

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17474-A of ASR Group, Inc. by Metro Properties, Inc., pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 772, and a variance from the residential recreation space requirements under section 773, to allow the construction of a new 326 unit apartment building in the C-2-A District at premises 1300 Rhode Island Avenue, N.E. (Square 3956, Lot 801).

HEARING DATE:	May 23, 2006	
DECISION DATE:	May 23, 2006	(Bench Decision)
MODIFICATION DECISION DATE:	April 1, 2008	(Bench Decision)

**SUMMARY ORDER ON
REQUEST FOR MODIFICATION**

SELF-CERTIFIED

The zoning relief requested in this case was self-certified pursuant to 11 DCMR §3113.2.

BACKGROUND

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") 5B and to owners within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5B, which is automatically a party to this application. ANC 5B submitted a report in support of the application. The report was filed at the public hearing, beyond the 7-day filing requirement. However the Board waived its rules to accept the late filing from the ANC. The Office of Planning (OP) submitted a report in support of all of the relief except for the variance from the lot occupancy requirement.

By Summary Order dated June 6, 2006, the Board approved Application No. 17474, of ASR Group, Inc. by Metro Properties, Inc. ("Applicant"), including the Site Plan and other plans submitted with that application.

THE WAIVER REQUEST

As part of its modification filing, the Applicant requested a waiver from the six-month limitation for filing requests for modification of plans with the Board, as set forth in §3129.3 of the Zoning Regulations. The Board granted the waiver of the filing requirement to consider the requested modification, finding good cause and no prejudice to any party. The OP and ANC 5B did not submit any comments to the Board on the modification and waiver requests.

REQUEST FOR MINOR MODIFICATION

By letter dated March 4, 2008, the Applicant requested a minor modification of the approved plans pursuant to Section 3129. The Applicant's modification requests was prompted by having to redesign the original project. The Applicant contends that it has spent a considerable amount of time attempting to reduce construction costs and improve the economics of the project, particularly given the very difficult economy and housing market.

The project approved by the Board of Zoning Adjustment ("Board") in Application Number 17474 was a new apartment building that was designed and planned as a condominium project. The Applicant contends that all of the residential units were intended to be offered for sale. Because the condominium market in the District of Columbia (and nationwide) has stalled and is predicted to not recover for several years, and the economy, and in particular the credit markets, has dropped to recession or near-recession levels, the Applicant has been forced to redesign the project and convert it from a condominium to a rental apartment building and to undertake numerous and significant cost-cutting efforts in order to reduce construction costs and make the units affordable to the rental market.

The Applicant proposes modifying the project as follows:

1. Six (6) residential units have been reconfigured as part of an effort to reduce the size of some of the larger units -- in order to accommodate smaller units more typical of a rental apartment building -- and the number of residential units has been increased by two (2) units per floor (i.e., an additional ten (10) units total) -- in order to enhance the potential economics of the project. The reconfiguration of the floor plan and increase in units will occur in two locations on each of the five floors, as follows: first, on the west side of the north courtyard, where two (2) two-bedroom units, one (1) one-bedroom/den unit and one (1) one-bedroom unit have been reconfigured into four (4) one-bedroom units and one (1) studio; and second, on the northeast corner of the south courtyard, where two (2) one-bedroom/den units have been reconfigured into one (1) one-bedroom unit and two (2) studio units.

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This reconfiguration and increase in the number of units does not affect the exterior design of the building as visible from the street or increase its footprint, does not increase the FAR, does not increase lot occupancy or building height or any other zoning requirement and does not impact the parking provided in the building. With respect to parking, the building previously exceeded – and will continue to exceed the parking requirement. Under the Zoning Regulations, an apartment building in the C-2-A zone district is required to provide one (1) parking space for each two (2) dwelling units. Accordingly, with 333 residential units, the development is required to provide 167 parking spaces. However, as proposed by the Applicant and approved by the Board, the development will include not less than 260 parking spaces or almost 100 spaces above the minimum requirement.

2. The lobby and public areas of the apartment building have been reconfigured to include a leasing office and an office for building management, in order to provide a high level of on-site services for the occupants of the building as is typical in the market for a rental apartment building. Such actions are a direct result of the conversion of the project from a condominium regime to a rental building. In order to expand the lobby, two former one-bedroom/den units were reduced in size and will become a one-bedroom unit and a studio unit.

3. The private rooftop terraces for units located on the fourth floor of the building have been eliminated. Accordingly, the spiral staircases to such rooftop terraces previously located within the fourth floor residential units have also been eliminated. Although these changes are not visible from the street, the elimination of the private rooftop terraces reduces the total bulk of the building.

The Board finds that the proposed modifications are minor modifications that do not change the material facts it upon in approving the Application. No additional zoning relief is necessary as a result of these minor modifications. Furthermore, no sacrifices have been made to the aesthetics or quality of the project with these requested changes, nor with the conversion from a condominium to a rental apartment building.

Pursuant to 11 DCMR §3101.6 and 3129.1, the Board has determined to waive the requirement of 11 DCMR §3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. **It is therefore ORDERED that the MODIFICATION of APPROVED PLANS (Exhibit 34, in the record) be GRANTED.**

VOTE: 3-0-2 (Ruthanne G. Miller, Curtis L. Etherly, Jr. and Shane L. Dettman (having read the record) to approve; the third Mayoral Appointee and the Zoning Commission Member not voting, not having participated in the original application)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT.
Each concurring Board member has approved the issuance of this Order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: APR 02 2008

UNDER 11 DCMR §3125.9, "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 FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR §3130, 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 PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR §3125 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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL

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FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. rsn

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As Director of the Office of Zoning, I hereby certify and attest that on April 2, 2008, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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