

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

OCTOBER 25, 2005

+ + + + +

The Board convened in Room 220 South,
441 Fourth Street, N.W., Washington, D.C., 20001,
pursuant to notice, at 9:00 a.m., Geoffrey H.
Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice Chairperson
CURTIS L. ETHERLY JR.	Board Member
JOHN A. MANN, II	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

KEVIN HILDEBRAND	Commissioner (AOC)
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OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Zoning Specialist
JOHN NYARKU	Zoning Specialist
TRACEY W. ROSE	Senior Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.
LORI MONROE, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
ARTHUR JACKSON
JOHN MOORE

This transcript constitutes the minutes
from the special public meeting held on October 25,
2005.

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I-N-D-E-X

17370 Square 484 Hotel, LLC 5
and 484 OPCO, LLC

P-R-O-C-E-E-D-I-N-G-S

10:03 a.m.

CHAIRPERSON GRIFFIS: Very well, ladies and gentlemen. Let me call to order our special public meeting of October 25, 2005.

My name is Geoff Griffis, Chairperson. Joining me today, of course, is the Vice Chair, Ms. Miller, and Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann, and we will have zoning commissioners with us throughout the day. However, we have one decision in our public meeting, and I believe Mr. Parsons sat on that case representing the Zoning Commission.

I am going to go very quickly through this, so that we can get on to our actual hearing, and will make further instructional opening remarks regarding the hearing.

So, with that, a very good morning to Ms. Bailey, on my very far left. Ms. Monroe with the Office of Attorney General. In the middle, Mr. Moy and Ms. Bailey.

Mr. Moy, a very good morning to you. If you wouldn't mind calling the first case for our decision this morning.

MR. MOY: Yes, sir. Good morning, Mr.

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1 Chairman and members of the Board. The first case
2 for decision-making is Application No. 17370 of
3 Square 484 Hotel, LLC, and 484 OPCO, LLC, pursuant
4 to 11 DCMR 3103.2, and 3104.1, for a special
5 exception under Subsection 2108, to reduce the
6 amount of off-street parking spaces required under
7 Subsection 2101.1, and a variance from Subsection
8 2115.9 and 2115.18, to allow for attendant assisted
9 parking applicable to an existing apartment building
10 and hotel in the DD/C2C district. That's at
11 premises 555 and 599 Massachusetts Avenue, N.W.
12 That's in square 484. That's the record lot 28,
13 assessment and taxation lots 836 and 837.

14 On October 18, 2005, the Board completed
15 public testimony on the application, and scheduled
16 its decision at a special public meeting on
17 October 25, 2005. The Board requested that the
18 Applicant file a draft summary order, with
19 conditions, and that has been filed with the Office
20 on October 20, 2005 and is enclosed in your case
21 folders, identified as Exhibit No. 37.

22 And the Staff is going to end its
23 briefing here, Mr. Chairman.

24 CHAIRPERSON GRIFFIS: Thank you, Mr.
25 Moy.

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1 MR. ETHERLY: Thank you.

2 CHAIRPERSON GRIFFIS: Good. I think
3 it's a very straightforward case in terms of the
4 substance and what is going to happen in the end
5 result. I think there has been some concern on the
6 details by the Board in this one. And the details
7 go to what section relief was actually appropriate
8 to be before us. I think there is no contention of
9 the fact of the special exception that we are
10 looking at, and the test has been made, the file is
11 full on that, in terms of the 25 percent reduction
12 for that.

13 We have an excellent example of a mixed-
14 use site here, obviously. That is what is referred
15 by--they showed us that there is an apartment
16 building or a condominium structure. There is also
17 a hotel on the site.

18 What is being discussed at this point
19 is--as this is an already constructed site, how the
20 parking or the space allocation is used. And that
21 space allocation, going towards the parking to the
22 particular uses.

23 With the 25 percent reduction from the
24 requirement, we look at a number requirement of
25 88 parking spaces for the hotel garage. What is in

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1 addition being asked of the Board is to grant relief
2 so that 88 parking spaces would be provided.

3 However, 13 of them would be provided in
4 a non-regulatory fashion, meaning would be provided
5 by an attendant assisted parking, and then therefore
6 would not meet the space dimensional size design
7 striping requirements that are specifically laid out
8 in our regulations.

9 Now, there is a little bit of concern as
10 the Board looked at this--my deliberation of this
11 is, one, we could come under 2101, which is the
12 total number of count required.

13 In fact, we asked that a draft order be
14 written. It has been submitted. And here is what I
15 am proposing, Board members--is that we actually
16 move in another direction.

17 Let me address, first of all, 2101. The
18 thought process, I think, was--in our questioning of
19 the Applicant when they were here of why and what
20 section, that seemed to be the clearest way at the
21 end of the hearing. Although we had invoked and
22 thought and questioned on 2117.

23 But going specifically, 2101 goes to the
24 total parking count. It seems interesting that we
25 would grant a relief from the total number required,

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1 and then condition that that total number be
2 provided back, meaning we grant a relief from the
3 required 88 down to 75, and condition the fact that
4 we need them to provide the 13 back.

5 I think it might be clearer and cleaner,
6 as we look at this, is if--let's just go directly to
7 the dimensional size design and striping and look at
8 granting relief.

9 Because I am certain in my deliberation
10 review of this case that the same case is made for
11 the variance relief from those aspects, and that
12 would be under Section 2115.14, 2117.35 and .36.
13 And that would allow us to grant relief, a variance
14 relief, from those dimensional size design striping
15 requirements for the 13, noting that they would be
16 tenant-assisted parked, meaning that they would be
17 provided in the structure.

18 The space itself is not changing.
19 Nothing in this application is changing the physical
20 area that is available for parking, but rather,
21 relief would then be granted for how we would--if
22 one were to go down and inspect--how we would look
23 to compliance with the total number of, rather the
24 dimensional requirements being the 9x19, etc.

25 Let me open it up for people's thoughts

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1 on that. You know, one of the proposed conditions
2 in this is the minimum of 285 square feet where
3 parking would be provided in the hotel.

4 That is an interesting point. I am not
5 sure that this case specifically rises to a Level 2
6 condition that will require it, but that is
7 certainly another, an additional level of insurance
8 that the space is there to park it.

9 I think the reality is, we know the
10 space is there. It's built, and it was built in
11 accordance with a previous application, although
12 that did not go to parking. But obviously they met
13 the parking requirements in order to get a permit to
14 be built.

15 Let me open it up for questions or
16 whatever it is.

17 MR. ETHERLY: Thank you very much, Mr.
18 Chair. I have no objection to your course of action
19 as you outlined it.

20 CHAIRPERSON GRIFFIS: Thank you. Any
21 others? Questions?

22 MR. MANN: Yes.

23 CHAIRPERSON GRIFFIS: Yes, Mr. Mann?

24 MR. MANN: I just want to make sure that
25 I understand whether or not the issue of the

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1 attendant assisted parking is relevant because of
2 the zone district we are in. Or if that is simply
3 something that we are noting as sort of a matter of
4 course, that they are going to be providing this
5 attendant assisted parking.

6 CHAIRPERSON GRIFFIS: Yes. I think we
7 put that in as a--if we go to summary order, it
8 wouldn't be a finding, but it--I think we will need
9 to incorporate that of, maybe that is the condition
10 to the order, that those 13 would be attendant
11 assisted parked.

12 I have no difficulty with that.

13 MR. MANN: Okay. I don't have any
14 objection to that. I was just wondering whether or
15 not that was a step that we wanted to address or
16 needed to take. And it sounds like it is, because
17 we are going to have the spaces that are going to be
18 striped differently than the regulations. What
19 ordinarily would require, and then we are going to
20 say--so we would be kind of adding to that, and
21 saying, and those spaces are going to be part, with
22 attendant assisted parking.

23 Is that right?

24 CHAIRPERSON GRIFFIS: Yes.

25 MR. MOY: And that is going to be

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1 addressed through a condition? Is that what I
2 understand?

3 CHAIRPERSON GRIFFIS: Yes. I think we
4 could actually leave substantially the proposed
5 condition No. 1, removing the last sentence that
6 established under 2115.11 of the regulations, but
7 rather, noting that we have granted relief from the
8 dimensional size design striping requirements, and
9 the Applicant would provide 13 attendant assisted
10 parking spaces.

11 Anything else?

12 VICE CHAIRPERSON MILLER: I just want to
13 make sure I am clear before we do a motion as to
14 what we would be voting on.

15 It would be certainly to grant this
16 special exception for the 25 percent reduction. And
17 then a variance from 2101?

18 CHAIRPERSON GRIFFIS: No.

19 VICE CHAIRPERSON MILLER: No? Not a
20 variance?

21 CHAIRPERSON GRIFFIS: No, 2101 is the
22 count, is the total number. We are not changing the
23 total number that is required, is my understanding
24 of what is being proposed. We are changing how they
25 are provided.

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1 Here is my quandary, or to put it
2 directly: I don't see how we would grant a variance
3 from the total number that is required, and then
4 condition how they actually provide those that they
5 are not required to provide. Seems to be--

6 VICE CHAIRPERSON MILLER: My
7 understanding was that we were going to grant for
8 the number of spaces. The special exception brings
9 the number from 117 down to 88 spaces.

10 CHAIRPERSON GRIFFIS: Right. That's
11 right.

12 VICE CHAIRPERSON MILLER: And the hotel
13 has 75 spaces so that the variance would be for 13
14 spaces.

15 CHAIRPERSON GRIFFIS: That's fine.
16 That's a whole other course to go. There is no need
17 to condition that. We could grant a variance from
18 13 spaces, 75 would be provided. Done. No need to
19 fool around with 2115, 2117. I don't care how they
20 paint it, stripe it, color it. Doesn't seem to make
21 a lot of sense, though. And it certainly isn't
22 actually what they presented, because they were
23 presented from the fact that they would provide up
24 to 88.

25 But 13 of those above 75, would not be

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1 provided in regulations in terms of the size,
2 placement, access. That's all it is.

3 I'm not sure whether--the case wasn't
4 directed to going for that full reduction. Whether
5 they could have made it or not, I'm not assessing.
6 But I'm not sure why we wouldn't necessarily need to
7 go that distance. And especially the fact that they
8 have proved, in their own testimony, that they can
9 provide ADA. They just need my words, but they need
10 flexibility on how they provide above 75 that are
11 properly striped, accessed and maintained.

12 Does that make sense?

13 VICE CHAIRPERSON MILLER: Yes. It makes
14 sense. I think that's the case to present, the
15 situation where are different ways to accomplish the
16 same results, as I understand it now. Instead of
17 the variance from 2101, it would be a variance from
18 the size design striping regulations.

19 CHAIRPERSON GRIFFIS: That's right.

20 VICE CHAIRPERSON MILLER: Okay.

21 VICE CHAIRPERSON MILLER: And with
22 conditions regarding the--what conditions? I think
23 Mr. Mann talked about a condition regarding the
24 parking--

25 MR. MANN: Well, the condition then

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1 would be the attendant assisted parking. No--I
2 guess--right?

3 CHAIRPERSON GRIFFIS: Yes.

4 MR. MANN: My question is, though, would
5 the condition specify that 13 have to be attendant
6 assisted parking? Or a minimum of 13? Or all of
7 them? Or do we even need to mention a number?
8 Seems like a minimum of them would have to be
9 attendant assisted parking, and they can use an
10 attendant for as many as they wish.

11 CHAIRPERSON GRIFFIS: That's exactly
12 correct. I think the intent of the condition would
13 be to say--clearly the Board is looking at it and
14 saying, look, these don't meet it, and they are
15 going to need some assistance in cramming them in
16 there--that's a zoning term, too.

17 And whether they attendant assist ADA or
18 what have you, we can leave that up to their own
19 program.

20 MR. MANN: Right.

21 CHAIRPERSON GRIFFIS: But yes.
22 Absolutely. We'd look at--for this condition, it
23 doesn't bar them from attendant assisting all of
24 them. However, a minimum of 13 would be attendant
25 assisted parked.

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1 MR. MANN: Okay.

2 CHAIRPERSON GRIFFIS: Boy, this is some
3 complicated stuff! Okay. Anything else?

4 (No response.)

5 CHAIRPERSON GRIFFIS: Everyone clear on
6 that?

7 (No response.)

8 CHAIRPERSON GRIFFIS: Very well. Then,
9 let us move ahead, but in a motion. I'll do it,
10 just for clarity's sake.

11 And I would move approve Application
12 17370, and that is of square 484, which is the Hotel
13 LLC and also for 484 O-P-C-O LLC, or OPCO, what have
14 you, and that, of course, is pursuant to the
15 variances as specified in the sections--as in my
16 notes show, it's 2115.1.3, also 2117.3, 2117.5,
17 2117.6.

18 And for the special exception for the
19 25 percent reduction in the parking count that is
20 required, I would ask--rather, I'll put in a motion.
21 Of course, the condition which we have crafted here,
22 in terms of intent.

23 But clearly the condition will read
24 something to the point of the minimum of 88 parking
25 spaces in the hotel garage would be provided 75,

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1 which would meet the requirements and regulations.
2 The Applicant would be permitted--would provide a
3 minimum of 13 attendant assisted parking spaces.

4 MR. ETHERLY: Seconded, Mr. Chair.

5 CHAIRPERSON GRIFFIS: Thank you very
6 much, Mr. Etherly. I am going to open it up for any
7 other words of deliberation. Ms. Miller?

8 VICE CHAIRPERSON MILLER: Thanks, Mr.
9 Chairman. I think--I just want to address how they
10 meet the variance test.

11 CHAIRPERSON GRIFFIS: Excellent thought.

12
13 THE COURT REPORTER: Your mike--

14 VICE CHAIRPERSON MILLER: Thank you.
15 How they meet the variance test, at least as how I
16 see it, the unique or exceptional condition in this
17 case is we have here a configuration of two
18 different buildings, a residential and a non-
19 residential, that being a hotel, with parking
20 underneath each, but they are not connected. And
21 the parking lots are already constructed.

22 There has been a history of use here
23 over a couple of years that shows that a
24 reallocation is required for the efficient use of
25 the combined number of parking spaces.

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1 The practical difficulty in this case,
2 as I see it, is that there are not enough spaces for
3 the residential, but too many for the hotel, and
4 since the garages are already built, they can't
5 really change that space.

6 There is no substantial detriment to the
7 public good, nor impairment of the intent, purpose
8 and integrity of the zoning regulations and map.
9 Office of Planning has said that there is no impact,
10 that in fact it maximizes the effectiveness of the
11 parking supply on the site, and it is consistent
12 with the downtown district objectives.

13 CHAIRPERSON GRIFFIS: Excellent. Thank
14 you very much. I am sure--did you also note we did
15 have DDOT recommendation on this? Is that correct?

16 MR. MOY: Yes.

17 CHAIRPERSON GRIFFIS: And they were
18 supportive of the requested relief, and also I would
19 assume that they have looked at the traffic
20 engineer's report on the demand, which Ms. Miller
21 brought up the point of here's an existing
22 condition, which has been documented, of the
23 utilization of the existing space.

24 I also note that DDOT indicated that
25 they would certainly encourage ride-sharing in the

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1 apartment building, and certainly the Board would
2 support that, also.

3 However, it moves a little bit away from
4 the actual application and relief that is being
5 sought in this instant case.

6 Anything else, then?

7 (No response.)

8 CHAIRPERSON GRIFFIS: No?

9 (No response.)

10 CHAIRPERSON GRIFFIS: Very well. We
11 have a motion before us. It has been seconded,
12 conditioned and seconded. I would ask all those in
13 favor signify by saying "aye".

14 (Chorus of ayes.)

15 CHAIRPERSON GRIFFIS: And opposed?

16 (No response.)

17 CHAIRPERSON GRIFFIS: Abstaining?

18 (No response.)

19 CHAIRPERSON GRIFFIS: Very well. Mr.
20 Moy, if you wouldn't mind recording the vote.

21 MR. MOY: Yes, sir. Staff would record
22 the vote as 4 to 0 to 0 on the motion of--you have
23 to help me out here. I don't recall who made the
24 motion, and who seconded it.

25 THE COURT REPORTER: Mr. Griffis and Mr.

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1 Etherly.

2 MR. MOY: All right. Mr. Griffis, the
3 Chair, and Mr. Etherly, seconded. Thank you very
4 much.

5 Also in support of the motion, Mr. Mann
6 and Ms. Miller. We also have an absentee vote from
7 Mr. John Parsons, who participated on the case, and
8 he has voted with his absentee vote to approve the
9 application.

10 So that would give a final vote of 5 to
11 0 to 0. Would the board--a summary order, or not?

12 CHAIRPERSON GRIFFIS: Yes, I see no
13 reason why we wouldn't waive the rules and
14 regulations, unless there is any objection.

15 (No response.)

16 CHAIRPERSON GRIFFIS: Not noting any
17 objection, Mr. Etherly, is noting no objection. Why
18 don't we issue that. Of course, we have crafted a
19 condition. Our intent, I think, is very clear, the
20 wording of which we can deal with.

21 Okay. Anything else in?

22 MR. MOY: That's it for the special
23 public meetings.

24 CHAIRPERSON GRIFFIS: Excellent. There
25 is no other business for the special public meeting,

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let's adjourn the special public meeting.

(Whereupon the special public meeting
concluded.)