

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 18749 of 1031 4<sup>th</sup> Street, LLC**, pursuant to 11 DCMR §§ 3104.1 and 3103.2, for a variance from the rear yard depth requirements of § 774.1; a variance from the parking requirements of § 2101.1; a variance from the compact parking space requirements of § 2115; a variance from the loading requirements of § 2201.1; a variance from the lot occupancy requirements of § 772.1; and a special exception from the roof structure requirements under §§ 411 and 770.6, to allow the construction of a new mixed-use building with ground floor retail and nine stories of residential apartments in the DD/C-2-C District at premises 1031 4th Street, N.W. (Square 526, Lots 815, 816, 836, 837, 838, 808, 809, 810, and 811).<sup>1</sup>

**HEARING DATES:** May 13, 2014<sup>2</sup> and July 8, 2014

**DECISION DATE:** July 8, 2014

**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") 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") 6E and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6E, which is automatically a party to this application. The ANC submitted two letters in support of the application, one for the original application (Exhibit 24) and the other for the amended application. The ANC's second letter dated June 27, 2014, indicated that the ANC at a duly noticed public meeting on

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<sup>1</sup> The Applicant amended the application by removing a request for a variance from the side yard requirements under § 775.5 and adding requests for variance relief under §§ 2115.2 and 772.1. The caption reflects those changes.

<sup>2</sup> The application was postponed from the May 13, 2014 Public Hearing at the Applicant's request. (Exhibit 30.)

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June 3, 2014, with a quorum present, the ANC voted unanimously (5:0:0) to support the zoning relief requested. (Exhibit 34.) The Office of Planning ("OP") submitted a report and a supplemental report in support of the application except for lot occupancy (Exhibits 27 and 35), but after the Applicant's presentation testified in support of the application at the public hearing. The Department of Transportation had no objection to the application with conditions. (Exhibits 28 and 36.)

Variances

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 §§ 774.1, 2101.1, 2115, 2201.1, and 772.1. 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 filed in this case, the Board concludes that in seeking variances from §§ 774.1, 2101.1, 2115, 2201.1, and 772.1, the Applicant has met the burden of proving 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 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.

Special Exception Relief

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 a special exception from the roof structure requirements under §§ 411 and 770.6. 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 concludes that the Applicant has met the burden of proof for special exception relief, pursuant to 11 DCMR §§ 3104.1, 411, and 770.6, 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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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 IS HEREBY GRANTED SUBJECT TO THE PLANS AT EXHIBIT 33C AND THE REVISED ROOF PLANS AT EXHIBIT 40 AND THE FOLLOWING CONDITIONS:**

1. The Applicant shall assign a Transportation Management Coordinator to provide transportation information to residents and to coordinate all loading activities.
2. The Applicant shall install an electronic transportation information screen in the lobby that would show real time arrival/availability for nearby trains, buses, carshare, and bikeshare or, in the alternate, the Applicant shall provide notice to the tenants of applicable cell phone applications or other means of obtaining this same real-time multi-transit information.
3. The Applicant shall establish a transportation demand management ("TDM") marketing program to provide detailed non-auto transportation options to residents, and shall post all TDM commitments online.
4. The Applicant shall offer the tenant of each residential unit for the first five years of the project a \$50 car sharing membership, or a \$100 SmarTrip card, or a \$100 Capital Bikeshare membership.
5. The Applicant shall provide at least 61 long-term bicycle parking spaces on-site, and shall provide a minimum of six short-term bicycle parking spaces in public space near its entrance.
6. The Applicant shall dedicate a space in the parking garage for a car sharing service or an electric car.
7. The Applicant shall set back the penthouse on the north side of the building equal to its height above the main roof, as indicated on the revised plans (Exhibit 40).
8. The Applicant shall enter into an easement agreement with Golden Rule Plaza, Inc., owner of property to the north of the subject site, for an area 65 feet long by 12 feet wide,

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to allow the Applicant to construct at-risk windows along the northern property line of the subject site.

**VOTE:**       **5-0-0** (Lloyd J. Jordan, S. Kathryn Allen, Marnique Y. Heath, Jeffrey L. Hinkle, and Peter G. May, to APPROVE).

**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:**  \_\_\_\_\_ *for*  
**SARA A. BARDIN**  
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** July 14, 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.

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

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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.