

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18906 of Endeka Enterprises and 1320 Penelope LLC, as amended,¹ pursuant to 11 DCMR §§ 3103.2, for variances from the width of court requirements under §§ 536 and 776, the off-street parking requirements under § 2101.1, the loading requirements under § 2201.1, and the zone district boundary line requirements under § 2514.2, and pursuant to § 3104.1 for special exceptions from the hotels and inns requirements under § 512, and the roof structure setback requirements under §§ 400.7(b), 411.11, and 777.1, to allow conversion of an existing office building into a mixed-use building in the DC/SP-1 and C-3-C Districts at premises 1337 Connecticut Avenue, N.W. (Square 137, Lot 55).

HEARING DATES: January 27, 2015, March 3, 2015, April 28, 2015, and June 30, 2015
DECISION DATE: June 30, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5 and 22.)

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”) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a resolution dated June 15, 2015, indicating that at a duly noticed public meeting on June 10, 2015, at which a quorum was in attendance, the ANC voted 8-0-0 in support of the application. (Exhibit 26.)

¹ This application is for modifications to plans approved in Case No. 18569. The Applicant stated that the modifications triggered the need for additional relief from the parking requirements and the roof structure requirements in addition to the relief granted in Case No. 18569. (Exhibit 1.) Subsequently, the Applicant further modified the project and amended the application (Case No. 18906) to include the following additional relief: variances from §§ 536 and 776 (court), § 2201.1 (loading), and § 2514 (zone district boundary line), and a special exception under § 512 (hotels and inns requirements). (See Exhibit 22.)

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The Office of Planning (“OP”) also submitted a report in support of the application. (Exhibit 29.) The D.C. Department of Transportation submitted a report expressing no objection to the application. (Exhibit 28.) There were three letters from neighbors filed in support of the application. (Exhibit 27.)

Variance Relief:

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 §§ 536, 776, 2101.1, 2201.1, and 2514.2. The only parties to this case were the Applicant and ANC 2B which supported the application. 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 ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 536, 776, 2101.1, 2201.1, and 2514.2, 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 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 §§ 512, 400.7(b), 411.11, and 777.1. 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 ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 512, 400.7(b), 411.11, and 777.1, 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. 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

APPROVED PLANS, AS SHOWN ON EXHIBIT 25E, and the FOLLOWING CONDITIONS:

Loading Management Plan Components:

1. Vendors and on-site tenants shall be required to coordinate and schedule deliveries.
2. Trucks accessing the site shall be limited to a maximum of 30 feet in length.
3. All tenants shall be required to schedule any loading operation using a truck 20 feet to 30 feet in length.
4. Deliveries shall be scheduled to ensure curbside capacity is not exceeded. Unscheduled delivery vehicles shall be directed to return at a later time when loading space is available.
5. Inbound and outbound truck loading movements will be monitored to ensure trucks do not block the alley. Tenants shall ensure that trucks will not be allowed to park on 18th Street for deliveries.
6. Trucks using the loading docks will not be allowed to idle and must abide by the DDOT Freight Management and Commercial Vehicle Operations regulations and use the primary access routes listed in the DDOT Truck and Bus Route System map.

Transportation Demand Management (TDM) Program:

7. A member of the property management group shall serve as the Transportation Management Coordinator (TMC) responsible for coordinating and implementing the TDM provisions, preparing informational promotional brochures to residents and visitors and coordinating trash and loading activities. The contact information will be provided to DDOT and Zoning Enforcement with annual contact updates.
8. Real time transit information shall be presented on a display in the hotel to provide guests real time transportation information. In addition, the TMC will make printed materials for guest and employees upon request.
9. The Applicant shall register as a member of the Capital Bikeshare Bulk Membership program for hotels and provide initial free daily Capital Bikeshare passes for hotel guests in perpetuity, not to exceed \$5,000 per year.

VOTE: **3-0-2** (Lloyd J. Jordan, Marnique Y. Heath, and Anthony J. Hood to Approve; Jeffrey L. Hinkle not present, not voting; one Board seat vacant.)

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

The 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: July 9, 2015

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,

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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.