

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19175 of Crescent Communities LLC and RCP Development Company, as amended¹, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the side yard requirements under § 775.1, and the loading requirements under § 2201.1, and a special exception from the rear yard requirements under § 774.1, to construct a new mixed-use building in the C-3-C District (South Capitol TDR receiving zone) at premises 2 I Street S.E. (Square 695W, Lot 21).

HEARING DATE: February 9, 2016
DECISION DATE: February 9, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 3.) The application was subsequently amended by the Applicant to withdraw the request for Special Exception relief from the roof structure requirements. (Exhibit 26.)

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 Advisory Neighborhood Commission ("ANC") 6D and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application. The ANC submitted a report in support of the application with conditions. The ANC report is dated January 18, 2016 and states that at a duly noticed and scheduled public meeting on January 11, 2016, at which a quorum was in attendance, the ANC voted 4-0-1 to support the application, with conditions that would make the building's tenants ineligible for Residential Parking Permits ("RPP") and would address concerns about pet waste management. (Exhibit 33.) According to the ANC, the Applicant agreed not to petition DDOT to make any block adjacent to the building eligible for RPP and to place information in all leases stating that tenants are not eligible for RPP. The Applicant also

¹ The application was amended by the Applicant to withdraw a request for Special Exception relief from the roof structure requirements under §§ 411.3 and 411.5. (Exhibit 26.) The caption has been revised accordingly.

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made commitments regarding the construction management plan and a contribution to an organization that develops or preserves affordable housing in the District. The Applicant testified that it would abide by its commitments to the ANC, but noted that the conditions do not specifically relate to the potential impact of the relief requested. Therefore, the Board did not adopt the ANC's conditions in the order.

The Office of Planning ("OP") submitted a timely report dated February 2, 2016, recommending approval of the application (Exhibit 28) and testified in support of the application at the hearing. The District Department of Transportation ("DDOT") submitted a timely report indicating that it had no objection to the application.² (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 pursuant to § 3103.2 for an area variance from the side yard requirements under § 775.1, and the loading requirements under § 2201.1, to construct a new mixed-use building in the C-3-C District (South Capitol TDR receiving zone). The only parties to the case were the ANC and the Applicant. 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.

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 a variance from 11 DCMR §§ 775.1 and 2201.1, 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 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.

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 rear yard requirements under § 774.1, to construct a new mixed-use building in the C-3-C District (South Capitol TDR receiving zone). The only parties to the case were the ANC and the Applicant. 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 and 774.1 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.

² In its report, DDOT requested continued coordination with DDOT through its public space permitting process on the final design and operations of the curb cut and the design of the public space. (Exhibit 27.)

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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 SUBJECT TO THE APPROVED REVISED PLANS AT EXHIBIT 24A.**

VOTE: **3-0-2** (Frederick L. Hill, Robert E. Miller, and Jeffrey L. Hinkle to APPROVE; Marnique Y. Heath, not present or participating; 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 order.

ATTESTED BY:



SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: February 11, 2016

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.

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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.