

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17780 of Benco Center LLC, pursuant to 11 DCMR § 3104.1, for a special exception to reduce the number of required parking spaces under § 2108, to locate required parking spaces on an adjacent lot under § 2116.5, and relief from the requirements of § 2117.12, for parking spaces serving a group of existing retail businesses in the C-3-A District at premises 4510-4528 Benning Road, S.E. (Square 5346, Lot 11).

Note: The application was amended to delete the request for variance relief under § 2101.1 and to seek special exception relief under § 2108, in addition to § 2116.5. The Applicant also received relief from § 2117.12.

HEARING DATE: June 17, 2008
DECISION DATES: July 1, July 29 and August 1, 2008

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 the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7E, which is automatically a party to this application. ANC 7E submitted a report expressing concerns related to 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 relief under §§ 2108, 2116, and 2117. 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, in seeking special exception relief under §§ 2108,

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2116.5, and 2117.12, the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, 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.

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. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 38, Plans) be **GRANTED, SUBJECT to the following CONDITIONS:**

1. Approval shall be for **TEN (10) YEARS**.
2. The accessory parking lot on Lot 8 shall be laid out and landscaped in accordance with the revised parking plan set forth at Exhibit No. 38, Attachment A.
3. The Applicant shall provide a bike rack to accommodate 10 bicycles and provide three (3) wall-mounted lights to provide illumination to the alley and the parking L located on Lot 8 in accordance with Benco Shopping Center Lighting and Bicycle Plan set forth at Exhibit 38, Attachment B.
4. The Applicant shall resurface the main and accessory parking lots in accordance with proposals 010114 and 013797 set forth at Attachment E. to Exhibit No. 35.
5. The Applicant shall maintain a building service contract for both lots. The agreement shall provide for the removal of debris on a daily basis from the parking area and for snow and ice removal from this area in the winter.

With regard to the areas covered in Condition No. 5, the Board notes the Applicant's representation in the record, that sidewalks and public alleys will be included.

VOTE: **4-0-1** (Ruthanne G. Miller, Mary Oates Walker, Shane L. Dettman, and Michael G. Turnbull to approve. Marc D. Loud not present, not voting)

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

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ATTESTED BY:


JERRILY R. KRESS, FAIA

Director, Office of Zoning

FINAL DATE OF ORDER: AUG 04 2008

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

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.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

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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.

TWR

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Director of the Office of Zoning, I hereby certify and attest that on August 4, 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 who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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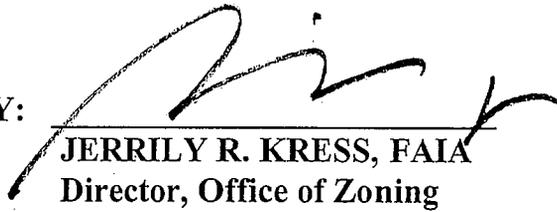
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ATTESTED BY:


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