

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14318 of Thirteenth Street, N.W., Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph of 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 4101.48 to permit a hotel in an SP-2 District and under Sub-section 7205.4 to permit required parking spaces to be located off-site at 1120 Vermont Avenue, N.W. and for a variance from the service/delivery loading space requirements (Sub-section 7302.1), the subject structure being located in an SP-2 District at premises 1201 - 13th Street, N.W., (Square 281, Lot 46).

HEARING DATE: July 31, and November 13, 1985
DECISION DATE: November 13, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject application was scheduled initially for the Public Hearing of July 31, 1985. It appeared on the preliminary calendar of that date since the applicant had not complied with Rule 302.3 (c) of the Supplemental Rules of Practice and Procedure before the BZA in that the applicant failed to submit an affidavit evidencing that the subject property had been posted at least fifteen days in advance of the public hearing. Counsel for the applicant reported that no affidavit had been filed since the subject application was not ready to go forward this date. The subject application required additional zoning relief, namely a variance from the service delivery loading space requirements (Sub-section 7302.1) and said relief was a matter now pending before the Zoning Administrator. The case was continued and was to be readvertised evidencing all the relief required.

2. Paragraph 4101.48 of the Zoning Regulations provides as follows:

4101.481 The height, bulk and design of the hotel or inn are in harmony with existing uses and structures on neighboring property. For this purpose, the Board may require special treatment in the way of design, building setbacks, screening, landscaping, sign controls and other features as it shall deem necessary to protect neighboring property.

4101.482 Approval of the hotel or inn shall result in a balance of residential, office and hotel or inn uses in the SP District in the vicinity of the hotel or inn.

4101.483 The gross floor area devoted to function rooms and exhibit space shall not exceed fifteen percent of the gross floor area of the hotel.

4101.484 The hotel or inn is located within 1,300 feet of the Central Employment Area or a Metrorail station. The 1,300 foot distance shall be measured from the entrance of the hotel or inn which is closest to the main lobby and guest registration desk to the edge of the Central Employment Area or the entrance to the Metrorail station, following public rights-off-away.

4101.485 The Board may require more or less off-street parking spaces and loading berths than required by Articles 72 and 73 of these Regulations to accommodate the activities of the hotel or inn, so as to avoid unduly impacting parking or traffic on the surrounding streets.

4101.486 The location and design of driveways, access roads and other circulation elements of the hotel or inn are such as to avoid dangerous or other objectionable traffic conditions.

3. Sub-section 7205.4 provides as follows:

7205.4 Except as provided in Sub-section 7206.8, if approved by the Board of Zoning Adjustment, open parking spaces accessory to any building or structure may be located anywhere on the lot upon which the building or structure is located, or elsewhere, except in the case of a one-family dwelling, provided:

7205.41 It is not practical to locate such spaces in accordance with Sub-section 7205.2 because of:

7205.411 Unusual topography, grades, shape, size, or dimensions of the lot;

7205.412 The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or,

7205.413 Traffic hazards caused by unusual street grades; or

7205.414 The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties;

7205.42 When the accessory parking spaces are to be

located elsewhere than on the lot upon which the building or structure they are intended to serve is located, such parking on adjacent lots or lots separated only by an alley from the lot upon which the building or structure is located, shall be preferred;

7205.43 Such parking spaces are so located as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structure which they are designed to serve; and

7205.44 The Board may impose conditions on any accessory or non-accessory parking spaces as to screening, coping, set backs, fences, the location of entrances and exits, or any other requirement it shall deem necessary to protect adjacent or nearby property. It may also impose such other conditions as it shall deem necessary to assure the continued provision and maintenance of such spaces.

4. The site is 5,280 square feet in area. A 5.8 foot wide public alley separates the site from a supermarket to the north. Adjacent to the subject property to the east is Claridge Towers, a public housing facility for the elderly. Thomas Circle lies one block to the west of the site. The recently-upgraded Washington Plaza Hotel, containing 345 guest rooms, is located on the northeast side of the Circle on Vermont Avenue, one block from the subject property. Massachusetts Avenue, located to the south, contains several high-rise apartment buildings.

5. The subject property is improved with an eight-story structure which occupies approximately 74 percent of the lot. The building was erected in 1927 and was used as a 55-unit apartment building until approximately 1978. The building is currently vacant, and has been so for approximately seven years.

6. In an advisory opinion dated May 14, 1985, the Rental Accomodations and Conversion Division, Department of Consumer and Regulatory Affairs, determined that the subject property is "vacant, gutted and cannot be construed as a housing accomodation" within the meaning of D.C. Code 45-1571, as amended. This opinion concluded that the Rental Housing Emergency Act of 1980 and Rental Housing Emergency Act of 1985 do not prohibit the use of the subject building as a hotel.

7. The applicant's general partner, Dr. David Korn, testified that the building is almost completely gutted, and that the previous owner of the building had done severe damage to both the interior and exterior of the building. He further testified that the rents needed to cover the required renovations costs were unobtainable at this

location and concluded that residential use of the site is not economically feasible. The applicant's general partner read into the record a letter from the Director of the Department of Housing and Community Development stating the Department had studied the feasibility of renovating the building for residential use and had concluded that "low and moderate income housing is not economically viable, even with substantial public subsidy." The Board so finds.

8. The applicant will renovate the structure for use as a 100-room residential hotel. The hotel will be affiliated with a national hotel chain, and will be designed to attract business, government and other travellers who seek moderately-priced accommodations. The hotel will contain an 80-seat restaurant and bar on the lower level. There will be no function or meeting rooms in the building.

9. The applicant has entered into an agreement with METROPARK to provide 25 parking spaces at the METROPARK facility at 1120 Vermont Avenue, N.W. The hotel will use a valet parking arrangement. The applicant also submitted a letter from C Park, Inc., indicating C Park's capacity to handle parking for buses serving the hotel, at C Park's facility at 1211 - 13th Street, N.W.

10. The applicant has entered into an agreement with Howard University to coordinate a training and part-time employment program with the University School of Business and Public Administration, aimed at training students for positions in the hotel industry.

11. The building's condition is deteriorating and in need of serious and immediate repair. The planned renovation would entail only minor work to the exterior of the building as the removal of balconies and the repair of portions of the facade which had been damaged by a prior renovation to the building. The interior of the building would be completely renovated for use as a hotel.

12. The applicant's architect concluded, in his opinion, that the proposed use will not adversely affect the present character or future development of the surrounding area. He testified that the height, bulk and design of the building, which has stood on the site for nearly 60 years, is in harmony with existing uses and structures in the neighborhood. He further testified that the approval of the application will result in a balance of residential, commercial and hotel uses in the vicinity of the site. The architect also stated that the hotel will have no function or exhibit space and is within 1300 feet of the Central Employment Area. The architect testified that the granting of the special exception for hotel use will permit the restoration of an existing, vacant building to productive use and that the special exception, if granted, will be in harmony with the general purpose and intent of the Zoning

Regulations and Map and will not adversely affect the use of neighboring property. The Board so finds.

13. The applicant's architect testified that the special exception to provide required parking off-site is necessary to return the building to productive use. He testified that due to the existence of the structure on approximately 74 percent of the lot, there is no space to provide the required parking spaces on-site. The architect testified that the valet parking arrangement and the use of METROPARK facility at 1120 Vermont Avenue, N.W. were both necessary and convenient to the hotel. He concluded that the proposed parking plan will not adversely affect the present character or future development of the surrounding area and that the special exception, if granted, will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not adversely affect the use of neighboring property. The Board so finds.

14. The proposed building would be serviced through a 12 feet by 37 feet loading berth on the north side of the property. An enclosed loading platform would be constructed at the rear of the building, and all loading functions and trash removal would occur through this area. The architect testified that a variance from the service/delivery loading space requirement was necessary to the renovation of the building. He testified that the existence of a structure on approximately 74 percent of the lot created an exceptional condition on the property, by which strict application of the Regulations would result in extreme practical difficulties to the owner. He testified that this variance, if granted, in his opinion would not impair the intent purpose or integrity of the Zoning Regulations or Map. The Board so finds.

15. The applicant's hotel consultant, accepted as an expert by the Board, testified to the need for moderately-priced hotels in the vicinity of the central employment area. He stated that the vast majority of centrally-located hotels cater to the luxury market, and that budget-conscious travellers currently seek accommodations either on the New York Avenue, N.E. corridor or in suburban jurisdictions. He testified that his research indicated there is sufficient prospective demand to support a 100-room chain-affiliated, moderately-priced hotel as the subject property. The Board so finds.

16. The applicant's transportation expert testified that the net increase in traffic resulting from the hotel will barely be noticeable during the peak street traffic hours. He testified that the valet parking arrangement and the use of the METROPARK facility at 1120 Vermont Avenue, N.W. are necessary and convenient to the hotel. He stated that the 25 parking space to be provided are 14 more than

required by the Regulations and would be adequate for the hotel guests. The Board so finds.

17. The applicant's transportation expert further testified that the proposed loading facilities were adequate for the hotel. He testified that the loading berth was of sufficient size to handle the types of delivery trucks that will service the hotel. He stated that the enclosed loading platform will shield neighboring property from the noise commonly associated with deliveries. He further stated that the delivery functions which would typically occur in the service/delivery loading space can be adequately serviced through the loading berth. The expert concluded that the proposed parking and loading plans will not create any dangerous or otherwise objectionable traffic conditions on adjacent streets or in the surrounding neighborhood. The Board so finds.

18. The Office of Planning, by report dated November 6, 1985, recommended approval of the application. It noted that the existing building is of similar height and design as the adjacent building to the east, and that the proposed hotel use would not substantially affect the mix of uses in the immediate area. The Office of Planning also reported that the parking and traffic impacts of the hotel use will not unduly impact on surrounding streets. With respect to the applicant's request for special exceptions, the Office of Planning was of the opinion that the proposed hotel use and parking plan would not adversely affect the present character or future development of the surrounding area. With respect to the applicant's request for a variance, the Office of Planning reported that one loading berth is sufficient to service the proposed hotel, especially in light of the lack of function or exhibit space. The OP further noted that upon completion of the initial move-in, activity at the loading berth would be limited to food and beverage deliveries and trash removal. The Office of Planning noted several factors that demonstrate the exceptional conditions of the property that merit the granting of the variance. These included the structure's existence and its lot coverage of approximately 74 percent, as well as the use of the remainder of the site's open space for the loading berth and platform. The Board concurs with the reasoning and recommendation of the OP.

19. The Department of Public Works (DPW) by memorandum dated November 1, 1985 reported that from a transportation standpoint the proposed project would not have a significant effect on the transportation conditions in the surrounding area. The DPW reported as to the street system as follow:

Thirteenth Street is a principal arterial with an average daily weekday volume of 16,000 vehicles. In the

vicinity of the site, 13th Street provides three lanes in each direction separated by a six-foot wide painted median. Two-hour parking is allowed on the east side of the street between 7:00 A.M. and 6:30 P.M. On the west side, three hour parking is permitted from 7:00 A.M. to 6:30 P.M. and M Street is a collector street with a 30foot wide pavement. Two hour residential permit parking is in effect from 7:00 A.M. to 6:30 P.M. on the north and from 9:30 A.M. to 4:00 P.M. on the south side.

The DPW further reported that the site is not directly served by the Metrobus or Metrorail system. However, there are several Metrobus routes operating on 11th, 14th, K and P Streets approximately one to two blocks from the site.

The DPW estimated that approximately 30 to 40 vehicle trips would be generated by the project during the typical evening peak hour and that 50 percent of these trips would be made by taxi for pickup or dropoff. This level of generation would not effect the capacity of the surrounding streets.

With regard to parking the DPW reported that the applicant proposes to provide up to 25 parking spaces at an underground garage at 1120 Vermont Avenue. The applicant stated that valet parking will be provided for hotel guests driving to the site. In DPW's opinion, this valet parking arrangement is a workable solution to minimize parking spillover onto the neighborhood curb space.

DPW further reported that the applicant would provide one 12 foot by 37 foot loading berth to service the project. Current Zoning Regulations require one 30 foot loading berth and a 20 foot service/delivery space. A site inspection indicated that there was no practical way to provide both requirements because of the limitations of the site. In DPW's judgment, the elimination of the service delivery space requirement would not create an adverse impact on the adjacent streets or on the operation of the proposed hotel. The Board concurs with the reasoning and conclusion of the DPW.

20. Advisory Neighborhood Commission 2C, by report dated November 4, 1985, recommended approval of the application. The ANC noted that the applicant's proposal will restore a vacant, deteriorating building to productive use and will create new jobs. The ANC reported further that it was of the opinion that residential development of the site was not economically feasible in the foreseeable future. The ANC noted that the hotel's small size and lack of convention and meeting space will ensure that the use does not adversely affect the neighboring residential community. The ANC concluded that the grant of the special exceptions will be in harmony with the general purpose and intent of

the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The ANC further concluded that the grant of the variance is proper due to the lack of vacant space on the property. The ANC found that the grant of the variance will not cause substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the Zoning Regulations and Map. The Board concurs with the reasoning and recommendation of the ANC.

21. There was no opposition to the application at the public hearing or of record.

22. Numerous letters in support of the application were submitted to the record. The grounds for the support was that the proposed "moderate rate" hotel was a much needed facility for many entities during business in Washington, D.C. for its clients.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, and on the above Findings of Fact, the Board concludes that the applicant is seeking two special exceptions and one variance. The Board, to grant the special exception to permit hotel use, must conclude that the applicant has met the requirements of Paragraph 4101.48 et seq., of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. The height, bulk and design of the hotel are in harmony with existing uses and structure on neighboring property approval of the hotel will result in a balance of residential, office and hotel uses in the SP District in the vicinity of the hotel. The gross floor area of the function rooms and exhibit space does not exceed fifteen percent (15%) of the gross floor area of the hotel. The hotel is located within 1,300 feet of the Central Employment Area. The proposed parking plan does not unduly impact parking or traffic on surrounding streets and the location and design of driveways and other circulation aspects of the hotel are such as to avoid dangerous or objectionable traffic conditions.

The Board, to grant the special exception to permit required parking to be located off-site, must conclude that the applicant has met the requirements of Paragraph 7205.5 et seq., of the Zoning Regulations. The Board concludes the applicant has met its burden of proof. It is not practical to located required parking spaces within the subject lot because of the unusual topography, shape, size and dimensions of the lot, and the location of the parking spaces furnishes reasonable and convenient parking for the guests of the building it is designed to serve.

The Board, to grant the variance from the service/delivery loading space requirement of Sub-section 7302.1, must conclude that the applicant has met the requirements of

Paragraph 8207.11. The Board conclude the applicant has met its burden of proof. The applicant is requesting an area variance, the granting of which requires the showing of a practical difficulty upon the owner of the property that stems from the conditions of the property itself. The Board conclude that the lot is of a small size, and is improved with a building that occupies approximately 74 percent of the lot and has done so since 1972. Evidence in the record, as well as testimony presented as the public hearing, indicates there is not sufficient open space on the subject property to provide the required service/delivery loading space. The Board concludes that the hotel use and the provision of required parking spaces off-site are in harmony with the general purpose and intent of the Zoning Regulations and Maps. The Board further concludes that the variance can be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board has accorded to the report of ANC 2C the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the receipt of an agreement between the applicant and C. Park, Inc. operator of a parking lot at 1211 13th Street, N.W. in which parking spaces for buses using the subject site will be accommodated. At the public meeting of December 4, 1985, the Board upon review of the said agreement REAFFIRMED its decision of November 13, 1985 to GRANT the application.

VOTE: 4-0 (Charles R. Norris, Maybelle T. Bennett, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 27 JAN 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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