

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17721 of Camden Development, Inc., through NOMA Development LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure design provisions under subsections 411.3, 411.5, and 411.11, to allow the construction of a new 14-story apartment building in the C-3-C District at premises 60 L Street, N.E. (Square 673, Lot 841).

HEARING DATE: February 26, 2008
DECISION DATE: February 26, 2008 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.¹ The Applicant seeks special exception relief pursuant to §§ 3104 and 411.11 from § 411.3 to allow for multiple rooftop structures, and from § 411.5 to allow for rooftop structures of varying heights.

The Applicant intends to develop the site as a 14-story apartment building that will be constructed in two phases. The southern half of the lot will be constructed during the first phase of development, and the northern half will be constructed during the second phase. Ultimately the two phases will function as one building with corridors connecting the two throughout. Accordingly, the roof plan that was before the Board encompasses both Phase 1 and 2. However, due to the uncertainty of market conditions the Applicant was uncertain as to when Phase 2 of the development would occur.

The revised roof plan for Phase 1 is depicted in plans attached to the Pre-Hearing Statement. (Exhibit 24, Tab A, Sheet A2.14). Phase 2 roof plans are shown at Exhibit 10, Sheets A-1 3. Plans showing the apartment unit configuration for the development (both phases) are shown at Exhibit 10, Sheet A1.90.

¹ The applicant initially sought relief from the rooftop structure setback requirements under § 411 and §400.7 (corrected to § 770.6, which is applicable in the C-3-C zone). However, the applicant withdrew this request because it determined that the western wall of the proposed building would not be an “exterior” wall under § 770.6 and; thus, no setback relief was necessary.

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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) 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 a report in support of the application. The Office of Planning (OP) submitted a report in support of the application.

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 § 3104.1, for special exception under sections 411.3, 411.5, and 411.11. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the 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 OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 411.3, 411.5, and 411.11, that the requested relief can be granted as 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.

Pursuant to 11 DCMR § 3100.5 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 and to waive the time limitation set forth in 11 DCMR § 3130.1 with respect to the implementation of the roof plan for Phase 2 of the development.

As this case was self-certified and presents issues to the Board only relating to the location and the number of roof structures, the Board did not consider nor does this order address any other potential zoning issues, such as the height of the building.²

It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITIONS**:

1. The roof plans shall be implemented in accordance with the revised plans in the record.

² The Applicant indicated an intent to establish in Phase 2 an above-grade connection to the office building development being constructed to the east in order to achieve a building height of 130 feet. Applicant stated at the hearing that the owner of the office building has been meeting with the Zoning Administrator on this issue. The Applicant further represented that he could not pull a building permit for the building at this height without the Zoning Administrator's approval of such connection. *See* February 26, 2008, Transcript at 22.

2. The approval granted by this order, as pertaining to the first phase of development, shall be valid for a period of two years from the effective date of this order, unless, within such period, the plans for the erection or alteration of the structures are filed for the purpose of securing a building permit.
3. The approval granted by this order, as it pertains to the second phase of development, shall be valid for a period of ten years from the effective date of this order, unless, within such period, the plans for the erection or alteration of the structures are filed for the purpose of securing a building permit.

VOTE: 3-0-2 (Ruthanne G. Miller, Marc D. Loud and Mary O. Walker to approve, the Zoning Commission member not present, not voting and Shane L. Dettman abstaining)

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

ATTESTED BY: _____

JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 28 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 § 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 FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Director of the Office of Zoning, I hereby certify and attest that on March 28, 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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rsn

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning