

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 04-17
Z.C. Case No. 04-17/02-43/00-02
(PUD Modification – MedStar Health)
June 14, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held a public meeting on June 14, 2004. At the meeting, the Zoning Commission approved an application from MedStar Health (“MedStar” or “applicant”) for a minor modification to an existing planned unit development (PUD) and a related map amendment to SP-1 and SP-2 for all of the area of Square 3129 that was zoned R-5-A, pursuant to Chapter 24 and § 102, respectively, of the District of Columbia Municipal Regulations (“DCMR”), Title 11, Zoning.

The Zoning Commission has determined that the modification request is properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Z.C. Order No. 02-43 dated February 24, 2003, the Zoning Commission for the District of Columbia approved MedStar’s application for second stage review and approval of a PUD and related map amendment to SP-1 and SP-2 for all of the area of Square 3129 that was zoned R-5-A, pursuant to Chapter 24 and § 102 respectively, of DCMR, Title 11, Zoning.

The PUD approval was for the authority to implement a Master Development Plan, pursuant to the development plans and objectives set forth in "Master Plan 2000", for MedStar's campus of medical and related facilities on Square 3129. The application also sought approval of a map amendment, described in Master Plan 2000 as "Zoning Strategy B", the approval of which would result in a maximum total gross floor area of approximately 4.5 million square feet to be used primarily for the medical services and related uses that are described in Master Plan 2000.

The approved PUD included "Addition A", a hospital and parking expansion building with a gross floor area 50,000 square feet for parking use within the SP-1 zone and 197,600 square feet for hospital use within the SP-2 zone. In describing “Addition A”, no specific reference was made to the inclusion of an electrical substation, an accessory use to these occupancies.

Pursuant to 11 DCMR § 3028, Zoning Commission Order No. 02-43 became final and effective upon publication in the D.C. Register on July 18, 2003.

By letter dated June 1, 2004, Counsel for the applicant filed a request to place a minor modification to Zoning Commission Order No. 02-43 on the Commission's Consent Calendar pursuant to § 3030 of the D.C. Zoning Regulations. The letter requested the Zoning Commission to grant approval to a minor modification to allow the construction of an electrical substation facility within "Addition A" of the approved PUD and map amendment order. The electrical facility will initially be constructed as a freestanding structure rising 5 to 13 feet above finished grade. However, that structure will be completely contained within the "Addition A" parking structure when it is built. Consequently, the electrical facility will only be visible to the public until the new parking structure is built. In turn, the parking structure will be slightly reconfigured internally from that shown in the approved plan to recapture parking spaces that will be lost to the electrical facility. There will be no change in either the gross floor area or in the external appearance of "Addition A". The site area for "Addition A" is presently used as a surface parking lot.

The applicant indicated that the new electrical facility is needed to address, on an emergency basis, shortfalls in MedStar's electrical capacity to power recent improvements to existing medical equipment and to equipment that will be incorporated within "Addition A" when it becomes operational.

MedStar presented evidence that it has duly served a full copy of its request for a minor modification on Advisory Neighborhood Commission 5C, the D.C. Office of Planning, and the D.C. Department of Transportation. No comments were received from any of these organizations.

The proposed minor modification will not change the exterior appearance of "Addition A" as approved. The National Capital Planning Commission did not file a report regarding the Commission's proposed order approving the PUD and map amendment.

On June 14, 2004, at its regular monthly meeting, on the recommendation of the Director of the Office of Zoning, the Zoning Commission placed MedStar's request for a minor modification on the Commission's Consent Agenda.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Zoning Commission concludes that MedStar's proposed modification is minor and consistent with the intent of Zoning Commission Order No. 02-43. The Zoning Commission concludes that the proposed modification is in the best interest of the District of Columbia, 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 minor modification will not affect any of the other conditions to the approved PUD. The modification is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

As this proposed minor modification will not change the exterior appearance of “Addition A” as approved, the Zoning Commission determined that it is unnecessary to refer this request to the National Capital Planning Commission for review and comment.

DECISION

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of a minor modification to allow for the construction of an electrical substation facility within “Addition A” of the Development Plan that was approved in PUD Order No. 02-43. The construction shall be consistent with the plans submitted to the Zoning Commission record by MedStar on June 1, 2004. All other provisions and conditions of Zoning Commission Order No. 02-43 remain in effect.

Pursuant to the intent of 11 DCMR § 2409.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs (“DCRA”) for the minor PUD modification until the applicant has recorded a “Notice of Modification” of Zoning Commission Order No. 02-43 with the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 02-43 and this Order, which the Director of Zoning has certified. The recordation of the Notice of Certification shall bind MedStar and any successors in title to construct on and use this site in accordance with this Order and any amendments thereof.

After recordation of the Notice of Modification, MedStar shall promptly file a certified copy of that Notice of Modification with the Office of Zoning.

The minor PUD modification approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in §§ 2409.2 and 2409.3 of the Zoning Regulations. Construction shall start within three (3) years of the effective date of this Order.

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, familial status, family responsibilities, matriculation, political affiliation, 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.

Vote of the Zoning Commission taken at the public meeting on June 14, 2004: **4-0-1** (Carol J. Mitten, John G. Parsons, Anthony J. Hood, and Kevin Hildebrand to approve; Gregory N. Jeffries, not present, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become final and effective upon publication in the D.C. Register; that is on OCT 08 2004.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning

Government of the District of Columbia
Office of Zoning



Z.C. CASE NO.: 04-17

OCT 04 2004

As Secretary to the Zoning Commission, I hereby certify that on OCT 04 2004 copies of this Z.C. Order No. 04-17 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Jerry A. Moore, III
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Washington, D.C. 20002
5. Gottlieb Simon
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1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
6. Councilmember Vincent B. Orange, Sr.
- Ward 5
7. Office of Planning (Ellen McCarthy)
8. Zoning Administrator

ATTESTED BY:

A handwritten signature in black ink, appearing to read "Alberto P. Bastida", is written over a horizontal line.

Alberto P. Bastida, AICP
Secretary to the Zoning Commission