

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-22A**

Case No. 04-22A

**(Approval to Modify an Approved Planned Unit Development for Property Located at 201
and 225 I Street, NE; Square 751, Lots 802 and 803)
January 8, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on December 6, 2006 to consider an application from Broadway Capitol, LLC (“Applicant”) to modify an approved planned unit development (“PUD”) for property identified as Lots 802 and 803 in Square 751, also known as 201 and 225 I Street, NE (“Property”). The application was assigned Z.C. Case No. 04-22A. The Commission considered the application pursuant to Chapters 24 and 30 of Title 11, Zoning, of the District of Columbia Municipal Regulations (“DCMR”). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

1. On July 12, 2006, the Applicant filed an application for review and approval of modifications to the PUD approved by Zoning Commission Order No. 04-22. (Exhibit 1)
2. The application proposed a modification to the approved roof plan to include architectural embellishments, enhanced and enlarged green roof areas, a consolidation and reduction in the number of vent chimneys, and a more refined treatment of roof-top areas for various types of recreational use. (Exhibit 1) The application was placed on the Commission’s September 9, 2006 meeting agenda on the Consent Calendar.
3. The parties to the original PUD and related Zoning Map amendment application submitted letters to the Commission responding to the Applicant’s proposal. The Stanton Park Neighborhood Association submitted a letter in support of the modifications, but expressed concern regarding the size of the proposed penthouses. (Exhibit 7) On August 31, 2006, Advisory Neighborhood Commission (“ANC”) 6C filed a letter requesting postponement of the Zoning Commission’s consideration of the application given its inability to review the application in time. (Exhibit 5)
4. On September 9, 2006, the Applicant requested that the Commission defer making a decision until ANC 6C had an opportunity to review the application. (Exhibit 9)

5. The Near Northeast Citizens Against Crime and Drugs and ANC 6C submitted letters to the Zoning Commission in support of the application. (Exhibits 11 and 10, respectively)
6. At its October 16, 2006 public meeting, the Commission set the case down for a public hearing to be held on December 6, 2006, noting that the proposed modifications could not be considered “minor” for purposes of being decided on the Consent Calendar. In the interest of expediting the case, the Commission waived the requirement to file a supplemental filing pursuant to 11 DCMR § 3013.1.
7. On November 16, 2006, the Applicant submitted a supplemental filing that presented and discussed in detail the proposed modifications to the approved PUD. (Exhibit 14)
8. A public hearing was held on December 6, 2006. The Applicant’s architect presented testimony regarding the proposed modifications to the approved PUD project. No other parties or persons spoke in support of the modification at the hearing. There were no parties or persons in opposition to the modification. At the close of the hearing, the Commission took proposed action to approve the modifications by a vote of 5-0-0.
9. The proposed action of the Zoning Commission to approve the application was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the District Charter. NCPC, by action dated December 28, 2006, found that the proposal would not adversely affect the federal interest or be inconsistent with the Comprehensive Plan for the National Capital.
10. The Commission took final action to approve the application in Case No. 04-22A on January 8, 2007, by a vote of 5-0-0.

MODIFICATION APPLICATION

11. The PUD was approved on March 24, 2005, pursuant to Z.C. Order No. 04-22, which also approved a related rezoning of the site from the C-3-A and the C-3-B Zone Districts to the C-3-C Zone District. The Commission approved the construction of 465-500 residential units, including 19,852 square feet devoted to affordable housing, and 500-525 parking spaces. The project was approved to contain 599,134 square feet of gross floor area, resulting in a density of 5.73 FAR. The residential buildings were approved at a height of 110 feet and a lot occupancy of 65 percent.
12. This application requests approval to modify the roof plan and the façade of the approved PUD. The modification of the roof design will include the elimination of the horizontal elements initially approved and the substitution of a pair of vertical towers at the south end of the west tower to mark the gateway to the H Street corridor. These towers are within the definition of tower in the 1910 Height Act.
13. The application also requests approval of changes in the size and configuration of the mechanical penthouses, increasing the floor area ratio (“FAR”) of the penthouses by 0.4 percent. The increased FAR is needed to enclose the higher quality, energy efficient heating and air

conditioning systems to be used in the buildings. The penthouses will be set back from the exterior walls of the buildings at least one foot per foot of vertical height.

14. The modified roof plan provides for a series of brick-faced vent shafts and exhaust fans for toilet, kitchen, and dryer exhausts that are permitted by the 1910 Height Act. The shafts and exhaust fans will be set back more than one foot per foot of height from all edges of the roof. A “green screen” will be provided between the piers. The green screen will be held in place by a horizontal element spanning the vent shaft piers.

15. The application requests approval of a modification to the façade of the building, including the windows, balconies, and materials. The windows will be subdivided into additional panes, and the quality of the window system will be upgraded. The number of balconies will be reduced as a result of refining the interior plans for each unit. The Applicant will use a screen-wall approach that allows the location of the window glazing to be at the brick line or inset without disrupting the general aesthetic expression of the facades. Finally, the masonry colors will be adjusted to be more compatible with existing historic buildings in the area. The quality of the bricks and the natural and cast stone will be the same as in the original PUD, but the colors will be refined to comport with surrounding buildings.

16. The following public benefits and project amenities will be enhanced as a result of the modifications.

- Historic Preservation of Private or Public Structures, Places, or Parks – The Applicant will refine the materials used in the façade of the building to enhance the historical significance of the Capital Children’s Museum building and to be compatible with Daniel Burnham’s railway cargo building, which is located across 2nd Street to the west. (Exhibit 14, p. 3)

- Urban Design and Architecture – The Applicant proposed the modifications to enhance the architecture and design of the building and to emphasize the building’s status as the gateway to H Street. The Applicant proposed to introduce the vertical towers to mark the entrance into the H Street corridor and to refine the color palette of the materials to make the building compatible with other significant buildings in its vicinity. (Exhibit 14, pp. 1-3)

- Site Planning – The roof plan will be modified to provide residents and their guests with open and inviting spaces for entertainment and relaxation. (Exhibit 14, p. 2)

- Environmental Benefits – The roof elements will incorporate a green screen to act as a fence between the piers. Additionally, the quality of the window system will be upgraded as a part of these modifications. (Exhibit 14, p. 2)

GOVERNMENT REPORTS

17. The Office of Planning (“OP”), in its report dated September 1, 2006, stated that it considered the proposed changes minor in nature, that OP did not object to the new roof plan as it appeared to meet the intent of the previous approval, and that the overall changes will have no effect on the zoning relief requested. (Exhibit 6)

ADVISORY NEIGHBORHOOD COMMISSION REPORT

18. ANC 6C adopted a unanimous resolution in support of the project at its regularly scheduled and publicly noticed meeting on October 11, 2006. The ANC, in its written resolution dated October 12, 2006, requested that the Applicant address safety and clean-up issues associated with the construction of the buildings. (Exhibit 10)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits. (11 DCMR § 2400.1) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2) The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

2. The development of this PUD, as modified, carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

3. The Commission agrees with the testimony of the project architect and concludes that the proposed modifications are consistent with the Zoning Regulations and the intent of the original PUD approval.

4. The proposed modifications will not cause a significant adverse effect on any nearby properties. The modifications are appropriate and complement the existing adjacent buildings.

5. In accordance with D.C. Official Code §1-309.10(d) (2001), the Commission must give great weight to the issues and concerns of the affected ANC. The Commission takes note of ANC 6C’s resolution in support of the project and has accorded to the ANC’s decision the “great weight” consideration to which it is entitled.

6. Approval of the application will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

7. Notice of the public hearing was provided in accordance with the Zoning Regulations.

8. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL**, consistent with this Order, of Zoning Commission Case No. 04-22A for modification to the original PUD approved by Zoning Commission Order No. 04-22, for the property identified as Lots 802 and 803 in Square 751. The approval of this PUD and Zoning Map Amendment is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibit 14.

2. The conditions of approval of Zoning Commission Order No. 04-22 shall remain in full force and effect except as otherwise modified by this Order.

3. The modifications 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 and construction of the project must start within three (3) years of the date of the effective date of this Order pursuant to 11 DCMR §§ 2408.8 and 2408.9.

4. 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, which 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 denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On December 6, 2006, the Zoning Commission **APPROVED** the application by a vote of 5-0-0 (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Gregory N. Jeffries, and Michael G. Turnbull).

On January 8, 2007, the Zoning Commission **ADOPTED** the application by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on APR - 6 2007.



CAROL MITTEN
CHAIRMAN
ZONING COMMISSION



JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

