

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15742 of Potomac Capital Investment Corp., pursuant to 11 DCMR 3107.2, for a variance from the use provisions requiring not less than 0.25 FAR of arts and arts-related uses [Paragraph 1704.3(a)] in a DD/C-4 District at premises 405 8th Street, N.W. (Square 431, Lot 800).

HEARING DATE: September 16, 1992
DECISION DATE: September 16, 1992 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party to the application, filed a written statement of issues and concerns dated September 4, 1992 in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 1704.3(a). No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, and that the requested 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. It is therefore **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

1. The entire building shall be used for one of the following uses:
 - A. Any use permitted under 11 DCMR Section 1711 (arts and arts-related uses).
 - B. Any use permitted under 11 DCMR Section 1710 (retail and service uses) except those uses permitted under the following paragraphs:

- (a) anchor store
 - (d) appliance store
 - (f) auto and home supply stores, excluding installation
 - (g) bank, loan offices, savings & loan, credit union or other financial institution
 - (i) bicycle shop
 - (m) computer store
 - (q) department store
 - (u) fabric store
 - (x) furniture store
 - (ii) office supplies and equipment store
 - (kk) paint store
 - (ll) pet store
 - (mm) printing, fast copy service
 - (tt) telegraph store
 - (vv) travel agency, ticket office.
- (C) Any "other similar personal/consumer service establishment or retail use, including assemblage and repair clearly incidental to the principal use," as specified in paragraph 1710.1(yy), shall be permitted only if approved by the Zoning Administrator.

2. The applicant shall expend a minimum of \$30,000 for public art on the exterior of the building. The exact design and nature of the art shall be subject to the approval of the Pennsylvania Avenue Development Corporation.

3. The relief granted herein shall apply only so long as the existing building and any future additions do not exceed three stories in height above grade.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be

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accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 5-0 (Sheri M. Pruitt, Angel F. Clarens, Paula L. Jewell and Carrie L. Thornhill to grant; Tersh Boasberg to grant by proxy).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: OCT 26 1992

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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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