

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 09-08B
Z.C. Case No. 09-08B
Dance Place
(Second Stage Planned Unit Development @ Square 3832)
February 11, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on January 10, 2013, to consider an application from D.C. Wheel Productions, Inc. (the "Applicant") for second-stage review and approval of an approved planned unit development ("PUD") for Square 3832, Lot 803 ("Property"), pursuant to Chapter 24 and § 102 of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

SUMMARY ORDER

The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, by mail to Advisory Neighborhood Commission ("ANC") 5C, and to owners of property within 200 feet of the site. The Property is located within the jurisdiction of ANC 5C.

Pursuant to 11 DCMR § 2408.6, the Commission reviewed the application to confirm that it is in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval.

The D.C. Office of Planning, in a report dated December 31, 2012, which was submitted into the record, concluded that the application is in conformance with the provisions of Chapter 24 and § 102 and recommended approval of the application as submitted. ANC 5C submitted a resolution in support of the application dated November 26, 2012 recommending the same.

Based upon the record before it, the Commission concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 2408.6 and that the application is consistent with the first-stage approval granted in Z.C. Case No. 09-08 and subsequently modified by Z.C. Case No. 09-08A. The Commission further concludes that granting the requested relief will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Commission notes, and gives great weight to, the recommendation of the Office of Planning and ANC 5C to support approval of the application as submitted.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that findings of fact and conclusions of law accompany the order of the Commission. The waiver will not prejudice the rights of any party and is appropriate in this case.

DECISION

The Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for approval of the PUD, subject to the guidelines, conditions, and standards set forth below.

For the purposes of these conditions, the term "Applicant" means the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner.

A. Project Development

1. The PUD shall be developed in accordance with the plans marked as Exhibits 1, 11, 17, and 23 in the record, as modified by the guidelines, conditions, and standards herein.
2. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;
 - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including curtainwall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code, or that are otherwise necessary to obtain a final building permit; and
 - c. To vary the selection of plantings in the landscape plan depending on seasonal availability within a range and quality as proposed in the plans.

B. Miscellaneous

1. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division, Department of Consumer and Regulatory Affairs (“DCRA”). Such covenant shall bind the Applicant and all successors in title to construct and use the property in accordance with this order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
2. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit for the construction of the project as specified in 11 DCMR § 2409.1. Construction of the project must commence within three years of the effective date of this Order.
3. 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.

On January 10, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at the conclusion of its public hearing by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On February 11, 2012, upon the motion of Vice Chairman Cohen, as seconded by Commissioner Miller, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

Z.C. ORDER No. 09-08B
Z.C. CASE No. 09-08B
PAGE 4

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 March 8, 2013.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING