

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18676 of Mundo Verde Public Charter School, pursuant to 11 DCMR § 3103.2, for a variance from the requirement to provide additional parking spaces to increase the intensity of the use under § 2100.6, and a variance from the requirement to maintain existing required parking spaces under § 2100.10, to allow the reuse and expansion of a former public school building as a public charter school in the R-4 District at premises 44 P Street, N.W. (Square 616, Lot 873¹).

HEARING DATES: December 10 and 18, 2013²
DECISION DATE: December 18, 2013

SUMMARY ORDER

SELF CERTIFIED

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

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”) 5E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5E, which is automatically a party to this application. ANC 5E filed a letter report that indicated that at a regularly scheduled public meeting on November 19, 2013, with a quorum of Commissioners present, the ANC voted 10:0 to support the application. (Exhibit 27.)

The Office of Planning (“OP”) submitted a timely report, dated December 3, 2013, recommending approval of the application. (Exhibit 26.) The District Department of Transportation (“DDOT”) submitted a report, dated December 5, 2013, stating that it had no objections to the requested relief. (Exhibit 28.)

¹ Subsequent to filing of the initial application, the lot was converted to record lot 116.

² The hearing was originally scheduled for December 10, 2013, but the hearing was postponed to December 18, 2013 due to inclement weather.

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Letters of support were submitted to the record from Chris Mitchell and John Hagood. (Exhibits 34 and 29.) Danielle Pierce, whose child attends the school, and John Hagood, who resides in the area where the school will be located, testified 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 § 3103.2 for variances from the parking requirements under §§ 2100.6 and 2100.10. Three individuals (Phyllis Klein, Peter Waddell, and Brian Brown) submitted applications requesting status as parties in opposition. (Exhibits 21, 24, and 25.) At the hearing, Ms. Klein, who served as the representative for all three individuals, stated that the parties withdrew their objection and supported the application, subject to conditions of approval and a revised site plan that were jointly submitted to the Board by the Applicant and the representative for the parties. (Exhibits 35 and 36.) The Board agreed to condition the application as jointly requested by the Applicant and the representative for the parties. The individuals retained their party status; however, they went from being considered parties in opposition to parties in support. 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 ANC and OP reports, the Board concludes that the Applicant has met the burden of proof under 11 DCMR § 3103.2 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 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.

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. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that this application be **GRANTED WITH THE FOLLOWING CONDITIONS**:

1. The Applicant shall construct the Project and use the Property in accordance with the revised site plan included as Exhibit 36 of the Record.
2. The reduced number of staff parking spaces on the Property created by the requested variance (10 zoning compliant spaces plus six stacked spaces) will be used by the intended 75 Mundo Verde staff members.
 - a. If the Applicant determines that the spaces are underutilized by staff, the parking spaces located on the easterly boundary of the Property, adjacent to the public alley, and shown on the revised site plan, shall not be used for short-term parking except between the hours of 9:30 a.m. and 3:00 p.m. on weekdays, Monday through Friday; with no restrictions placed on these spaces on Saturdays and

Sundays.

3. The Applicant shall not use the four parking spaces on the east side of the Property as a drop-off and pickup zone. Such spaces shall be used only for staff or short-term visitor parking. The Applicant shall actively monitor the use of the alley to ensure that drop-off and pickup activity does not take place in, or result in queuing in and/or blocking of the alley.
4. The Applicant shall implement the transportation demand management plan as follows:
 - a. Provide a minimum of 24 bicycle parking spaces as well as shower facilities for staff that bike to work;
 - b. Explore the addition of Capital Bikeshare and carshare locations near the property;
 - c. Prohibit teachers and staff from parking on neighborhood streets including the "school zone" proposed in front of the Property;
 - d. Refrain from subsidizing or incentivizing parking for staff and faculty; and
 - e. Promote and market sustainable commuting efforts to staff and faculty.

VOTE: **4-0-1** (Lloyd J. Jordan, S. Kathryn Allen, Jeffrey L. Hinkle, and Peter G. May to APPROVE; one Board seat vacant.)

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

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: January 6, 2014

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 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO § 3129.9, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL TOLL OR EXTEND THE TIME PERIOD.

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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.