

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19864 of MDP 526 8th Street LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, and pursuant to Subtitle X, Chapter 10, for a variance from the loading berth requirements of Subtitle C § 901, to construct a new three-story commercial building in the MU-25 Zone at premises 526-528 8th Street S.E. (Square 926, Lots 809 and 810).

HEARING DATE: November 14, 2018
DECISION DATE: November 14, 2018

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 4.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. 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 application for which additional or different zoning relief is needed.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission ("ANC") 6B and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on October 9, 2018, at which a quorum was present, the ANC voted 10-0-0 to support the application. (Exhibit 45.)

The Office of Planning ("OP") submitted a timely report recommending approval of the application. (Exhibit 43.) The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application, with three conditions. (Exhibit 41.) The Board adopted the conditions recommended by DDOT, as revised at the hearing based on the Applicant's updated plans in Exhibit 54 showing the location of bicycle parking spaces.

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Thirteen letters in support were filed to the record from neighbors. (Exhibits 34-36, 38, 40, 42, 44, and 46-51.) Capitol Hill Restoration Society filed a letter in support. (Exhibit 32.) One letter in opposition to the application was submitted by Ramon Buruca of Ramon LLC. (Exhibit 52.)

Variance Relief

As directed by 11 DCMR Subtitle X § 1002.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 1002.1 for area variances from the loading berth requirements of Subtitle C § 901, to construct a new three-story commercial building in the MU-25 Zone. The only parties to the case were the ANC and the Applicant. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from 11 DCMR Subtitle C § 901, the Applicant has met the burden of proof under 11 DCMR Subtitle X § 1002.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR Subtitle X § 901.3, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to Subtitle X § 901.2, for a special exception under Subtitle C § 703.2 from the minimum parking requirements of Subtitle C § 701.5, to construct a new three-story commercial building in the MU-25 Zone. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR Subtitle X § 901.2, and Subtitle C § 703.2 and 701.5, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR 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.

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It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 10, AS UPDATED IN EXHIBIT 54, AND WITH THE FOLLOWING CONDITIONS:**

1. The Applicant shall provide the short- and long-term bicycle parking spaces, as shown in Sheets A-03 and A-07 of Exhibit 54, subject to the approval of the Public Space Committee.
2. The Applicant shall implement the following Loading Management Plan (“LMP”), as proposed by the Applicant in the October 12, 2018 Transportation Assessment in Exhibit 31 of the record:
 - a. All tenants shall be notified to use the commercial loading zone on the east side of 8th Street for all deliveries. Tenants also shall be notified that the hours of operation for the loading zone are 7:00 AM to 6:30 PM;
 - b. Tenants shall be advised that trucks are not permitted to block vehicular, bike, or pedestrian traffic on 8th Street;
 - c. Trucks shall not be allowed to idle and must follow all District guidelines for heavy vehicle operation but not limited to DCMR 20-Chapter 9, Section 900 (Engine Idling), the regulations set forth in DDOT’s Freight Management and Commercial Vehicle Operations document, and the primary access routes listed in the DDOT Truck and Bus Route Map (goDCgo.com/freight); and
 - d. Tenants shall be provided suggested truck routing maps (including any restricted routes) for drivers that frequently deliver to the building. Tenants also shall be given DDOT’s Freight Management and Commercial Vehicle Operations document to provide drivers, as needed, to encourage compliance with idling laws.
3. The Applicant shall implement the following Transportation Demand Management (“TDM”) Plan, as proposed by the Applicant in the October 12, 2018 Transportation Assessment in Exhibit 31 of the record:

Employees

- a. Information on and/or links to current transportation programs and services shall be provided to employees either electronically (via a website) or in hard-copy format. Examples of information that may be provided include: WMATA, goDCgo.com, Capital Bikeshare, Car-sharing services, Uber, Ridescout, Commuter Connections Rideshare Program, Commuter Connections Guaranteed Ride Home, and Commuter Connections Pools Program.

- b. Convenient and covered secure bike parking facilities shall be provided for a minimum of three bicycles in lieu of the one required long-term space.
- c. New employees, at the time of hire, shall be offered a one-time, one-year Capital Bikeshare membership or a one-time, \$85 SmarTrip card for the first 10 years that the building is leased. Memberships shall be limited to one membership or SmarTrip card per employee.

Visitors

- a. Short-term bicycle parking shall be provided in public space in front of the proposed building for visitor use.
- b. The tenants' websites shall be encouraged to include a "How to Get Here" link, which will provide information regarding alternate modes of transportation that can be used to get to the site. Information shall include specific Metrobus routes serving the site, including location of the bus stops near the site, the location of the nearby Metrorail station, and the location of the nearest Capital Bikeshare stations.

VOTE: 4-0-1 (Frederick L. Hill, Lesylleé M. White, Lorna L. John, and Robert E. Miller to APPROVE; Carlton E. Hart not present, not voting.)

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: November 19, 2018

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 AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE

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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 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 CONDITIONS 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 CONDITIONS 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.