

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17569 of Marriott International Inc., on behalf of Team Eckington LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the off-street parking requirements under subsection 2101.1, a special exception from the roof structure requirements under section 411, and a special exception from the rear yard requirements under subsections 774.2 and 774.9(c), to allow the construction of a hotel in the C-3-C District at premises 201 Florida Avenue, N.E. (Square E-710, Lot 801).

HEARING DATE: February 27, 2007
DECISION DATE: February 27, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

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

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) 6C and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted two letters in support of this application marked as Exhibit No. 24 and Exhibit No. 29 of the record of this case. The Department of Housing and Community Development ("DHCD"), the Office of Planning ("OP"), and the District Department of Transportation ("DDOT") submitted reports in support of the application, marked as Exhibit Nos. 32, 33 and 34 respectively, in the record of this case. The Near Northeast Citizens Against Crime & Drugs, which was accepted by the Board as a party in support of the application, also submitted two letters in support of the application, marked as Exhibit No. 28 and Exhibit No. 30.

ANC 6A and DDOT's support for the application were premised on Applicant's commitments to implement specific transportation management and parking measures as reflected in Exhibit 27 (Applicant's letter dated December 22, 2006), Exhibit 29 (ANC Report), Exhibit 33 (OP Report), and Exhibit 34 (DDOT Report) of this record. The Applicant reaffirmed at the hearing its commitment to implement these measures as well as additional transportation measures recommended by DDOT in its report. Applicant did not agree to implement DDOT's recommendation that Applicant provide two parking spaces, at no cost, for car-sharing vehicles, stating at the hearing that this recommendation raised security, operational and practical concerns. While the Board recognizes the benefit of car-sharing in decreasing the need for parking spaces in

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general, based on the testimony of the Applicant at the hearing, the Board determined that allocating parking spaces for car-sharing in this case was neither practical nor appropriate.

Following are the commitments that Applicant agreed to implement:

1. Provide, administer, and encourage participation in a sustainable Employee Commuter's Incentive Program which will include the following elements:
 - a) Tax-free purchase of Metrocheck, SmarTrip, and CommuterBucks through WageWorks or a similar provider;
 - b) Van-pool matching service, free to employees;
 - c) Car-pool matching service, free to employees; and
 - d) Safe and secure bicycle parking, free to employees.
2. Establish an Employee Parking Policy and Registration Program that informs employees where they can and cannot park, i.e., no parking on residential neighborhood streets including Second Street and areas between M and K Streets.
3. Routinely request that the District's Department of Transportation or other appropriate District agency enforce parking restrictions in the immediate neighborhoods surrounding the hotel, including Second Street and areas between M and K Streets.
4. Designate a Marriott Courtyard staff member as a community liaison, available to address specific ANC 6C concerns, needs, or grievances.
5. Provide commuter-related information to both guests and employees at a lobby-located stand-alone kiosk.
6. Make available to employees and guests, through local parking management companies, additional parking on an as-needed basis.
7. Marriot Courtyard is currently in the design phase of developing with DDOT on Second Street a designated drop-off and pick-up passenger waiting area at the main entrance to the hotel with appropriate signage for use by guests and employees.
8. Provide website hotlinks to CommuterConnections.com and goDCgo.com on developer and property management websites.
9. Provide an on-site business center to residents with access to copier, fax, and Internet services.

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10. Designate a member of building management as a point of contact who is responsible for coordinating and implementing TDM obligations. (It would make sense that this be the same person who acts as the community liaison proposed in the Applicant's Employee Parking Plan).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR §§ 3103.2 and 3104.1 for a variance from the off-street parking requirements under subsection 2101.1, a special exception from the roof structure requirements under section 411, and a special exception from the rear yard requirements under subsections 774.2 and 774.9(c). No parties appeared at the public hearing in opposition of this application. The Board finds that based on the evidence in the record, and specifically the commitments made by the Applicant as set forth above, a decision by this 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 the applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411, 774.2 and 774.9(c), that the requested relief can be granted, 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.

The Board further concludes that the applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for relief from 11 DCMR § 2101.1 since 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.

Pursuant to 11 DCMR § 3101.6, 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 application is **GRANTED**.

VOTE: **4-0-1** (Curtis L. Etherly, Jr., John A. Mann II, Ruthanne G. Miller and Geoffrey H. Griffis, to approve; no Zoning Commission Member participating)

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY: _____


JERRILY R. KRESS, FAIA *JK*
Director, Office of Zoning

MAR 19 2007

FINAL DATE OF ORDER: _____

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.

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.

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As Director of the Office of Zoning, I hereby certify and attest that on **MARCH 19, 2007**, 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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ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning *JK*

TWR