GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 18277 of RP MRP 900 G Street LLC, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a special exception from the roof structure requirements under §§ 777, 400.7, and 411.5, and variances from the loading requirements under §§ 2201.1 and 2203.2 and from the open court requirements under § 776.1, to allow a new office building with ground floor retail in the DD/C-4 District at premises 624 9th Street, N.W. (Square 376, Lot 68).[1]

HEARING DATE: November 29, 2011
DECISION DATE: November 29, 2011

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4.)

The Board of Zoning Adjustment ("Board" or "BZA") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to the Applicant, and to all owners of property within 200 feet of the property that is the subject of this application. The Advisory Neighborhood Commission ("ANC") 2C, received proper and timely notice as well.[2] The subject property is located within the jurisdiction of ANC 2C, which is automatically a party to this application. ANC 2C submitted a letter, dated October 12, 2011, in support of the application.[3] The ANC noted that at a duly noticed and regularly scheduled public

[1] The Applicant previously sought and received Board approval of zoning variances and special exceptions to allow the renovation and expansion of the existing mixed use building at the subject property. (Order No. 18200.) In the application herein, the Applicant seeks zoning relief to raze the existing building to make way for new construction of a nine-story, mixed-use building with 101,500 square feet of office space and 6,500 square feet of ground-floor retail space. In the earlier case there had been opposition to the project from the two adjacent property owners. In the current application, the Applicant seeks relief which, in part, resulted from negotiations with those adjacent neighboring property owners. No opposition to the new proposal was received.

[2] Although the notice from the Board to the ANC mistakenly went to a different ANC, ANC 2C, which is the appropriate, affected ANC, did in fact receive notice and filed a report in the case to which great weight was given.

[3] The ANC's report was submitted on November 28, 2011, and thus was untimely. The Board, by consensus, waived its rules, accepted the report into the record, and gave the ANC's report great weight. (Exhibit 26.)

meeting on October 5, 2011, with a quorum present, the ANC voted unanimously (4:0:0) to support the application.[4] (Exhibit 26.)

The Office of Planning ("OP") submitted a timely report in support of the application. (Exhibit 25.) The District Department of Transportation ("DDOT") filed a report, dated November 28, 2011, for the record. As DDOT's report was not timely, the Board, by consensus, waived its rules and accepted the report into the record. In the report DDOT determined that there is no adverse impact on the transportation network and stated that DDOT has no objection to the requested variances and special exceptions at the subject property. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for variances under § 3103.2 from the strict application of the loading requirements under §§ 2201.1 and 2203.2 and from the open court requirements under § 776.1; and to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under §§ 3104.1 , 777, 400.7, and 411.5 from the roof structure requirements. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. 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 § 3103.2 for variances under §§ 2201.1, 2203.2, and 776.1, that 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 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.

Further, after consideration of all of the requirements stated in §§ 777, 400.7, and 411.5 of the Zoning Regulations, the Board concludes that the Applicant has satisfied all of these requirements, and thus met the burden of proof, pursuant to 11 DCMR § 3104.1, for a special exception under § 777, 400.7, and 411.5. 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, 777, 400.7, and 411.5, 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.

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[4] The ANC's report indicated that no objections to the granting of the proposed relief were raised at the ANC's meeting.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be 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.

It is therefore **ORDERED** that the application is hereby **GRANTED (pursuant to Exhibit 30, Plans), WITH THE FOLLOWING CONDITION:**

1. The Applicant shall establish a full-time loading coordinator to routinely coordinate with adjacent property owners to control service and loading activities during both peak and off-peak periods to mitigate potential adverse impacts on neighboring properties.

VOTE: **4-0-1** (Meridith H. Moldenhauer, Jeffrey L. Hinkle, Lloyd L. Jordan, and Anthony J. Hood, to approve. Nicole C. Sorg neither participating nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY: _____
RICHARD S. NERO, JR.
Acting Director, Office of Zoning

FINAL DATE OF ORDER: DEC 20 2011

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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR

ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BZA APPLICATION NO. 18277

As Acting Director of the Office of Zoning, I hereby certify and attest that on DEC 20 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, 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:

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Acting Director, Office of Zoning