

**BEFORE THE ZONING COMMISSION OF THE
DISTRICT OF COLUMBIA**

**APPLICATION FOR MODIFICATION WITH HEARING
TO APPROVED DESIGN REVIEW**

**4401 Benning Road NE
Washington, DC 20019
(Lots 843 and 844, Square 5085)**

July 30, 2026

I. INTRODUCTION

NRP Properties LLC (the “Applicant”) hereby requests a Modification with Hearing of Z.C. Order No. 22-08, which became effective on August 26, 2022 (the “Order”), and which approved an all-affordable residential project (the “Project”) at 4401 Benning Road NE. The Project was approved by the Zoning Commission pursuant to its voluntary design review authority under Subtitle X, Chapter 6, with flexibility from the development standards for building height, rear yard, and side yard, and special exception relief from the vehicular parking requirements (Subtitle C § 703.2) and from the location of two parking spaces within the front setback (Subtitle C § 710.3).

During pre-construction design development, the Applicant determined that the Project’s loading berth cannot achieve the fourteen-foot (14 ft.) minimum vertical clearance required by Subtitle C § 905.2 and will instead provide ten feet (10 ft.) of vertical clearance. The Applicant therefore requests a modification of the Order to reflect the reduced loading berth vertical clearance (the “Modification”). The Modification does not change the Project’s approved height, density, unit count, lot occupancy, massing, or exterior configuration; it affects only the interior vertical clearance of the loading berth. This Modification request is made pursuant to Subtitle Z § 301 and requests special exception relief from Subtitle C § 905.2.

II. BACKGROUND

A. The Property

The property is located at 4401 Benning Road NE (Square 5085, Lots 843 and 844) (the “Property”), in the MU-7B zone and within the jurisdiction of Advisory Neighborhood Commission 7F. The Property was approved as Lots 40 and 61, which have since been subdivided into the current Lots 843 and 844.¹ The Property comprises approximately 25,925 square feet, is an interior lot with frontage on Benning Road NE and a twenty-foot (20 ft.) unimproved alley to the rear. The Property sits approximately one-half block from the Benning Road Metrorail Station.

As the Commission found in the Order, the buildable area of the Property is constrained by several encumbrances (collectively, the “Encumbrances”): a building restriction line along Benning Road, two WMATA vent shafts on the northwestern side of the Property, a WMATA underground tunnel easement along the front of the Property, and a utility easement through the center of the Property. The Encumbrances restrict the Project’s buildable area to the rear half of the Property and prevent construction on approximately the front forty-seven feet (47 ft.) of the lot.

¹ The Property also identified in the land records as Record Lot 74. Record Lot 74 was created through the combination of former Record Lots 40 and 61 pursuant to a subdivision plat recorded on September 24, 2024, in Subdivision Book 222 at Page 159.

B. The Approved Project

In the Order, the Commission approved the construction of a nine-story-plus-penthouse, all-affordable residential building containing 109 dwelling units, all affordable to households at or below 80% of the Median Family Income (22 units at 30% MFI, 65 units at 50% MFI, and 22 units at 80% MFI), including 27 two-bedroom and 22 three-bedroom family-sized units. The Project has approximately 118,537 square feet of gross floor area (plus habitable penthouse), a floor area ratio of 4.56, a maximum building height of 93'6" plus an 18'4" penthouse, and lot occupancy of 50% on the first and second floors and 56% above.

The ground level includes the residential lobby, management offices, long-term bicycle parking, the trash room, mechanical space, and an internal garage containing approximately thirteen (13) vehicular parking spaces, one (1) loading berth and loading platform, and one (1) service/delivery space. Vehicular access to the garage, including loading, is provided by a single curb cut and driveway on Benning Road (reduced from the two curb cuts that previously served the site), and the Project was designed so that loading occurs within the building with head-in/head-out vehicle movements. As represented in the design review application and reflected in the Order, the Project provides the loading facilities required by the Zoning Regulations, and the Order did not require relief from the loading requirements.

III. THE PROPOSED MODIFICATION

Subtitle C § 905.2 requires that each loading berth be a minimum of twelve feet (12 ft.) wide, thirty feet (30 ft.) deep, and provide a minimum vertical clearance of fourteen feet (14 ft.). As approved, the Project provides the required loading berth, loading platform, and service/delivery space within the internal ground-level garage.

As the Applicant advanced the Project through pre-construction design development, it determined that the loading berth cannot achieve the required fourteen-foot (14 ft.) vertical. The constraint cannot be cured by adding height to the building: the Project's approved height of 93'6" is the maximum the Commission could grant through design review, because Subtitle X § 603.3 limits design-review height flexibility to that permitted for a PUD in the MU-7B zone (90 feet plus the 5% increment under Subtitle X § 303.10). The clearance could be obtained only by reducing the residential floors above the loading berth, which would eliminate dwelling units. Rather than reduce the number of affordable units the Commission approved, the Applicant proposes to request flexibility to allow ten feet (10 ft.) of vertical clearance at the loading berth, while maintaining the required twelve-foot (12 ft.) width, thirty-foot (30 ft.) depth, the loading platform, the service/delivery space, and all other loading facilities required by the Zoning Regulations.

IV. BURDEN OF PROOF

The Modification is consistent with the Commission's prior approval, does not disturb the findings underlying the Order, and it satisfies the standards for the requested relief.

A. The Modification Does Not Disturb the Basis for the Commission's Approval

The Commission approved the Project through voluntary design review under Subtitle X, Chapter 6, finding that it satisfied each of the standards of Subtitle X § 604: that the Project is not inconsistent with the Comprehensive Plan and other adopted public policies (§ 604.5); that it will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9 (§ 604.6); and that its urban design is superior to any matter-of-right development possible on the site (§§ 604.7 and 604.8). The Modification does not disturb any of these findings or affect the public benefits and project amenities identified in the Order. It makes no change to the building's height, density, unit count, lot occupancy, massing, façade, landscaped front setback, curb cut, or any other element of the design the Commission reviewed and approved. The only change is the interior vertical clearance of the loading berth, which is internal to the ground-level garage and has no bearing on the Comprehensive Plan analysis, the effect on neighboring property, or the urban design of the site. The findings supporting the Order under Subtitle X § 604 therefore remain valid.

B. Special Exception Relief

The Applicant requests special exception relief from the loading berth vertical clearance requirement of Subtitle C § 905.2. Under Subtitle C § 905.2, each loading berth must have a minimum vertical clearance of fourteen feet (14 ft.). The Project provides a loading berth with ten feet (10 ft.) of vertical clearance. Subtitle C § 909.2 authorizes full or partial relief from the size and layout requirements of Subtitle C § 905 as a special exception under Subtitle X, Chapter 9, and this relief may be heard by the Commission as part of the design review process pursuant to Subtitle X § 603.4. The Project satisfies the general special exception standards and the specific conditions for the requested relief as follows.

1. The Relief Meets the General Special Exception Standards of Subtitle X § 901.2

The requested loading relief is in harmony with the purpose and intent of the Zoning Regulations. The MU-7B zone is intended for medium-density residential development located near rapid transit stops (Subtitle G § 400.6), and the requested relief is consistent with that purpose. The Project provides all of the loading facilities required by the Zoning Regulations, including one loading berth, one loading platform, and one service/delivery space. The Modification reduces only the vertical clearance of the berth. The building remains fully able to receive deliveries and to accommodate resident move-ins and waste collection for a 109-unit residential use.

Moreover, the requested relief will not adversely affect the use of neighboring property. Loading takes place within the internal ground-level garage and is accessed from Benning Road through the single approved curb cut, with head-in and head-out vehicle movements, so that service vehicles do not back into or out of the public right-of-way. The reduced clearance is an interior dimension of the garage that is not perceptible from neighboring property or the public realm, and the Modification will not result in any spillover, queuing, or other off-site effect.

2. The Relief Meets the Special Conditions of Subtitle C § 909.2

In addition to the general special exception standards, a request for loading relief must meet the special conditions under Subtitle C § 909.2. That section authorizes relief from the size and layout requirements of Subtitle C § 905 upon the applicant's demonstration of at least one of the conditions enumerated in Subtitle C § 909.2. The Project meets subsection (a) which reads:

Subtitle C § 909.2(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) a loading demand management plan approved by the District Department of Transportation.

The Project is an all-affordable residential building, and its loading activity is limited to resident move-ins and move-outs, package and grocery delivery, and trash and recycling collection. These activities can be served by delivery vans and smaller trucks that operate within a ten-foot vertical clearance, and the Project does not generate the larger freight movements for which the fourteen-foot clearance standard is intended. The nature of the use therefore generates a lower loading demand than the minimum loading standards require, and a loading berth with ten feet of vertical clearance fully serves the Project's loading needs. The Applicant has also committed to a loading demand management plan, to be approved by DDOT and made a condition of approval, that will result in a lower loading demand than the minimum loading standards require, thereby independently satisfying Subtitle C § 909.2(a)(2).

V. CONCLUSION

The Modification is consistent with the Zoning Commission's prior approval and satisfies the standards for the requested relief. The Applicant respectfully requests that the Commission consider and approve this Modification with Hearing at a public hearing in the near future. Please feel free to contact the undersigned with any questions or comments regarding this application.