

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

Z.C. Case No. 21-10

Office of Planning

**(Text Amendment to Subtitle C, Chapters 7-9 [Vehicle Parking,
Bicycle Parking, and Loading])**

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend Subtitle C, Chapters 7-9 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the proposed text at the end of this notice.

SETDOWN

On June 14, 2021, the Office of Planning (OP) filed a petition (Petition) to the Commission proposing amendments to Subtitle C, Chapter 7 Vehicle Parking, Chapter 8 Bicycle Parking, and Chapter 9 Loading to clarify the special exception provisions; to include a parking requirement for Rooming House uses; and to refine the text for consistency and clarity.

At its June 24, 2021 public meeting, the Commission voted to grant OP's request to set down the Petition for a public hearing and requested clarification from OP that the proposed amendments would allow for special exception relief from center line alley access setback requirements. OP confirmed that access requirements are addressed in the proposed amendments.

PUBLIC HEARING

OP submitted an October 8, 2021 report (OP Hearing Report), explaining that since set down minor, non-substantive changes were made to the proposed amendments to improve clarity and ensure consistency of the language across Chapters.

Immediately prior to the October 18, 2021 public hearing, ANC 6C submitted a report to the record stating that it disagreed with the proposed special exception criteria for relief from required number of parking spaces and required number and size of loading berths. Specifically, requesting the following changes to the proposed amendments:

- Delete proposed parking relief criteria in Subtitle C § 703.2(h)(1) allowing parking relief where DDOT does not support access that would require a curb cut;
- Delete proposed loading relief criteria in Subtitle C § 909.2(a)(2) which would consider land use or topographical characteristics of the neighborhood as a factor to grant relief; and
- Delete proposed loading relief criteria in Subtitle C § 909.2(a)(3) which would allow relief if a loading demand management plan was obtained by the applicant.

At the October 18, 2021 public hearing, OP presented the Petition and the Commission questioned OP about the issues raised in the ANC 6C letter. ANC 6C testified about the content of its letter and OP agreed to delete the special exception criteria language in Subtitle C § 703.2(h)(1) referencing DDOT. However, OP wanted more time to review the other two deletion requests in Subtitle C § 909.2. The Commission agreed and did not take proposed action to allow time for OP and the ANC

to discuss the proposed language in Subtitle C § 909.2. The Commission requested that OP submit a supplemental report detailing the outcome of its discussions with ANC 6C.

OP submitted a November 8, 2021 report (OP Supplemental Report), explaining that it made the following changes to the proposed amendments based on its discussions with ANC 6C and the Office of Zoning Legal Division (OZLD):

- As requested by ANC 6C, OP deleted the proposed loading relief criteria in Subtitle C § 909.2(a)(2), which would have considered land use or topographical characteristics of the neighborhood as a factor to grant loading relief;
- OP retained the proposed loading relief criteria in Subtitle C § 909.2(a)(3) (now renumbered to Subtitle C § 909.2(a)(2) which would allow relief if a loading demand management plan was obtained by the applicant, and OP added language to require that the loading demand management plan be filed in the record 30 days prior to the BZA hearing so the plan may be reviewed by all interested parties, including the ANC; and
- Per OZLD’s request, OP made a non-substantive change to the order of the language in Subtitle C § 711.7 regarding center line alley access setback requirements to improve clarity.

ANC 6C did not submit a response to OP’s Supplemental Report.

PROPOSED ACTION

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations of the Office of Planning (OP) pursuant to § 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.) and Subtitle Z § 405.8; *Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds persuasive, and concurs with, OP’s recommendations that the Commission adopt the Petition, particularly:

- Retaining the proposed loading relief criteria in C-909.2(a)(3) (now renumbered to Subtitle C § 909.2(a)(2) which would allow relief if a loading demand management plan was obtained by the applicant.

As noted, OP added language to require that the loading demand management plan be filed in the record thirty (30) days prior to the BZA hearing so the plan may be reviewed by all interested parties, including the ANC.

“Great Weight” to the Written Report of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 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) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only

legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

The Commission finds persuasive, and concurs with, ANC 6C’s recommendations that the Commission:

- Delete the proposed parking relief criteria in Subtitle C § 703.2(h)(1) to allow parking relief where DDOT does not support access that would require a curb cut; and
- Delete the proposed loading relief criteria in Subtitle C § 909.2(a)(2) which would consider land use or topographical characteristics of the neighborhood as a factor to grant relief

At its November 18, 2021 public meeting, the Zoning Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition with the revisions suggested by OP and two of the deletions suggested by ANC 6C; and
- Authorize the publication of a Notice of Proposed Rulemaking (NOPR).

VOTE (November 18, 2021): 4-0-1 (Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Peter G. May to APPROVE; Joseph Imamura not voting, having not participated)

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice of proposed rulemaking in the *D.C. Register*.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

The complete record in the case can be viewed online at the Office of Zoning’s Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows) text to be deleted is marked in ~~bold and strikethrough~~ text; new text is shown in **bold and underline** text).

Subsection 701.5 of § 701, MINIMUM VEHICLE PARKING REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

701.5 Except as provided for in Subtitle C § 702, parking requirements for all use categories are as follows (all references to “sq. ft.” refers to square feet of gross floor area as calculated in Subtitle C § 709):

TABLE C § 701.5: PARKING REQUIREMENTS

Use Category	Minimum number of vehicle parking spaces
Residential, multiple dwelling unit	1 per 3 dwelling units in excess of 4 units, except: 1 per 2 dwelling units for any R or RF zone; 1 per 6 units of publicly assisted housing, reserved for the elderly and /or handicapped
<u>Residential, rooming house</u>	<u>1 plus 1 for each 5 rooming units</u>
Retail	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.

Section 703, SPECIAL EXCEPTIONS FROM MINIMUM PARKING NUMBER REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

703.1 This section provides flexibility from the minimum required number of parking spaces when ~~the provision of providing~~ the required number of spaces would be: ~~contrary to other District of Columbia regulations; or~~

(a) ~~impractical Impractical due to site constraints; or unnecessary~~ due to the shape or configuration of the site;

(b) ~~Unnecessary due to~~ a lack of demand for parking; or ~~the site’s~~ proximity to transit ~~options; or~~

(c) ~~Contrary to other District of Columbia regulations.~~

703.2 The Board of Zoning Adjustment may grant a full or partial reduction in ~~the~~ number of required parking spaces, ~~subject to the general as a special exception requirements of pursuant to~~ Subtitle X, ~~Chapter 9,~~ and ~~subject to~~ the applicant’s demonstration ~~to the Board’s satisfaction~~ of at least one (1) of the following:

(a) Due to the physical constraints of the property ...

...

(h) The property does not have access to an open public alley, resulting in the only means by which a motor vehicle could access the lot is from an improved public street and either:

(1) A curb cut permit for the property has been denied by the ~~Public Space Committee District Department of Transportation;~~ or

...
...

(j) The nature or location of an ~~Historic Resource~~ ~~historic resource~~ precludes the provision ~~of the number~~ of parking spaces ~~required by this chapter;~~ or providing the required ~~number of~~ parking ~~spaces~~ would result in significant

architectural or structural difficulty in maintaining the integrity and appearance of the Historic Resource ~~historic resource~~.

703.3 Any reduction in the required number of parking spaces granted under Subtitle C § 703.2 ~~shall be only for the amount that the applicant is physically unable to provide, and~~ shall be:

(a) Proportionate ~~proportionate~~ to the reduction in parking demand demonstrated by the applicant;

(b) Limited to the number of spaces that the applicant demonstrates cannot reasonably be provided on the site as proposed to be developed in the application; and

(c) Limited to relief from the minimum number of parking spaces required by this section and shall not provide relief from the location, access, size or layout, screening, or other requirements of this chapter.

703.4 Any request for a reduction of more than four (4) spaces from ~~in~~ the ~~minimum~~ required number of parking spaces shall include a transportation demand management plan approved by the District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval.

Subsection 706.2 of § 706, MAXIMUM PARKING REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

706.2 The Board of Zoning Adjustment may grant, ~~as a special exception,~~ an increase in the maximum size of parking area allowed under Subtitle C § 706.1(a) or in the maximum parking standards of a land use subtitle as a special exception pursuant to Subtitle X, Chapter 9, and subject to if, in addition to meeting the general requirements of Subtitle X, the applicant's demonstration to the Board's satisfaction demonstrates that a transportation demand management plan approved by the District Department of Transportation will be implemented. The Board of Zoning Adjustment may impose as a condition of its approval, requirements as to screening, landscaping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property.

Subsection 707.3 of § 707, MITIGATION FOR PARKING SIGNIFICANTLY IN EXCESS OF THE MINIMUM REQUIREMENT, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

707.3 The provision of excess parking spaces shall require the following transportation demand management features:

(a) For any site for which the parking requirement of Subtitle C § 701.5 ...

- (b) In addition, the provision of more than one hundred (100) excess parking spaces shall require the provision of one (1) Capital Bikeshare station with a minimum of ~~twelve (12)~~ **nineteen (19)** bike stalls, and the provision of more than two hundred (200) excess parking spaces shall require the provision of two (2) Capital Bikeshare stations with a minimum of ~~twelve (12)~~ **nineteen (19)** bike stalls each, or the provision of one (1) Capital Bikeshare station with a minimum of ~~twenty-four (24)~~ **thirty-eight (38)** bike stalls. These shall be located on site or at an off-site location within the Ward at a location to be determined by the District Department of Transportation;

...

- (e) The Board of Zoning Adjustment may grant, ~~as a special exception full or partial~~ relief from Subtitle C §§ 707.3(a) and (b), ~~if in addition to meeting the general requirements of~~ **as a special exception pursuant to** Subtitle X, **Chapter 9, and subject to** the applicant's **demonstration to the Board's satisfaction demonstrates** that:

- (1) Mitigation requirements ...

Subsections 710.2 and 710.3 of § 710, LOCATION RESTRICTIONS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, are proposed to be amended, to read as follows:

710.2 Vehicle parking spaces shall be located:

- (a) **Parking spaces and access to parking spaces in a waterfront setback required pursuant to Subtitle C § 1102 shall comply with the requirements of that section in addition to the other requirements of this subsection;**
- ~~(a)~~ **(b)** Within or below a building or structure; except in ~~all zones except for~~ any **zone other than a** R, RF, or Subtitle K **special purpose zone zones**, parking spaces provided within a structure shall be located at least twenty feet (20 ft.) from all lot lines that abut **a** public ~~streets~~ **street** or a waterfront setback required pursuant to Subtitle C § 1102, unless the surface of the parking spaces is at least ten feet (10 ft.) below grade; at all points along the building frontage; and
- ~~(b)~~ **(c)** On an open area of the lot, except:
- (1) Between a building restriction **line** and a front lot line;
- (2) In any zone other than a PDR zone, surface parking spaces shall not be located ~~within a front yard~~ **between the front facade of a building, as extended for the full width of the front of the lot, and the front lot line; provided that a** building used solely as a parking attendant shelter shall not trigger this restriction;
- (3) **In a waterfront setback required pursuant to Subtitle C § 1102 or in the MU-11 through MU-14 zones, surface** ~~Surface~~ parking spaces shall be permitted only as a special exception pursuant to **Subtitle X,**

Chapter 9, and meeting the application conditions of Subtitle C § 1102.5; or if located:

- ~~(A) Anywhere on a lot within the MU-11 through MU-14; or~~
~~(B) Within a waterfront setback area pursuant to Subtitle C § 1102;~~

~~(4) Parking spaces and access isles for and buildings, structures or uses adjacent to the Anacostia River, Potomac River, or Washington Channel shall be sited and designed in accordance with the requirements of Subtitle C § 1102; or~~

~~(5)~~(4) Within all R and RF zones ~~of~~, any surface parking lot for more than ten (10) parking spaces shall be located a minimum of six feet (6 ft.) from any property line, with the space between the surface parking lot and the property line providing landscaping and screening consistent with Subtitle C §§ 714 and 715.

710.3

The Board of Zoning Adjustment may ~~allow~~ **grant full or partial relief from the requirements of this section to locate** surface parking spaces ~~to be located~~ anywhere on the lot upon which the building or structure is located ~~in accordance with the general if approved as a~~ special exception ~~requirements of pursuant to~~ Subtitle X, **Chapter 9**, and **subject to:**

(a) The ~~the~~ applicant's demonstration ~~of the following~~ to the Board's satisfaction that:

~~(a) (1) The Board of Zoning Adjustment shall determine that it~~ It is not practical to locate the spaces in accordance with Subtitle C § 710.2 for the following reasons:

~~(1) (A)~~ Unusual topography, grades, shape, size, or dimensions of the lot;

~~(2) (B)~~ The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets;

~~(3) (C)~~ Traffic hazards caused by unusual street grades; or

~~(4) (D)~~ The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties; **and**

~~(b) (2)~~ The accessory parking spaces shall be located so as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve; and

~~(e) (b)~~ The Board of Zoning Adjustment may impose conditions as to screening, coping, setbacks, fences, the location of entrances and exits, or any other

requirement it deems necessary to protect adjacent or nearby property. It may also impose other conditions it deems necessary to assure the continued provision and maintenance of the spaces.

Section 711, ACCESS REQUIREMENTS, of Chapter 7, VEHICLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended by revising §§ 711.5-711.7 and 711.9 and by adding a new § 711.11, to read as follows:

711.5 **Except as provided in Subtitle C § 711.11, within** ~~Within~~ twenty feet (20 ft.) of all street lot lines, a driveway shall be at least eight feet (8 ft.) wide and not more than ten feet (10 ft.) wide if it:

- (a) Provides access to parking spaces serving a single dwelling unit or flat;
- (b) Provides access to no more than two (2) parking spaces for any use; or
- (c) Provides shared access across public or private property to no more than three (3) single dwelling units or flats.

711.6 **Except as provided in Subtitle C § 711.11, within** ~~Within~~ twenty feet (20 ft.) of all street lot lines, a driveway other than as described in Subtitle C § 711.5 shall be:

- (a) At least twelve feet (12 ft.) wide for one-way traffic or ~~twenty feet (20 ft.)~~ **eighteen feet (18 ft.)** wide for two-way traffic; and
- (b) Not more than twenty-four feet (24 ft.) wide.

711.7 Except for Alley Lots **or as provided in Subtitle C § 711.11,** when parking spaces are provided within a building or structure, all vehicular entrances or exits shall be **a minimum height of ten feet (10 ft.) and shall be** setback at least twelve feet (12 ft.) from the center line of any adjacent alley ~~for a minimum height of ten feet (10 ft.)~~.

...

711.9 Driveways to required parking spaces for groups of three (3) or more row dwellings that are constructed concurrently on adjacent lots shall be governed by the following provisions:

- (a) Access to vehicle parking from a public or private street to individual rowhouses shall not be permitted; and
- (b) For vehicle parking provided on a separate lot in accordance with Subtitle C § 701.8, the Board of Zoning Adjustment may allow ~~by special exception~~ a single driveway access from a public or private street ~~in accordance the requirements of~~ **as a special exception pursuant to** Subtitle X, **Chapter 9,** and **subject to:**

(1) The the following provisions applicant's demonstration to the Board's satisfaction that:

~~(1)~~ (A) There is no alternative access to on-site parking spaces through open and improved existing or proposed alleys; **and**

~~(2)~~ (B) The ~~Board of Zoning Adjustment determines that the~~ **proposed** parking access does not impose traffic hazards or any adverse impact on the surrounding neighborhood; and

~~(3)~~ (2) The Board of Zoning Adjustment may impose conditions as to the location of the parking access, screening, or any other requirement it deems necessary to ensure safety and to protect adjacent or nearby property.

...

711.11 The Board of Zoning Adjustment may grant full or partial relief from the requirements of Subtitle C §§ 711.5 through 711.7 as a special exception under Subtitle X, Chapter 9, and subject to the following:

(a) The Office of Zoning shall refer any request under this subsection to the Office of Planning and the District Department of Transportation for review and comment, which shall include an evaluation of the applicant's satisfaction of the requirements of paragraph (b) of this subsection; and

(b) The applicant shall demonstrate to the Board's satisfaction:

(1) A reasonable difficulty in providing the full-sized driveway width or alley centerline setback; and

(2) Vehicle movement and turning diagrams demonstrating that the proposed relief would allow safe:

(A) Access for vehicles of average dimensions to and from the parking spaces for which the driveway or alley centerline setback provides access; and

(B) Use of the street or alley by pedestrians and vehicles.

Section 807, SPECIAL EXCEPTIONS FROM BICYCLE PARKING REQUIREMENTS, of Chapter 8, BICYCLE PARKING, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

807.1 This section provides flexibility from the requirements of this chapter when providing the number of bicycle parking spaces or showers and changing facilities required **is would be:**

(a) impractical Impractical due to the shape or configuration of the site constraints, or contrary to other District regulations, or when it is

(b) Unnecessary unnecessary due to a lack of demand for bicycle parking; **or**

(c) Contrary to other District regulations.

807.2

The Board of Zoning Adjustment may grant, ~~as a special exception,~~ a full or partial ~~reduction in relief from~~ the minimum number **or dimensions** of long-term or short-term bicycle parking spaces required for a use or structure **by this section, subject to the general requirements of as a special exception under** Subtitle X, **Chapter 9**, **and subject to** the limitations of Subtitle C § 807.3, and the applicant's demonstration **to the Board's satisfaction** of any of the following:

- (a) Due to the physical constraints of the property, the required bicycle parking spaces cannot be provided **in compliance with the requirements of this section** on the lot or, in the case of short-term bicycle parking spaces, on abutting public space;
- (b) The use or structure will generate demand for less bicycle parking than the minimum bicycle parking standards require, as a result of:
 - (1) The nature of the use or structure;
 - (2) Land use or topographical characteristics of the neighborhood that minimize the need for required bicycle parking spaces; or
 - (3) A transportation demand management plan approved by District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval, that will result in demand for less short-term bicycle parking than the minimum bicycle parking standards require; or
- (c) The nature or location of the **Historic Resource** ~~historic resource~~ precludes the provision of bicycle parking spaces **in compliance with the requirements of this section**; or providing the required bicycle parking **in compliance with the requirements of this section** would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the **Historic Resource** ~~historic resource~~.

807.3

~~A reduction in parking Relief~~ granted under Subtitle C § 807.2 **shall only be for the amount that the applicant demonstrates cannot be physically provided, and from the number and dimensional bicycle parking requirements of this section shall be:**

- (a) Proportionate proportionate** to the reduction in bicycle parking demand demonstrated by the applicant; **and**

(b) Limited to the amount of relief from the requirements that the applicant demonstrates is necessary and cannot reasonably be provided on the site as proposed to be developed in the application.

807.4 The Board of Zoning Adjustment may grant, ~~as a special exception, modifications or waivers to~~ **full or partial relief from** the requirements for showers and changing facilities in Subtitle C §§ 806.3, 806.4, and 806.5 ~~if in addition to meeting the general requirements of~~ **pursuant to** Subtitle X, **Chapter 9, and subject to** the applicant's **demonstration demonstrates to the Board's satisfaction** that:

(a) The intent of Subtitle C § 806 is met ...

Section 909, SPECIAL EXCEPTIONS FROM LOADING REQUIREMENTS, of Chapter 9, LOADING, of Subtitle C, GENERAL RULES, is proposed to be amended by revising §§ 909.1 through 909.4, to read as follows:

909.1 This section provides flexibility from the loading requirements when providing the number **or dimensions** of **loading** spaces **or the access and screening** required **by this section is are would be:**

(a) Impractical impractical due to the shape or configuration of the site constraints; or contrary to other District regulations

(b) Unnecessary, or is unnecessary due to a lack of demand for loading; or

(c) Contrary to other District of Columbia regulations.

909.2 The Board of Zoning Adjustment may grant, ~~as a special exception, a~~ **full or partial reduction of relief from** the number of loading berths or service/delivery spaces required by Subtitle C § 901.1, **or from the size and layout requirements of Subtitle C § 905, if, in addition to meeting the general requirements of as a special exception under** Subtitle X, Chapter 9, **and subject to** the applicant's **demonstration to the Board's satisfaction demonstrates** that:

(a) The use or structure will generate a lower loading demand than the minimum loading standards of Subtitle C §§ 901 and 905 require, as a result of:

(1) The nature of the use or structure; or

(2) Land use or topographical characteristics of the neighborhood that minimize the need for required loading; or

(23) A loading demand management plan filed in the case record in accordance with Subtitle Y § 300.14 and approved by District Department of Transportation, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval, that

will result in a lower loading demand than the minimum loading standards of Subtitle C §§ 901 and 905 require; or

~~(a)~~ **(b)** The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this chapter, or in Chapters 6 or 11 of Title 24 DCMR; or

~~(b)~~ **(c)** The loading berths or service/delivery spaces are required for an addition to a **Historic Resource** ~~historic resource~~, and providing the required loading facilities **in compliance with the requirements of Subtitle C §§ 901 and 905** would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the **Historic Resource** ~~historic resource~~.

909.3 The Board of Zoning Adjustment may grant, ~~as a special exception, a waiver of full or partial relief from~~ the access requirements of Subtitle C §§ 904.2 and 904.3 **if, in addition to meeting the general requirements of as a special exception pursuant to Subtitle X, Chapter 9, and subject to the applicant's demonstration demonstrates to the Board's satisfaction that:**

(a) The lot has unusual topography ...

909.4 The Board of Zoning Adjustment may grant, ~~as a special exception, modifications, or waivers of full or partial relief from~~ the screening requirements of Subtitle C § 908 **if, in addition to meeting the general requirements of as a special exception pursuant to Subtitle X, Chapter 9, and subject to the applicant's demonstration demonstrates to the Board's satisfaction that:**

(a) Existing protective and screening walls on the lot ...

909.5 When granting a special exception under this section, the Board of Zoning Adjustment may impose conditions ...