

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 07-35C  
Z.C. Case No. 07-35C  
Sheridan Terrace Redevelopment, LLC  
(PUD Modifications @ Squares 5869 and 5872)  
September 10, 2012**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing on May 17, 2012 to consider an application of Sheridan Terrace Redevelopment, LLC, owner of Lots 61-66 in Square 5869 and Lots 49-56, 131-135, 931, 940, 958, 963, 965, 967, 969, 971, 972, 984, and 986 in Square 5872 located in the Hillside neighborhood of Anacostia (“Applicant”), for approval of modifications to a planned unit development (“PUD”) approved pursuant to Z.C. Order No. 07-35. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 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**

**The Application, Parties, and Hearing**

1. On February 29, 2012, the Applicant submitted an application to the Commission for approval of modifications to a PUD approved pursuant to Z.C. Case No. 07-35. (Exhibits [“Ex.”] 1-6.) The Applicant’s February 29, 2012 request sought approval for a decrease in the number of units and changes to the site plan and townhouse designs for the unbuilt portion of the PUD project. The Applicant asserted that the modifications were minor in nature and, therefore, could be granted through the Consent Calendar process set forth at 11 DCMR § 3030. The Office of Planning (“OP”) provided its report on March 8, 2012. (Ex. 9.) The Commission considered the case at its March 12, 2012 public meeting. The Commission determined that the request was not minor, removed it from the Consent Calendar, and set down the case for public hearing.
2. The property that is the subject of this application consists of approximately 12 acres of land area and is located on Sheridan Road, S.E., between Pomeroy and Howard Roads,

S.E. (Square 5869, Lots 61-66 and Square 5872, Lots 49-56, 131-135, 940, 958, 961, 963, 965, 967, 971, 972, 984, and 986<sup>1</sup>).

3. On July 30, 2009, in Z.C. Order No. 07-35A, the Commission approved the Applicant's first application for three modifications to the approved PUD, as follows:
  - An increase in the apartment building's ground-floor flex space and a corresponding decrease in the number of parking spaces;
  - A side yard adjustment at one townhouse lot; and
  - A change in height in one of the townhouse typologies.
4. On October 9, 2009, in Z.C. Order No. 07-35B, the Commission approved the Applicant's second application for modifications to the approved PUD, as follows:
  - A change in the approved PUD site boundaries by subdividing one of the original lots into two new lots and deleting the subdivided lot; and
  - An addition of a new lot to include a small portion of a retaining wall and storm water management system that were inadvertently not included in the original PUD site.
5. The Applicant now seeks modifications to the approved PUD. Specifically, the Applicant requests approval to:
  - Reduce the number of units by 17 (from 344 to 327 units). The reduction is attributable to:
    - The elimination of 15 townhouse units on the north side of the alley between Stanton Road and Pomeroy Road; and
    - The replacement of 16 two-story stacked units on Pomeroy Road with 11 townhomes (resulting in a loss of five units) and an increase in the number of townhomes at the top of the hill from 21 to 24 (for a net gain of three units);
  - Decrease the number of parking spaces across the site from 255 spaces to 238 spaces, a loss of 17 spaces;

---

<sup>1</sup> After the Commission approved Z.C. Order No. 07-35, it approved a modification of the PUD to delete Lot 956, and add Lots 984 and 986 through Z.C. Order No. 07-35B. Lot 986 was not included in the PUD-related map amendment.

- Lower the three- and four-story townhouse to two-story units and remove the parking garages associated with these units and substitute surface parking spaces; and
- Convert the approved motor courts to open landscaped areas and parking spaces along the east-west alley.

Although the approved PUD does not impose specific requirements as to unit tenure (home ownership or rental), the Applicant noted that due to current adverse market conditions, the Applicant intends to convert the remaining unbuilt, for sale units to rental units with rents priced below 60% of Area Median Income (“AMI”). This will result in a reduction in for-sale units within the overall PUD from 47% to 25% and a net increase in affordable units (under 60% of AMI) from 32% to 75%. The proposed modifications also result in an overall increase in green space.

6. After proper notice, the Commission held a public hearing on the application on May 17, 2012.
7. At the hearing, the Commission considered and denied party status requests from Andrew Ellis and Gia Allen finding that their interests were not more significantly or uniquely affected by the proposed PUD than those of other persons in the general public as required by § 3022.3 of the Zoning Regulations. Instead, they participated as persons in opposition to the proposed modifications at the hearing.
8. The parties in the case were therefore the Applicant and Advisory Neighborhood Commissions (“ANCs”) 8A and 8C.
10. On February 13, 2012, the Deputy Mayor for Planning and Economic Development (“DMPED”) submitted a letter in support of the proposed modifications. The letter stated that DMPED has committed \$10.5 million for the purpose of financing a portion of the multi-phase PUD project. The letter states that DMPED supports the PUD modification, as completion of the project would catalyze further economic development in Ward 8, create affordable housing, and generate additional tax revenues for the District.
11. On March 6, 2012, the Sheridan Station Steering Committee of the United Black Fund submitted a letter in support of the Applicant’s current request for modification to the south side of the PUD. The Steering Committee cited the ongoing and anticipated future success of Phases I and II of the Sheridan PUD, but acknowledged that current market conditions indicated a less optimistic outlook for completion of the PUD if the current modification is not made. The Steering Committee voted to support the modifications.

**Compliance with Guiding Principles of the Comprehensive Plan**

13. The Commission finds that the proposed PUD as modified continues to be not inconsistent with the District Elements of Columbia Comprehensive Plan for the National Capital.

**ANC Reports**

15. ANC 8C submitted a report in support of the proposed modifications, indicating that with a quorum present, the ANC voted to support the proposed modifications, noting that the current market for for-sale housing is not good at this time and the changes will allow for completion of the development. The ANC indicated that the proposed modifications are preferable to having new vacant houses that cannot be sold.
14. ANC 8A submitted a report in opposition to the modification. The report expresses concern over the increase of affordable housing units at or below 60% of the AMI from 32% to 75% of the project. Thus, instead of the promised mixed-income project, the ANC asserts that the community is now getting an upgraded housing project, which it does not want. The ANC also opposes the increase in rental units, which “serves the interest of a few and has no long term benefit for the ward.” Only significant home ownership would support long-term growth and attract needed retail businesses. Finally, the ANC believes that the reduction in parking spaces will reduce curbside parking opportunities for existing residents and increase risks to pedestrians. A representative of ANC 8A testified in opposition and expressed similar concerns.
15. In response to the concerns expressed by ANC 8A, the Commission decided to defer taking proposed action and instead requested that the Applicant file a submission that addresses the ANC’s concerns and permitted the ANC to thereafter respond.
16. Through its letter dated July 16, 2012, the Applicant indicated that there were several misconceptions as to its proposal. (Ex. 36.) First, ownership units are not being eliminated, but reduced from 165 to 80. This, according to the Washington Economic Partnership, is the fifth largest new construction homeownership project citywide. Second, the proposal will not increase the amount of public housing at Sheridan Station. The amount of public housing units will remain as planned: 110 units. The rental affordable units will in fact be marketed to a similar income group as the 80 for-sale units now under construction. Third, home ownership does not stabilize a neighborhood. In this difficult economic climate many for-sale properties are left unsold and vacant. Finally, the Applicant disagreed that the community was united in its opposition to the change in home ownership percentage.
17. In his July 23<sup>rd</sup> response, the Chairman of ANC 8A characterized the Applicant’s submission as showing “little commitment to analysis and problem solving” and

expressed sadness “that the public health, public safety and quality of life concerns of the residents of Hillside have been reduced to a list of ... misconceptions.” (Ex. 37.) The letter then sought to correct these misconceptions as follows:

- The proposal does eliminate” for-sale housing within the project by reducing the number of for-sale unit from 165 to 80;
- The Proposal will, in fact, increase the amount and proportion of public housing at Sheridan Station. The letter does not explain the basis for this assertion, but apparently the ANC equates rental housing with public housing. This portion of the letter argues that, as a result the current low interest rates, home ownership offers greater affordability than rental and that the home ownership market in the District is not as dire as the Applicant suggests;
- Homeownership does stabilize neighborhoods while rental housing destabilizes neighborhoods. The ANC Chair cites the 2012 report of the WhatWorksCollaborative on Building Successful Neighborhoods for the proposition that the home ownership stabilizes communities when a neighborhood, such as Hillside, has an overwhelming majority of very low- to low-income rentals in its housing stock; and
- The ANCs are opposed to the proposed modifications and great weight should be given to such community opposition. The ANC 8A Chair relates his conversation with the ANC 8C Chair, in which the latter indicating that she now had a “different impression” of the application. From this, the ANC 8A Chair concluded that ANC 3C would have submitted a letter in opposition had its Chair known then what she knew now.

18. Through a letter dated July 18, 2012, Counsel for the Applicant requested the Commission to accept a response by the Applicant to the ANC letter. (Ex. 39.) The request asserted that the ANC’s submission had gone beyond the scope of the Commission’s request. The Chairman of the Zoning Commission granted the request.
19. In its response, the Applicant took exception to being characterized as insensitive, argued that external factors, such as tightening credit and stricter underwriter, have posed barriers to home ownership notwithstanding the low interest rates, and noted that the Anacostia housing submarket suffered a far greater loss in value as a result of the economic downturn than the District as a whole. The Applicant closed by noting that it will continue marketing the 80 for-sale units at prices between \$250,000 and \$350,000 notwithstanding that the average home sale price in Anacostia as of April of this year was \$132,431. (Ex. 39.)

### OP Report

20. On May 7, 2012, OP submitted its recommendation of the current requested modifications. OP cited the fact that approval of the requested modifications would allow the Applicant to complete the development in a timely manner and retain its HOPE VI funding. In doing so, the Applicant would “fulfill its aim of providing housing and services for a large underserved population ....” OP noted that it was concerned with the potential relocation of the trash storage originally provided for the motor court units of the PUD. OP was concerned that relocation of that trash storage under the current proposed modification could pose access problems for the residents of the motor court units. (Ex. 25.) Slide No. 30 of the Applicant’s PowerPoint entitled Trash Dumpster Area Detail shows enhanced landscaping around the dumpsters that responds to OP’s comments. (Ex. 32, Tab A.)

### DDOT Report

21. On May 9, 2012, DDOT submitted a report indicating that it supported the original PUD submission as well as the previous modifications and that the proposed modifications do not propose any significant changes from DDOT’s standpoint. (Ex. 26.) Therefore, DDOT recommended approval of the proposed modifications.

### Proposed and Final Action

22. On July 30, 2012 the Commission took proposed action, which authorized the transmission of the application to the National Capital Planning Commission (“NCPC”) for the 30-day period of review required by § 492 of the District Charter.
23. By delegated action dated August 30, 2012, the NCPC Executive Director found that the proposed map amendment would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it have an adverse impact on any other federal interest.
24. The Commission took final action to approve the map amendment at its regularly scheduled meeting held on September 10, 2012.

## **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high quality development that provides 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 of quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)

2. Because the modifications proposed by the Applicant could not be approved by the Zoning Administrator pursuant to § 2409.6, the Applicant submitted the proposed modifications to the Commission for approval. And because the modifications were not so minor as to permit their review under the Commission's Consent Calendar procedure, 11 DCMR § 3030, they were processed as a second-stage application. (11 DCMR § 2409.9.)
3. As was the case for the original approval, the Commission, as part of its approval of a modification may grant or impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, or any other applicable zoning requirement.
4. Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. The modified PUD continues to meet the minimum area requirements of § 2401.1 of the Zoning Regulations. The modified PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the Subject Property. The impact of the project on the surrounding area and the operation of city services is acceptable given the quality of the public benefits in the project.
6. Approval of this modified PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan is embodied in the Zoning Regulations and Map of the District of Columbia.
7. The PUD, as modified, remains consistent with the Comprehensive Plan.
8. The project benefits and amenities, as modified, remain reasonable tradeoffs for the requested development flexibility.
9. The Commission is required under § 3(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give great weight to the issues and conditions expressed in the written report of an affected ANC.

10. As noted, ANCs 8A and 8C submitted written reports. ANC 8A opposes the modification because of the replacement of home ownership units with rental units, the increase in the number of affordable units, and its belief that the decrease in parking space would result in adverse impacts on curbside parking and pedestrian safety. The Commission responds as follows:
  - (a) The ANC's opposition to the reduction in home ownership units is not relevant to this proceeding. There was no condition in the order approving this PUD mandating any ratio of home ownership to rental units. None of the modifications sought pertain to this issue and none is needed. Although the Applicant proffered that the "revitalization plan features a housing mix tailored to homeowners and renters with a wide spectrum of incomes." (Z.C. Order No. 07-35, Finding of Fact No. 20(a)), the Commission finds that this continues to be the case with the retention of the 80 home ownership units;
  - (b) The grant of the modification will not result in an "upgraded housing project". The number of public housing units will not increase and the affordable units will be marketed to a similar income group as the 80 home ownership units now under construction; and
  - (b) As reflected in Finding of Fact number 21, the elimination of 17 parking spaces will not have an adverse impact on curbside parking or pedestrian safety. Seventeen units will also be eliminated so that only a slight increase in the ratio of parking spaces to units will result. In addition, the Commission credits the Applicant's traffic expert that rental housing is less associated with car ownership.
11. ANC 8C submitted a report in support of the modification. The Commission concurs with ANC 8C's finding that the proposed modifications will facilitate the completion of this important project. ANC 8A's assertion that ANC 8C's Chair has changed her view is no basis for invalidating ANC 8A's report. Only a second letter rescinding the first could accomplish that, and none was received. The Commission also rejects the implicit suggestion of ANC 8A that ANC 8C should not be given great weight because of an impending boundary change. The Commission interprets the ANC statute as requiring it to give great weight based upon the ANC boundaries that exist on the date of its decision.
12. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. For the reasons stated above, the Commission concurs with OP's recommendation for approval and has given the OP recommendation the great weight it is entitled.
13. The application for the modified PUD 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** of the application for modifications to a PUD approved pursuant to Z.C. Order Nos. 07-35, 07-35A, and 07-35B and orders the revision to four of the prior conditions of approval as follows:

1. Condition No. 1 of Z.C. Order No. 07-35 is hereby revised to read:

1. The PUD shall be developed in accordance with the site plans submitted as Exhibits 51 and 64 as set forth in Zoning Commission Order No. 07-35, as modified by Exhibit 3 in the record of Zoning Commission Case No. 07-35A and as further modified by Exhibit 3 included in the record of this case.

2. Condition No. 2 of Z.C. Order No. 07-35 is hereby revised to read:

2. In accordance with the plans cited above, the approved PUD shall consist of a total of 327 dwelling units, distributed as follows by building type:

(a) An apartment building	104
(b) Single-family Stacked Townhouses	52
(c) Single-family Townhouses	115
(d) Manor homes, with four units in each of the 14 buildings	56
Total dwelling units	327

3. Condition No. 4 of Z.C Order No. 07-35 is hereby revised to read:

4. Approximately seventy-five percent (75%) of the dwelling units will be reserved and made affordable to households having 60% or less of Area Median Income, and approximately twenty-five percent (25%) will be moderate-income units serving households having incomes between 60% and 80% of AMI in accordance with the requirements of the public agencies providing financial subsidies for this purpose.

4. Condition No. 5 of Z.C. Order No. 07-35, as revised in Z.C. Order No. 07-35A, is hereby revised to read:

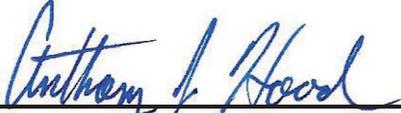
5. There shall be a minimum of 238 off-street parking spaces provided in the project.

All other conditions in Z.C. Order No. 07-35 remain in full force and effect.

On July 30, 2012, upon the motion of Commissioner May, as seconded by Vice Chairperson Cohen, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to approve; 3<sup>rd</sup> Mayoral appointee position vacant, not voting).

On September 10, 2012, upon the motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-0** (Anthony J. Hood, Marcie I. Cohen, Peter G. May, and Michael G. Turnbull to adopt; 3<sup>rd</sup> Mayoral appointee position vacant, 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 January 18, 2013.

  
\_\_\_\_\_  
ANTHONY J. HOOD  
CHAIRMAN  
ZONING COMMISSION

  
\_\_\_\_\_  
SARA A. BARDIN  
DIRECTOR  
OFFICE OF ZONING