curb cuts on public space, pedestrian circulation, and safety. (19061 Exhibit 28.) The project was not developed.
24. The subject property is located in a Mixed-Use (MU) zone, MU-4 zone.
25. The Mixed-Use (MU) zones provide for mixed-use developments that permit a broad range of commercial, institutional, and multiple dwelling unit residential development at varying densities. (Subtitle G § 100.1.) The MU zones are designed to provide facilities for housing, shopping, and business needs, including residential, office, service, and employment centers. (Subtitle G § 100.2.) In the MU zones, buildings may be a mixture of non-residential and residential uses. (Subtitle G § 100.4.)
26. The purposes of the MU zones are to: (a) provide for the orderly development and use of land and structures in the MU zones, characterized by a mixture of land uses; (b) provide for a varied mix of residential, employment, retail, service, and other related uses at appropriate densities and scale throughout the city; (c) reflect a variety of building types, including, but not limited to, shop-front buildings which may include a vertical mixture of residential and non-residential uses, buildings made up entirely of residential uses, and buildings made up entirely of non-residential uses; (d) encourage safe and efficient

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conditions for pedestrian and motor vehicle movement; (e) ensure that infill development is compatible with the prevailing development pattern within the zone and surrounding areas; (f) preserve and enhance existing commercial nodes and surroundings by providing an appropriate scale of development and range of shopping and service opportunities; and (g) ensure that buildings and developments around fixed rail stations, transit hubs, and streetcar lines are oriented to support active use of public transportation and safety of public spaces. (Subtitle G § 100.3.)

27. The MU-4 zone is intended to permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and, be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate bulk mixed-use centers. (Subtitle G § 400.3.)

CONCLUSIONS OF LAW AND OPINION

The Applicant seeks special exceptions under Subtitle C § 703.2 from the minimum vehicle parking requirements of Subtitle C § 701.5 and under Subtitle G § 409.1 and G § 1200 from the lot occupancy requirements of Subtitle G § 404.1 to allow an addition to an existing building for use as an apartment house with ground-floor retail space in the MU-4 zone at 1108 Montello Avenue, N.E. (Square 4070, Lot 84). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2012 Repl.), to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (See 11 DCMR Subtitle X § 901.2.)

Lot occupancy. Pursuant to Subtitle G § 409.1, the Board is authorized to grant relief from the lot occupancy requirements of Subtitle G § 404.1 as a special exception under Subtitle X, Chapter 9, subject to the provisions and limitations of Subtitle G, Chapter 12. An applicant must demonstrate that approval of the application (a) will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps and (b) will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. (Subtitle G § 1200.4; Subtitle X § 901.2.) Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning and to the issues and concerns stated by ANC 5D, the Board concludes that the application has met the requirements for approval of the requested relief from the lot occupancy requirements.

The Board concludes that approval of the application is in harmony with the general purpose and intent of the MU-4 zone, the Zoning Regulations, and Zoning Maps. The proposed building will comply with applicable development standards other than the number of vehicle parking spaces and lot occupancy, relief from which is permitted by special exception. Approval of the application will be consistent with the purposes of the MU zones to provide for the orderly development and use of land and structures in a zone characterized by a mixture of land uses; to

provide for a varied mix of residential, employment, retail, service, and other related uses at an appropriate density and scale; to reflect a variety of building types, including buildings with a vertical mixture of residential and non-residential uses; and to encourage safe and efficient conditions for pedestrian and motor vehicle movement. Approval of the application will also be consistent with the intent of the MU-4 zone to permit moderate-density mixed-use development and to provide facilities for shopping and business needs, housing, and mixed uses outside of the central core in a moderate-density residential area with access to main roadways and rapid transit stops. The Board credits the Office of Planning's testimony that granting relief from the lot occupancy requirements would be in harmony with the zone plan because the relief requested "would not appreciably expand the building's footprint or result in an increase" in the building's floor area ratio beyond the limit applicable in the MU-4 zone. (Exhibit 46.)

The Board concludes that approval of the application will not have any adverse effects on the use of the neighboring properties. The new construction will maintain the existing 10-foot rear yard and comply with the height regulations of the MU-4 zone. The increase in lot occupancy will not impede the Applicant from providing trash storage on-site, in the rear yard. Given that the building to the west of the subject property is attached and the building to the north of the subject property does not have any windows or balconies on its south façade facing the subject property, the planned development will not adversely affect neighboring properties with respect to light, air, or privacy. Further, since the new construction will retain the existing chamfered corner at the ground floor, approval of the requested lot occupancy relief will not obstruct the existing vehicular and pedestrian sightlines at the subject property.

Vehicle parking requirements. The Applicant indicated that the Zoning Regulations require one vehicle parking space for the planned development, but no vehicle parking spaces will be provided on-site.⁴ The Board is authorized to reduce or eliminate the required number of parking spaces, subject to the general special exception requirements of Subtitle X, Chapter 9, when an applicant demonstrates at least one of the 10 bases for parking relief listed in Subtitle C § 703.2. Based on the findings of fact, and having given great weight to the recommendation of the Office of Planning and to the issues and concerns of ANC 5D, the Board concludes that the application satisfies several of the factors that warrant parking relief under Subtitle C § 703.2.

Subtitle C § 703.2(h). The subject property is physically constrained as a corner lot that does not have access to an open public alley. Accordingly, the only means by which a vehicle could access the lot is from an improved public street, and any vehicle entrance onto the property would be located less than 100 feet from a signalized intersection. Under the circumstances, allowing vehicle access to the subject property would be contrary to DDOT regulations and would present a safety issue, as vehicles would have to cross into a primary pedestrian route. (Exhibit 15; Transcript of June 7, 2023 at 74-75.) As noted by DDOT in its report filed in a prior BZA case dealing with the subject property, "[i]ntroducing curb cuts [at the subject property would] result

⁴ The Applicant's calculation was based on the minimum vehicle parking requirement stated in Subtitle C § 701.5 as two vehicle parking spaces for the planned total of nine dwelling units (the planned retail use would not generate a vehicle parking requirement since the area proposed for retail use would not exceed 3,000 square feet), with a 50-percent reduction in accordance with Subtitle C § 702.1(b) given the proximity of the subject property to public transit.

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in unnecessary vehicular conflicts with pedestrian, bicycles, and other vehicles, removal of several public parking spaces, and removal of a street tree.”” (Exhibit 15 *citing* 19061 Exhibit 28.) The Board credits Applicant’s statement based on recent correspondence with DDOT that “...DDOT does not support vehicular access to the Property from Montello Avenue, given the proximity to the signalized intersection (of Florida Avenue and Montello Avenue), as well as the conflicts that such access would create with the pedestrian streetscape and adjacent bus stop.” (Exhibit 15.) DDOT indicated its lack of support for retaining the existing curb cut on Montello Avenue, which does not comply with current requirements and conflicts with an existing bus stop. OP also noted that the existing curb cut was not consistent with DDOT’s standards due to the location of the curb cut in close proximity to the intersection of Florida Avenue and Montello Avenue, and indicated that a new curb cut would likely not be approved at the subject property, where no alley exists, since it would create pedestrian vehicle conflict and result in the loss of on-street parking spaces. (Exhibit 46.) Without a compliant means of providing vehicle access to the site, the Applicant is unable to provide on-site parking in any redevelopment undertaken at the subject property.

Subtitle C § 703.2(b). The proposed use of the subject property is particularly well served by mass transit, shared vehicle, and bicycle facilities. The Applicant’s project will meet zoning requirements for short- and long-term bicycle parking, and the subject property is within walking distance of several neighborhood-commercial services and a variety of public transportation options.

Subtitle C § 703.2(c). The land use and transportation characteristics of the neighborhood minimize the need for required vehicle parking spaces. In addition to the prevalence of transportation options and existing and planned bicycle facilities available at the site, the area surrounding the subject property contains a variety of commercial, institutional, and service uses within convenient walking distance of the subject property.

Subtitle C § 703.2(d). The amount of traffic congestion existing or which the parking for the building or structure would reasonably be expected to create in the neighborhood would be minimal. The Board notes that ANC 5D recommended that parking should be made available, given the number of units in the Applicant’s project. (Exhibit 52.) However, the Board credits DDOT’s conclusion that approval of the application would have a minimal impact on the transportation network given, among other things, the site’s access to transit and the walkability of the neighborhood. (Exhibit 47.) In concluding that approval of the requested parking relief will not likely result in traffic congestion in the surrounding neighborhood, the Board notes that the zoning requirement for vehicle parking for the Applicant’s project is one space and credits the Applicant’s testimony that the subject property is located in an area with prevalent “neighborhood serving commercial uses, in combination with the various transit services, all within walking distance....” (Exhibit 15.)

Subtitle X § 901.2. The Board concludes that approval of the requested parking relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, as is required under Subtitle X § 901.2.

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Approval of the application is consistent with Subtitle C § 703.3 because the reduction in the required number of parking spaces is proportionate to the reduction in parking demand evidenced in the record, and the Applicant requested relief from the minimum number of parking spaces that are required and that cannot reasonably be provided on-site. Approval of the application is consistent with the purpose of Subtitle C § 703.1 to provide flexibility from the parking requirement when, as in this instance, the provision of the required number of spaces would be contrary to regulations, impractical due to the physical constraints of the site, and unnecessary given the subject property's proximity to transit options and neighborhood services. The parking relief is consistent with the purpose of the MU zones to encourage safe and efficient conditions for pedestrian and motor vehicle movement in recognizing that a curb cut at the subject property would not meet DDOT's standards for pedestrian safety, and will further the intent of the MU-4 zone by facilitating a project that will provide a mixed-use development with retail and residential uses in a moderate-density zone.

Approval of the requested parking relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The Board credits DDOT's conclusion that the elimination of the vehicle parking requirement will have minimal impacts on the transportation network and was appropriate "given the site's proximity to transit, the walkability of the neighborhood, the site's lack of alley access, and the closure of the existing curb cut."⁵ (Exhibit 47.)

Great weight. The Board is required to give "great weight" to the recommendation of the Office of Planning. (Section 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)).) For the reasons discussed above, the Board agrees with OP's recommendation that the application should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.)); *see also* Subtitle Y § 406.2. In this case, ANC 5D did not adopt a resolution in support of or in opposition to the application, but submitted a report (Exhibit 52) that noted certain concerns pertaining to the Applicant's project.⁶ Some of the concerns addressed potential impacts on traffic related to visibility, which were addressed when the Applicant revised the project design, especially with respect to retention of the existing chamfered corner. ANC 5D also stated a concern about the design of the project relative to "the culture and history of the neighborhood," without specifying the concern or its relevance to the zoning relief requested in the application. The Board's inquiry

⁵ DDOT indicated an intent not to approve a curb cut at the subject property in light of its physical constraints and location and recommended a condition of the Board's approval of this application that would require the Applicant to close the existing curb cut, subject to DDOT approval. The Board declined to adopt that condition, which applies to public space concerns outside the scope of the Board's jurisdiction. Nonetheless, the Board notes that the Applicant had begun the process to close the existing curb cut. (Transcript of June 7, 2023 at 86.)

⁶ At its public meeting on May 8, 2023, ANC 5D considered a motion in support of the application. That motion did not pass, and the ANC apparently did not vote on any other motions in connection with this application. (See Exhibit 52.)

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in this proceeding is limited to the narrow question of whether the Applicant has met the burden under the applicable special exception criteria. *Georgetown Residents Alliance v. District of Columbia Bd. of Zoning Adjustment*, 802 A.2d 359, 363 (D.C. 2002); *see also* Application No. 16970 (National Child Research Center; order issued March 29, 2005). An applicant has the burden of showing that a proposal complies with the regulation, but once that showing has been made, the Board ordinarily must grant the application. See, *e.g.*, *National Cathedral Neighborhood Association v. District of Columbia Bd. of Zoning Adjustment*, 753 A.2d 984, (D.C. 2000). When reviewing an application, the Board is required to accord “great weight” only to the issues and concerns of the affected ANC that are legally relevant to the application at issue. *See Concerned Citizens of Brentwood v. District of Columbia Bd. of Zoning Adjustment*, 634 A.2d 1234, 1241 (D.C. 1993), citing *Bakers Local 118 v. District of Columbia Bd. of Zoning Adjustment*, 437 A.2d 176, 180 (D.C. 1981).

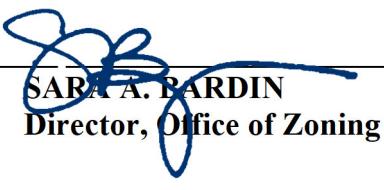
Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for special exceptions under Subtitle C § 703.2 from the minimum vehicle parking requirements of Subtitle C § 701.5, and under Subtitle G § 409.1 and G § 1200 from the lot occupancy requirements of Subtitle G § 404.1 to allow an addition to an existing two-story building for use as a nine-unit apartment house with ground-floor retail space in the MU-4 zone at 1108 Montello Avenue, N.E. (Square 4070, Lot 84). Accordingly, it is **ORDERED** that the application is **GRANTED** in conformance with plans shown at Exhibit 58.

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: June 10, 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, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING

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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.

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.