

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 05-37B
Z.C. Case No. 05-37B
Station Townhouses, LLC
(Modification to the Approved PUD at Square 752)
April 30, 2012

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 15, 2012, to consider an application from Station Townhouses, LLC (the "Applicant"), for modifications to the planned unit development ("PUD") approved pursuant to Z.C. Order No. 05-37 ("Order No. 05-37") for property consisting of Lot 861 in Square 752. 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. By Z.C. Order No. 05-37, dated January 14, 2008, and effective as of April 11, 2008, the Commission approved the consolidated PUD and related map amendment to C-3-C for a portion of the subject property. The subject property is generally located between 2nd and 3rd Streets, and G and H Streets, N.E., and is now known for assessment and taxation purposes as Lot 861 in Square 752 (the "Property"). The Property contains 76,713 square feet of land area.
2. The approved PUD authorized construction of a residential building containing a maximum of 389,101 square feet of gross floor area, having a maximum density of 5.07 floor area ratio ("FAR"). The approved project includes approximately 302 residential units and 25,777 square feet of gross floor area devoted to ground-floor retail and second-floor professional space. The ground floor retail is generally located at the corner of 3rd and H Streets and along 2nd Street to G Street. The maximum height of building is approved to be 100 feet at the corner of 2nd and H Streets, with steps in heights and set backs as shown on the approved plans. The approved project includes a minimum of 318 parking spaces in a below-grade parking garage as well as sixty tandem residential parking spaces. The approved project contains approximately 20,570 square feet of gross

floor area devoted to affordable housing units as well as a variety of public benefits and project amenities.

3. By letter dated August 19, 2011, the Applicant submitted a request for a minor modification to make three changes to the approved PUD, including an increase in the number of residential units within the approved density, a reduction in the number of parking spaces, and changes to the floor plates on the east façade of the building. (Exhibit "Ex." 1.)
4. The Commission considered the request at its September 26, 2011 meeting. The Commission removed the case from the Consent Calendar because it did not consider the proposed modification to be minor, deciding instead to set down the case for hearing.
5. On December 28, 2011, the Applicant submitted a Prehearing Statement, describing the modifications requested. (Ex. 14.) The Applicant also submitted comparative architectural plans and elevations showing the modified proposal ("Modified PUD Plans"). (Ex. 15.) The Prehearing Statement confirmed that the Applicant has complied with the requirements of § 3013 of the Zoning Regulations, and included a Transportation Impact Analysis prepared by the Applicant's traffic consultant, Wells & Associates, Inc. (Ex. 14, Tab D.)
6. After proper notice, the Commission held a public hearing on the application on March 15, 2012. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6C, the ANC within which the property is located.
7. The Office of Planning ("OP") submitted a report in support of the application. (Ex. 23.) OP also testified in support of the application at the public hearing.
8. The District Department of Transportation ("DDOT") submitted a report in conditional support of the application. (Ex. 24.)
9. ANC 6C submitted a letter dated January 17, 2012, indicating that at the duly noticed and regularly scheduled public meeting on January 11, 2012, at which a quorum was present, ANC 6C voted unanimously 8-0-0 to support the application and the requested modifications. (Ex. 17.)
10. Two residents testified in support of the project, and there was a letter of support from a nearby resident. (Ex. 8.)
11. There were no persons or parties in opposition to the application.
12. At the conclusion of the public hearing on March 15, 2012, the Commission took proposed action to approve the application and plans that were submitted to the record.

13. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated April 10, 2012, found that the proposed PUD would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interest. (Ex. 31.)
14. The Commission took final action to approve the application on April 30, 2012.

Modified PUD Project

15. The PUD project, as modified, will continue to be a residential development with ground floor retail (the "Modified Project"). The overall gross floor area slightly decreases to approximately 373,469 square feet, or 4.87 FAR, down from the 5.07 FAR originally approved. The Modified Project incorporates no change in the height, overall massing, general design, appearance, or finishes.
16. The number of residential units increases from "approximately 302" as stated in Condition No. 1 of Z.C. Order No. 05-37 to "a maximum of 375." The change in unit size and inclusion of studio units is proposed to address the current market demand, which has evolved significantly from the time the project was originally proposed and approved. The layout of apartment units within the building can accommodate the change in unit size and increase in the number of units without significantly changing the appearance of the building from the outside.
17. The Modified Project reduces the number of parking spaces from "318 parking spaces plus 60 tandem spaces" as stated in Condition No. 4 of Z.C. Order No. 05-37 to "309 parking spaces" with no tandem spaces. This number of parking spaces includes the 42 parking spaces required for the retail use as well as 244 parking spaces for the residential units, which reflects a ratio of 0.65 parking spaces per residential unit. The remaining 23 spaces will be unassigned at this time to be able to respond to future changes in demand. This ratio of parking spaces is consistent with market demand in this location and appropriate based on the Applicant's market experience in general and in particular as identified in the Applicant's feasibility studies for the project. In addition, Wells & Associates, the Applicant's traffic consultant, concluded that the parking proposed is more than sufficient for the maximum number of units proposed based on market demands. No changes were made to the location of the access to the below-grade parking facility, which is maintained on 2nd Street.
18. The Modified Project incorporates some dimensional changes to the exterior walls of the building, primarily in five-foot reductions. These changes to the building footprint are to allow for column lines to better match demising walls in units and to allow for more regularized walls for construction purposes. The Commission finds that these changes are mostly imperceptible.

19. The Modified Project also incorporates some minor changes to the design of the interior components of the building, which result in slight modifications to the exterior of the building. These changes include the following: a revised entry system on 2nd Street; elimination of the professional office space proposed for the northwest corner of the third floor; relocation of the residential entry on H Street closer to 3rd Street; reallocation of retail space and tenant space on the ground floor, including incorporation of tenant-serving spaces; the addition of two residential units fronting on G Street near 2nd Street in space previously identified for retail use; and slight refinements to exterior detailing, including minor reductions in cornice projections, elimination of trellis elements on the roof of the 2nd Street elevation, and a reduction in the depth of the "eyebrows" on G Street.
20. The Modified Project incorporates no changes to the previously approved public benefits and project amenities as identified in Finding No. 77 of Z.C. Order No. 05-37. In addition, the Applicant commits to provide the same square footage of affordable housing, approximately 20,570 square feet of gross floor area, as was set forth in Finding No. 77(a) and Condition No. 5 of Z.C. Order No. 05-37, which results in a greater percentage of affordable housing given the reduction in gross floor area.
21. At the hearing, the Applicant requested flexibility to allow for two additional modifications relating to the retail space. First, the Applicant requested the Commission to approve a range of gross floor area for the retail use instead of the exact total of 22,842 square feet of gross floor area that was shown on the Modified PUD Plans. The Applicant proposed a 5,000 square foot range, which would permit the total retail area provided to be between 17,842 square feet of gross floor area and 22,842 square feet of gross floor area in the areas generally shown for retail space on the Modified PUD Plans. The Commission finds that this range will provide the necessary flexibility to modify the retail space in the general locations shown on the plans, and further clarified by the Applicant during questioning as limited to space that is either fully covered by the H Street Overpass or in the space that is fully below grade at the H and 3rd Streets as labeled "neighborhood retail (flex)" with cross-hatches in Exhibit 26, to respond to tenant demands and to possibly reduce some less than optimal space in below-grade space if there is no demand for that space.
22. Second, the Applicant requested that it have flexibility to incorporate a leasing/management office within the designated retail space on 2nd Street. The Commission finds that while a leasing office for the building has not been provided, and is not a retail use, it is an important element for the planned building and that 2nd Street is the appropriate location.

Office of Planning Report

23. By report dated March 5, 2012, OP recommended approval of the modifications requested. (Ex. 23.) OP found no objection to the proposed modifications and indicated that the proposed development as modified is not inconsistent with the Comprehensive Plan. The Commission concurs with these findings and recommendations of OP.
24. In its report, OP indicated that it was aware of the requests for flexibility regarding the range of retail use and ability to include a management/leasing office within the proposed retail gross floor area along 2nd Street. OP stated that it did not generally object to this requested flexibility provided that the retail flexibility would not be applied to the H and 3rd streets frontage and that the management/leasing office would be limited in overall size and frontage along 2nd Street. In response to OP's concern, the Applicant explained at the hearing that the retail flexibility would be limited to space that is either fully covered by the H Street Overpass or in the below-grade space that is fully below grade at H and 3rd Streets as labeled "neighborhood retail (flex)" with cross-hatches in Exhibit 26. The Applicant also explained that the management/leasing office would be located along 2nd Street, limited to no more than 20% of the linear frontage of retail space along the length of 2nd Street.

DDOT Report

25. By report dated March 6, 2012, DDOT stated that it supported the application. (Ex. 24.) DDOT concluded that the vehicle traffic generated by the Modified Project can be accommodated within the existing transportation network, and DDOT supported the proposal for reduced parking. DDOT expressed concern regarding the 55-foot loading berth and requested that the Applicant remove the 55-foot loading berth and retain only the 30-foot loading berth.
26. At the hearing, the Applicant agreed to eliminate the 55-foot loading berth and maintain only the 30-foot loading berth and 20-foot service-delivery space. The Applicant agreed with DDOT that there is an extremely low demand for 55-foot trucks for the Modified PUD Project. OP had no objection to this modification. The Commission finds that the modification proposed for the loading dock at the hearing is acceptable for the Modified Project.
27. DDOT stated its general agreement with the Transportation Demand Measures ("TDM") proposed in the original PUD. DDOT requested that the Applicant install a transit information screen at the residential lobby entrance to facilitate a higher level of transit ridership. The Applicant commits to provide the TDM set forth in Condition No. 18 of Z.C. Order No. 05-37. The Applicant will also provide a transit information screen in the residential lobby as requested by DDOT.

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 or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a modification to a previously approved consolidated PUD and zoning map amendment.
3. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
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 meets 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 Property. The impact of the project on the surrounding area and the operation of city services are acceptable given the quality of the public benefits in the project.
6. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. Moreover, the project benefits and amenities are reasonable tradeoffs for the requested development flexibility.
7. 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 as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The Commission is required under § 13(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. In this case, ANC 6C voted unanimously to support the application and recommended that the Commission approve the application. (Ex. 17.) The Commission has given ANC 6C's recommendation great weight in approving this application.

9. 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.
10. 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 the approved planned unit development located at Lot 861 in Square 752. This approval is subject to the guidelines, conditions, and standards as set forth in the Decision of Z.C. Order No. 05-37, as modified by the following guidelines, conditions, and standards.

1. The Modified Project shall be developed substantially in accordance with the Modified PUD Plans prepared by Hickok Cole Architects, dated December 28, 2011, as modified by the guidelines, conditions, and standards herein. (Ex. 15.)
2. The Modified Project shall be a residential project, containing a maximum of 373,469 square feet of gross floor area and including a maximum of 375 units. The Modified Project shall include between 17,842 square feet and 22,842 square feet of gross floor area devoted to retail use, which shall be generally located at the corner of 3rd and H Streets and along 2nd Street and at the corner of 2nd and G Streets. The flexibility of retail use shall be limited to space that is either fully covered by the H Street Overpass or in the below-grade space that is fully below grade at H and 3rd Streets, and labeled "neighborhood retail (flex)" with cross-hatches in Exhibit 26. The maximum density of the Modified Project shall be 4.87 FAR.
3. The Modified Project shall include a minimum of 309 parking spaces in the below-grade parking garage. The Applicant shall have flexibility to include parking spaces within the area beneath the private property to be dedicated for alley purposes in accordance with Condition No. 7 of Z.C. Order No. 05-37.

4. The Modified Project shall include one 30-foot loading berth and one 20-foot service delivery space within the area identified for loading on the Modified PUD Plans. The Modified Project no longer requires a 55-foot loading berth.
5. All project amenities and public benefits shall be as approved in Condition Nos. 5 through 23 in Z.C. Order No. 05-37, unless specifically modified herein.
6. In addition to the TDM commitments set forth in Condition No. 18 of Z.C. Order No. 05-37, the Applicant shall also provide a transit information screen in the residential lobby as requested by DDOT.
7. In addition to the flexibility approved in Condition No. 24 of Z.C. Order No. 05-37, the Applicant shall have additional flexibility with the design of the Modified Project in the following areas:
 - a. To provide space for a leasing/management office within the retail space identified on 2nd Street, provided that the leasing/management office comprises no more than 2,000 square feet of gross floor area and no more than 20% of the linear frontage of retail space along the length of 2nd Street.
8. No building permit shall be issued for the Modified Project until the Applicant has recorded a Notice of Modification in the land records of the District of Columbia.
9. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., (“Act”). 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 which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

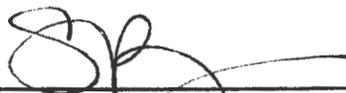
On March 15, 2012, upon the motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** this application at the close of its public hearing by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; Marcie I. Cohen, not present, not voting).

On April 30, 2012, upon the motion of Chairman Hood, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to adopt; Marcie I. Cohen, not having participated, not voting).

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 May 18, 2012.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



Z.C. CASE NO.: 05-37B

MAY 21 2012

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 05-37B were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|--|
| 1. <i>D.C. Register</i> | 5. Gottlieb Simon ANC 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004 |
| 2. Christie Shiker, Esq. Holland & Knight, LLP 2099 Pennsylvania Ave., N.W. Washington, D.C. 20006 | 6. Councilmember Tommy Wells |
| 3. ANC 6C P.O. Box 77876 Washington, D.C. 20013 | 7. DDOT (Martin Parker) |
| 4. Commissioner M. Tony Richardson 6C05 921 2nd Street N.E. Washington, D.C. 20002 | 8. Melinda Bolling, Acting General Counsel DCRA 1100 4th Street, S.W. Washington, DC 20024 |
| | 9. Office of the Attorney General (Alan Bergstein) |

ATTESTED BY:

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning