

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



**BZA Application No. 20990
Rock Creek 650 H, LLC
650 H Street, N.E. (Square 858, Lots 858, 867, 871)**

HEARING DATE: November 29, 2023
DECISION DATE: November 29, 2023

SUMMARY ORDER

RELIEF REQUESTED.¹ The application requests the following relief in order to permit a financial services use on the ground floor of an existing, six-story, mixed use building in the NMU-5A/H-H (formerly NC-10) zone:

- Special Exception from the designated and restricted uses requirements of Subtitle H § 6001.3(a), pursuant to Subtitle H § 5200.2 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 5.)

PARTIES. The parties to this case were the Applicant, Advisory Neighborhood Commission ("ANC") 6C, and ANC 6A, the "affected ANCs" 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 REPORTS. ANC 6C's report indicated that at a regularly scheduled, properly noticed public meeting on October 11, 2023, at which a quorum was present, ANC 6C voted to support the application, conditioned on the Applicant's strict compliance with the H Street Mixed-Use zone

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.

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design requirements set forth at Subtitle H § 906.1 of the Zoning Regulations. The Board adopted this provision as a condition of this order. (Exhibit 30.) Commissioner Christy Kwan testified at the hearing on behalf of ANC 6C.

The Board also received a report from ANC 6A, the adjacent ANC, which indicated that at a regularly scheduled, properly noticed meeting on November 9, 2023, at which a quorum was present, ANC 6A voted to support the application. The ANC report did not raise any issues or concerns with approval of the application. (Exhibit 27.)

OFFICE OF PLANNING (“OP”) REPORT. OP submitted a report recommending approval of the application. (Exhibit 29.)

DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT. DDOT did not submit a report to the record for this application.

PERSONS IN SUPPORT. The Board received two letters from neighbors in support of the application. (Exhibits 19, 23.)

OTHER PUBLIC INPUT. The Board also received a letter in support from the Capitol Hill Restoration Society. (Exhibit 25.)

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 designated and restricted uses requirements of Subtitle H § 6001.3(a), pursuant to Subtitle H § 5200.2 and Subtitle X § 901.2

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Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 3 of the record,² as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITION**:

1. The Applicant shall maintain strict compliance with the H Street Mixed-Use zone design requirements of Subtitle H § 906.1.

VOTE: 3-0-2 (Frederick L. Hill, Chrishaun S. Smith, and Tammy M. Stidham 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: December 12, 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

² Self-Certification. The zoning relief requested in this case was self-certified, pursuant to Subtitle Y § 300.6. In granting the requested self-certified relief subject to the plans submitted with the Application, the Board makes no finding that the requested relief is either necessary or sufficient to authorize the proposed construction project described in the Application and depicted on the approved plans. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any such application that would require additional or different zoning relief from what is granted by this Order.

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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 CONDITION 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 CONDITION 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.