GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 18744-A of Patterson SPE LLC, pursuant to 11 DCMR Subtitle Y § 704, for a modification of significance to the relief approved by BZA Order No. 18744 to include a special exception under the use permissions of Subtitle U § 504.1(f), to permit the conversion of 31 units to a lodging use in the MU-15 Zone at premises 15 Dupont Circle, N.W. (Square 136, Lot 34).

HEARING DATE (18744):	May 6, 2014
DECISION DATE (18744):	May 6, 2014
ORDER ISSUANCE DATE (18744):	May 20, 2014
MODIFICATION HEARING DATE:	January 15, 2020
MODIFICATON DECISION DATE:	January 15, 2020

SUMMARY ORDER ON REQUEST FOR MODIFICATION OF SIGNIFICANCE

Original Application. In Application No. 18744, the Board of Zoning Adjustment ("Board" or "BZA") approved the request by SB-Urban LLC for relief under the Zoning Regulations of 1958 including: a variance from the court width requirements, a variance from the requirement to maintain existing parking, a special exception from the requirement to provide additional parking for an addition to an historic resource, and a special exception from the roof structure setback and uniform enclosing wall height requirements, to construct an addition to a historic structure to establish an apartment building in the DC/SP-1 District. The Board issued Order No. 18744 on May 20, 2014. (Exhibit 7.) The approval was subject to two conditions, including implementation of a Transportation Demand Management ("TDM") plan.

Proposed Modification. On October 18, 2019, the current owner of the property, Patterson SPE LLC, (the "Applicant") submitted a request for modification of significance to Order No. 18744. (Exhibits 1-16.) The Applicant proposes to convert 31 of its 92 residential units to a lodging use. (Exhibit 2.) The Applicant would nonetheless continue to set aside seven residential units as Inclusionary Zoning units. Based on the proposed modification, the Applicant requests a special exception under the use permissions of Subtitle U § 504.1(f) to permit the lodging use. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 19.)

Notice of the Request for Modification. Pursuant to Subtitle Y § 704.5, the Applicant served the request for modification of significance on the parties to the original application. (Exhibit 1.) 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.

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Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 2B.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on January 8, 2020, at which a quorum was present, the ANC voted to support the request, provided that the Applicant contributes $65,000 to the Housing Production Trust Fund based on a schedule agreed to by the Applicant.[1] (Exhibit 42.)

OP Report. Office of Planning submitted a report recommending approval of the proposed modification of significance and the requested special exception. (Exhibit 40.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the proposed modification of significance and proposing amendments to the previously-approved TDM plan based on the introduction of the lodging use. (Exhibit 39.) The Board adopted those additional TDM measures as conditions of this Order.

Request for Modification of Significance

Pursuant to Subtitle Y § 704.1, any request for a modification that does not meet the criteria for a minor modification or modification of consequence[2] requires a public hearing and is a modification of significance. The Applicant's request complies with 11 DCMR Subtitle Y § 704, which provides the Board's procedures for considering requests for modifications of significance.

Based upon the record, the Board concludes that in seeking a modification of significance, the Applicant has met its burden of proof under Subtitle Y § 704.

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for a special exception under the use permissions of Subtitle U § 504.1(f) to permit the conversion of 31 units to a lodging use.

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 relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that, pursuant to Subtitle X § 901.2(c), any other specified conditions for special exception relief have been met.

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[1] The Applicant agreed to make the first $32,500 payment within 60 days after the issuance of the written BZA Order and expiration of the appeals period (or satisfaction of any appeals), and the second $32,500 payment prior to the issuance of a certificate of occupancy for the lodging use.

[2] See, Subtitle Y §§ 703.3 and 703.4.

"Great Weight" to the Recommendations of OP
The Board is required to give "great weight" to the recommendation of 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 Y § 405.8). The Board finds OP's recommendation that the Board approve the application persuasive and concurs in that judgment.

"Great Weight" to the Written Report of the ANC
The Board must give "great weight" to the issues and concerns raised in the written report of the affected ANC 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 Y § 406.2) The Board finds the ANC's recommendation that the Board approve the application persuasive and concurs in that judgment. The Board did not adopt the requirement that the Applicant contribute $65,000 to the Housing Production Trust Fund as a condition of this Order, as it did not find the condition necessary to mitigate an adverse impact of the proposal; however, the Board recognizes that the Applicant has agreed to the contribution and expects that the Applicant will abide by its agreement to the ANC.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form and need not be accompanied by findings of fact and conclusions of law where granting an application when there was no party in opposition.

It is therefore **ORDERED** that this application for modification of consequence of BZA Order No. 18744 is hereby **GRANTED**, subject to the approved plans at Exhibits 24A1-24A4 of Application No. 18744, as modified by Exhibits 11A1-11A5 of Application No. 18744-A, and the following **CONDITIONS**, which shall replace and supersede the conditions of BZA Order No. 18744:

1. The Applicant shall have flexibility to modify the design of the building to address any comments from the D.C. Historic Preservation Review Board (HPRB), or HPRB staff, during final review of the project so long as such modifications do not require any additional areas of relief or substantial impact on the Approved Plans submitted to the BZA.

2. The Applicant shall implement the following Transportation Demand Management measures which shall:

    a. Designate a member of the property management team as a Transportation Management Coordinator (TMC). The TMC shall provide information to residents identifying the available alternative modes of transportation and other supportive programs.

    b. Direct new residents to the property's website, which will include information on transportation options.

c. Provide a transportation information screen in a common, shared space in the building that will show real time availability information for nearby trains, buses, and other transportation alternatives.

d. Restrict tenants from eligibility for Residential Parking Permit (RPP) for the blocks surrounding the property. The Applicant shall record this restriction in a covenant that runs with the land with the Recorder of Deeds.

e. Provide at least 31 secured, covered bicycle parking spaces within the building and at least four bicycle parking spaces in public space near the building's entrance, the latter subject to approval by public space officials.

f. Provide a bicycle repair facility within the building.

g. Provide a minimum of 10 bicycle helmets for use by the residents of the building.

h. Offer Capital Bikeshare to all new tenants who do not otherwise own a bicycle for the initial term of each lease in perpetuity.

i. Offer membership in a car-share program to all new tenants for the initial term of their lease in perpetuity.

j. Designate a loading management coordinator to coordinate all loading activities of the building and require all tenants to notify the loading management coordinator before moving in or out. Tenants requiring a moving truck shall provide the loading management coordinator the following information: time and date that the truck is anticipated to arrive, size of truck being used, and name of moving service, if applicable; and in the event that a moving truck is required, the loading management coordinator or tenant shall apply for DDOT Emergency No Parking signs to establish a temporary loading area. "Emergency No Parking" permits for loading are only eligible to be located in legal parking spaces, which are currently not located immediately adjacent to the subject site.

3. The Applicant shall implement the following TDM strategies for the lodging use:

a. The Applicant shall provide Transportation Coordinators' contact information to goDCgo, conduct an annual commuter survey of employees on-site, and report TDM activities and data collection efforts to goDCgo once per year.

b. Transportation Coordinators shall develop, distribute, and market various transportation alternatives and options to employees and [customers, patrons, attendees], including promoting transportation events (i.e. Bike to Work Day,

National Walking Day, Car Free Day) on property website and in any internal building newsletters or communications.

c. Transportation Coordinators shall receive TDM training from goDCgo to learn about the TDM conditions for this project and available options for implementing the TDM Plan.

d. Front office and customer-facing staff shall be provided training by goDCgo (either in-person or webinar) to learn of the non-automotive options for implementing the TDM Plan.

e. The Applicant shall provide guests with goDCgo's Get Around Guide by making it available on the property website and in printed format for front office or customer-facing staff.

f. The Transportation Coordinator shall subscribe to goDCgo's hospitality newsletter.

g. The Hotel shall participate in the Capital Bikeshare Corporate Membership program and offer discounted annual memberships to employees.

h. The Applicant shall post "getting here" information in a visible and prominent location on the website with a focus on non-automotive travel modes. Also, links shall be provided to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for patrons;

i. The Applicant shall provide brochures with information on non-automotive options for traveling to the property available at all times in a visible location in the lobby.

In all other respects, Order No. 18744 remains unchanged.

VOTE: **4-0-1** (Frederick L. Hill, Michael G. Turnbull, Lorna L. John, and Carlton E. Hart to APPROVE; no other Board members participating.)

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: January 21, 2020

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.