

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-14C
Z.C. Case No. 08-14C
Kelsey Gardens Property Company, LLC
(Minor Modification to the Approved Planned Unit Development @
Square 421, Lots 67 and 68)
July 28, 2014**

Pursuant to notice, public meetings of the Zoning Commission for the District of Columbia (“Commission”) were held on June 30, 2014, July 17 and 28, 2014. At the meetings, the Commission considered and approved an application of Kelsey Gardens Property Company, LLC (“Applicant”) for minor modifications to an approved planned unit development (“PUD”) for property consisting of Lots 67 and 68 in Square 421 (“Property”). Because the modifications were deemed minor, a public hearing was not conducted.

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

FINDINGS OF FACT

The Application, Parties, and Hearing

1. By Z.C. Order No. 08-14, effective February 12, 2010, the Commission approved a consolidated PUD and related amendment to the Zoning Map for the construction of a mixed-use development (“Project”) consisting of market-rate and affordable housing, neighborhood-serving retail, and townhouses.
2. Pursuant to Z.C. Order No. 08-14A, effective December 24, 2010, the Commission approved modifications to Conditions 10 and 12 of Z.C. Order No. 08-14, which required the Applicant to make certain monetary contributions to local community groups prior to issuance of the first certificate of occupancy.
3. Pursuant to Z.C. Order No. 08-14B, effective December 28, 2012, the Commission approved modifications to Conditions 1 and 5 of Z.C. Order No. 08-14, which, respectively, a) directed that the PUD shall be developed according to the site plans submitted as Exhibits 52, 59A, and 69A in the record of Z.C. Case No. 08-14, as modified by Exhibits 2(A) and 14 in the record of Z.C. Case No. 08-14B; and b) modified the amount of retail floor space to 13,363 square feet pursuant to Exhibit 2 in the record of Z.C. Case No. 08-14B.

4. In this case, the Applicant on May 6, 2014 submitted a request for modification of the parapet wall surrounding the rooftop swimming pool by adding openings that would improve air circulation and enhance views.
5. The Applicant also requested that the non-profit community organization, Friends of Kennedy Playground, Inc., be substituted for the closed Shaw Middle School as the recipient of \$22,500 previously designated for uniforms, equipment, and travel needs of the marching band. The Applicant indicated that the requested changes do not change any of the zoning parameters for the project (i.e., use, height, density, parking, etc.).
6. The Applicant served the minor modification request on Advisory Neighborhood Commission (“ANC”) 2C as well as the Office of Planning (“OP”). OP found that the proposed modifications would be minor and not inconsistent with the PUD as originally approved.
7. On May 20, 2014, Applicant submitted a letter to the Commission asking that consideration of these modifications be delayed until the Commission’s second meeting in June 2014.
8. On June 17, 2014, OP submitted a report to the Commission in which it offered no objection to either the request for the parapet wall openings or the reassignment of monetary contributions for community programs to the Friends of Kennedy Playground.
9. On June 30, 2014, the Commission considered both requests and requested that the Applicant submit additional information pertaining to the distribution of the \$22,500 to the various programs sponsored by the Friends of Kennedy Playground. The Applicant submitted the requested information in a letter dated July 8, 2014. The Applicant also submitted a letter from ANC 6E, dated June 27, 2014, in which the ANC stated that it had no objections to either the parapet wall openings or the redistribution of the payments to the Friends of Kennedy Playground.
10. The Commission considered the application again at its public meeting on July 17, 2014. The Commission approved the rooftop modifications but deferred action with regard to the contributions to the Friends of Kennedy Playground expressing concern about the benefit of one of the programs, specifically a \$9,000 contribution for three successive annual holiday parties. The Applicant submitted a response, dated July 28, 2014, providing additional information about the targeted Friends of Kennedy Playground programs. The Applicant also offered, in the alternative, that the funds could be donated to Bread for the City, a previously approved recipient of contributions pursuant to Z.C. Order No. 08-14. The Commission considered this response at a public meeting held on July 28, 2014, and approved the modification to donate \$13,500 to the Friends of the Kennedy Playground and the \$9,000 proposed to support the holiday parties to instead be donated to Bread for the City.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed minor modifications are consistent with the intent of the previously approved Z.C. Order Nos. 08-14, 08-14A, and 08-14B, and is not inconsistent with the Comprehensive Plan.

The Commission concludes that approving the minor modifications are appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

The Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The modifications do not impact the essential impact of the approved PUD, including use, height, density, parking, or lot occupancy. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for modifications of an approved PUD as follows:

The Applicant shall be permitted to install openings in the parapet wall of the rooftop swimming pool for the purposes of improving air circulation around the swimming pool and for improving views. The openings shall be installed pursuant to the plans submitted as Exhibit 2 in the record of Z.C. Case No. 08-14C.

Further, Condition No. 5B(v), as modified in Z.C. Order No. 08-14A, shall be further modified as follows:

\$13,500 to the Friends of Kennedy Playground, Inc. for the programs set forth in Exhibit 7 of the record in Z.C. Case No. 08-14C except that \$9,000 of those funds earmarked for the December holiday parties shall instead be contributed to Bread for the City to support their food and clothing bank operations.

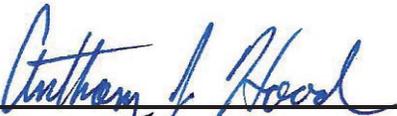
All other provisions and conditions of Z.C. Order Nos. 08-14, 08-14A, and 08-14B shall remain in effect.

On July 28 2014, upon the motion of Commissioner Turnbull, as seconded by Vice Chairperson Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0**

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(Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

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 August 28, 2015.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING