

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-12O/03-13O
Z.C. Case NO. 03-12O/03-13O
District of Columbia Housing Authority
(Minor Modification to PUD @ Squares 767, 768, & 882)
December 10, 2012**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held public meetings on November 16, 2012 and December 10, 2012 to consider a request from the District of Columbia Housing Authority (the "Applicant") for a minor modification to the planned unit development ("PUD") approved pursuant to Z.C. Order No. 03-12/03-13, dated October 8, 2004. The matter was placed on the Consent Calendar pursuant to §§ 2409.9 and 3030 of the D.C. Zoning Regulations (Title 11 DCMR), and, for the reasons stated below, was approved without a hearing or referral to the National Capital Planning Commission.

FINDINGS OF FACT

By Z.C. Order No. 03-12/03-13, dated October 8, 2004, the Commission approved the Applicant's application for a consolidated PUD and zoning map amendment for Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and portions of Squares 737, 799, 824, N853, and 880. The property included in the PUD approval is located in the Southeast quadrant of Washington, D.C. and generally bounded by 2nd Street on the west, 7th Street on the east, Virginia Avenue on the north, and M Street on the south. The property consists of approximately 927,000 square feet of land.

Pursuant to 11 DCMR § 3028, Z.C. Order No. 03-12/03-13 ("Original Order") became effective upon publication in the *D.C. Register* on October 8, 2004.

The Original Order has been corrected and modified since its issuance. On October 14, 2005, the Commission issued Z.C. Order No. 03-12C/03-13C to correct an error in the Original Order. On April 7, 2006, the Commission issued Z.C. Order No. 03-12B/3-13B approving a minor modification to the Original Order. On September 15, 2006, the Commission issued Z.C. Order No. 03-12A/03-13A to permit final approval of the first phase of the approved PUD and modify the Original Order. On October 26, 2007, the Commission issued Z.C. Order No. 03-12D/03-13D approving a minor modification to the Original Order. On October 26, 2007 the Commission issued Z.C. Order No. 03-12E/03-13E, approving a minor modification to the Original Order to provide for commercial parking on a temporary basis by patrons of the Nationals Park for a period of five years until April 1, 2013, consistent with the adoption of Z. C. Order No. 07-08. On September 26, 2008, the Commission issued Z.C. Order No. 03-12F/03-13F approving a modification to the second-stage approval of the PUD. On June 26, 2009, the

Commission issued Z.C. Order No. 03-12I/03-13I approving an extension of time for the first-stage approval and building the community center. On August 14, 2009, the Commission issued Z.C. Order No. 03-12G/03-13G approving the second-stage PUD and modifying the first-stage approval. On August 14, 2009, the Commission issued Z.C. Order No. 03-12H/03-13H approving a modification to the Original Order. On October 22, 2010, the Commission issued Z.C. Order 03-12J/03-13J approving a time extension to file a building permit for construction of the community center. On November 26, 2010, the Commission issued Z.C. Order No. 03-12K/03-13K approving a time extension for the approved PUD. On December 30, 2011, the Commission issued Z.C. Order No. 03-12L/03-13L approving a time extension for the approved PUD.

By letter dated November 5, 2012, counsel for the Applicant filed a request for a further modification to the Original Order on the Commission's Consent Calendar pursuant to § 3030 of the Zoning Regulations. This letter requested that the Commission grant approval of a modification to permit Squares 767, 768, and 882, which are rezoned to C-R under the PUD, to continue to be used as temporary surface parking lot accessory to the Nationals Park.

The Applicant's request for a modification was placed on the Consent Calendar for the Commission's November 19, 2012 regular public meeting. At that meeting, the Commission requested supplemental information from the Applicant. The Commission also indicated that it was premature to move on Z.C Case No. 03-12O/03-13O because the Commission had not yet taken final action to approve Z.C. Case No. 07-08B, which concerned a text amendment to generally extend the period for temporary parking in the Ballpark District for an additional five years. Final action on that case was scheduled for the Commission's December 10, 2012 public meeting. For these reasons, the Commission deferred a vote on the Applicant's request to that same time.

By letter dated December 4, 2012, counsel for the Applicant provided supplemental information requested by the Commission at its November 19, 2012 meeting regarding the U.S. Department of Housing and Urban Development's ("HUD") and the Capper/Carrollsborg Steering Committee ("Steering Committee") input into the Applicant's request for the modification. The Applicant's letter explained that neither HUD nor the Steering Committee is required to approve the Authority's request for the modification but that both entities were made aware of the Applicant's request and neither expressed any objections.

The Applicant served full copies of its request for a modification on the following parties: Advisory Neighborhood Commission 6D, Advisory Neighborhood Commission 6B, Capper/Carrollsborg Venture, LLC, and Square 769 LLC. No objections were received by any of these parties.

On December 10, 2012, the Commission held a public meeting on Z.C. Case 07-08B and Z.C. Case No. 03-12O and 03-13O and took action to adopt the zoning text amendment and approve the Applicant's request for a modification by a single motion.

The Commission finds that the modification is minor and may be approved without a hearing pursuant to 11 DCMR §§ 2409.9 and 3030.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Commission concludes that the Applicant's proposed modification is minor and consistent with the intent of the Commission Order No. 03-12/03-13. The Commission concludes that the proposed modification is in the best interest of the District of Columbia and is not inconsistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the requested modification will not affect any of the project benefits and amenities. The modification is of such a minor nature that its consideration as a Consent Calendar item without public hearing or referral to the National Planning Commission for review and comment is appropriate.

DECISION

In consideration of the reasons set forth herein, the Commission hereby **ORDERS APPROVAL** of a modification to allow for Squares 767, 768, and 882 to be used as temporary surface parking lot accessory to the ballpark at South Capitol and N Streets, S.E. for a period of five years from April 1, 2013 to April 1, 2018. The use shall be consistent with the plans submitted to the Commission record in Z.C. Order No. 03-12E/03-13E. Accordingly, Condition No. 30, added to page 36 of Z.C. Order No. 03-12/03-13 by Z.C. Order 03-12E/03-13E, is hereby stricken and replaced with the following:

30. Notwithstanding anything to the contrary, Squares 767, 768, and 882 may be used as a temporary surface parking lot accessory to the Ballpark as permitted by 11 DCMR § 601.1(dd) and in accordance with 11 DCMR § 2110 of the Zoning Regulations through and until April 1, 2018.

The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. 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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant

to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On December 10, 2012, upon the motion Commissioner Turnbull, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*, that is, on March 1, 2013.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING