

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 20134 of TWPR Developer, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle K § 921.1 from the maximum linear ground-floor building frontage restriction of Subtitle K § 902.7(e), to develop a mixed used project with ground floor retail in the WR-2 Zone at premises 7100 Georgia Avenue N.W. (Square 2950, Lot 846).

HEARING DATES: October 23, 2019 and November 13, 2019¹
DECISION DATE: November 13, 2019

SUMMARY ORDER

Relief Requested. The zoning relief requested in this case was self-certified, pursuant to 11 DCMR Subtitle Y § 300.6. (Exhibit 9 (Corrected); Exhibit 5 (Original).)

Notice of the Application and Public Hearing. The Board of Zoning Adjustment ("Board" or "BZA") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

Parties. The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 4A.

ANC Report. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 3, 2019, at which a quorum was present, the ANC voted 7-0 to support the application. (Exhibit 33.)

OP Report. The Office of Planning submitted a report recommending approval of the application, with conditions. (Exhibit 31.)

DDOT Report. The District Department of Transportation submitted a report indicating that it had no objection to the application. (Exhibit 32.)

¹ The public hearing was postponed from October 23, 2019 to November 13, 2019 at the Applicant's request. (Exhibit 37-38.)

Special Exception Relief

The Applicant seeks relief under Subtitle X § 901.2, for special exception under Subtitle K § 921.1 from the maximum linear ground-floor building frontage restriction of Subtitle K § 902.7(e), to develop a mixed used project with ground floor retail in the WR-2 Zone.

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.

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.

It is therefore **ORDERED** that this application is hereby **GRANTED AND, PURSUANT TO SUBTITLE Y § 604.10, SUBJECT TO THE APPROVED PLANS² AT EXHIBITS 30A-30C2 AND WITH THE FOLLOWING CONDITIONS:**

1. Any tenant occupying the leasable space shown as “0102 Retail Tenant” in the floor plan in Exhibit 30A or occupying any portion of that space that fronts on Elder Street, N.W. shall provide windows on Elder Street, N.W. that provide visual access into the leasable space, as described in this condition. Transom windows located eight feet or more above the adjacent grade shall not be subject to the limitations of this condition.
 - a. If the use is an eating or drinking establishment use, the windows shall provide open views into either the seating or bar areas, or into an active kitchen food preparation area. However, tenant signs or displays applied to the window and digital displays mounted immediately behind a window may cumulatively occupy up to 25% of the total horizontal width of all windows on Elder Street, N.W.
 - b. If the use is a retail, service, or other commercial use, the windows shall provide open views into publicly accessible areas of the use, such as a shopping aisle. Display cases or other furnishings, not including chairs, shall not block the windows; However, tenant signs or displays applied to the window and digital displays mounted immediately behind a window may cumulatively occupy up to

² Self-certification: In granting the certified relief, the Board 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.

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25% of the total horizontal width of all windows on Elder Street, N.W. Any shelves shall be placed no closer than five feet to the windows, or, if projecting show windows are present, five feet from the exterior plane of the main façade.

2. An Office use, as defined in Subtitle B § 200.2(x), shall not be permitted in the leasable space shown as "0102 Retail Tenant" in the floor plan in Exhibit 30A.

VOTE: 3-0-2 (Frederick L. Hill, Carlton E. Hart, and Anthony J. Hood to APPROVE; Lesylleé M. White and Lorna L. John not 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. BORDIN
Director, Office of Zoning

FINAL DATE OF ORDER: November 15, 2019

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 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.

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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.