GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 849C
Z.C. Case No. 97-16B
Modification of an Approved Planned Unit Development
Lowell School, Inc.
(Square 2745F, Lots 815 and 817)
November 19, 2012

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on October 4, 2012, to consider an application from Lowell School Inc. (the "Applicant", "Lowell" or "School") for review and approval of a modification to an approved planned unit development ("PUD"). The Commission considered the application pursuant to Chapters 1, 24, and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. 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 and Hearing

1. The project site consists of Lots 815 and 817 of Square 2745F ("Property"). The Subject Property is known as the Lowell School and is generally situated on Kalmia Road, N.W. between 16th and 17th Streets, in the Colonial Village neighborhood of Ward 4. The Subject Property is located within the boundaries of Advisory Neighborhood Commission ("ANC") 4A. (Exhibit ["Ex."] 1.)

2. The Applicant initially filed its application as a minor modification on May 15, 2012. It supplemented its request in response to a request for additional information posed by the Office of Planning on June 7, 2012. (Ex. 1.)

3. The Commission considered the application on its consent calendar at its public meeting on June 11, 2012. The Commission determined that the requested modifications did not qualify as minor pursuant to § 3030 of the Zoning Regulations. It removed the application from its consent calendar and voted to set the application down for a public hearing.

4. The Applicant filed its pre-hearing statement on June 12, 2012, and a public hearing was scheduled for October 4, 2012. (Ex. 5.)

5. Prior to the public hearing, the Applicant supplemented its application with additional information on September 14, 2012, pursuant to § 3013.8 of the Zoning Regulations. (Ex. 15.)

6. The Office of Planning ("OP") submitted reports on June 1, 2012 and September 24, 2012. (Ex. 4, 17.)

7. A public hearing was held on October 4, 2012. The parties to the case were the Applicant and ANC 4A, the ANC within which the property is located. The Commission granted expert status to the Applicant's architect. Testimony was presented by the Applicant's project team, including a representative of the School and its architect. At the public hearing, the Applicant submitted its PowerPoint presentation. (Ex.19.)

8. At the conclusion of the hearing, the Commission closed the record for this case and took proposed action to approve the application. The Commission also moved to approve the proposed clarification regarding the timing of the construction of the proposed drive aisle.

9. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated October 25, 2012, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.

10. The Commission took final action to approve the application in Z.C. Case No. 97-16B on November 19, 2012.

<u>The Application</u>

11. The Property is located in the R-1-A Zone District and consists of nearly nine acres of land. The Property is situated on Kalmia Road, N.W., between 16th and 17th Streets, N.W., in the Colonial Village neighborhood of Ward 4. It is located along the upper 16th Street corridor, just east of Rock Creek Park. (Ex. 1.)

12. The Commission approved a modification to the Lowell School PUD on November 26, 2010 in connection with Z.C. Case No. 97-16A. There were four components to that PUD modification: (1) expansion of the program to include seventh and eighth graders; (2) increasing the cap on the number of faculty and staff from 60 individuals to 100 individuals; (3) construct an addition to an existing building, known as Parkside; and (4) raze an existing building, known as Fraser, which may be replaced with a structure

comprised of an underground parking garage topped by a play area and parking area and an addition to the existing gymnasium and pool. (Ex. 1.)

13. Application 97-16B concerned the modifications approved for the Parkside building and adjacent landscaping. (Ex. 1.)

14. After approval of the PUD modification in 2010, the Lowell Campus was established as a historic district and Parkside was deemed to be a non-contributing building to the character of the historic district. Pursuant to the historic preservation laws, the Applicant submitted the plans approved by the Commission to the Historic Preservation Review Board ("HPRB") for review and approval. Given Parkside's position adjacent to Rock Creek Park, Lowell also submitted the approved plans to the Commission of Fine Arts ("CFA") for review and approval. Based on comments made by both HPRB and CFA, the plans approved by the Commission were modified. Lowell submitted the instant application for approval of those modifications. (Ex. 1.)

15. Lowell modified the PUD in the following respects: it incorporated more detailed plans for the play area adjacent to the Parkside building and for the landscaping between Parkside and 17th Street and it modified the elevations, roof plan, height, and interior floor plan of the Parkside building. Lowell also noted that the roof structures and the court yard in the new plans did not comply with the requirements of the Zoning Regulations. (Ex. 1, 15.)

16. Many of the modifications were made in direct response to comments made by CFA and HPRB, both of which approved the modifications to the Parkside building in concept. (Ex. 1, 15.)

17. Lowell also sought clarification that the drive aisle approved in Z.C. Case No. 97-16A did not have to be constructed in connection with the Parkside renovations. Rather, if the drive aisle were deemed necessary, it must be constructed prior to the issuance of the certificate of occupancy for the renovations made to the gymnasium and pool. (Ex. 1, 15.)

Applicant's Testimony

18. At the public hearing, the following people testified on behalf of Lowell: Douglas Odom, Director of Finance, Facilities and Operations and Richard Salopek, an expert architect with Bowie Gridley Architects.

19. Mr. Odom testified to Lowell's timeline for construction as well as Lowell's community outreach efforts.

20. Richard Salopek, the project architect, testified to the modifications requested by HPRB and CFA and walked through the modifications that have been made to the Parkside building and adjacent landscaping since the Commission's approval of Z.C. Case No. 97-16A. Mr. Salopek noted that the heights of the penthouses had been modified slightly since the supplemental submission filed by the Applicant. The new heights of the penthouses were depicted in the PowerPoint presentation.

Government Agency Reports

21. By report dated September 24, 2012, OP recommended that the proposed PUD modification be approved. In its report, OP found that the application required penthouse and courtyard relief but that granting this flexibility would not compromise the intent and purpose of the Zoning Regulations and that the proposed modifications would not be inconsistent with the Comprehensive Plan. (Ex. 17.)

ANC 4A Report

22. ANC 4A submitted a letter in support of the application on September 17, 2012. The letter noted the ANC's support for the modifications and stated that they would not create any material or adverse changes in the Applicant's programs, activities, or functions. The ANC further noted that Lowell has a long-standing history of supporting activities in the ANC 4A area. (Ex. 16.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are 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 and Chapter 24 of the Zoning Regulations, the Commission has the authority to consider an application to modify a previously approved PUD. As a part of the modification, the Commission may 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 and loading, and yards and courts. The

Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405.)

3. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned development that has efficient planning and design, is consistent with surrounding uses and density, and promotes educational facilities within the District.

4. The application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The application meets the contiguity requirements of § 2401.3.

6. The proposed height and density of the Parkside building does not cause a significant adverse effect on any nearby properties and is consistent with the approval granted in Z.C. Case No. 97-16A.

7. The flexibility sought pursuant to the PUD is minimal, thus granting the development incentives proposed in this application is appropriate.

8. Approval of the PUD modification is not inconsistent with the Comprehensive Plan, the Zoning Regulations, or the original PUD. The Commission finds that the proposed development is consistent with the Comprehensive Plan.

9. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The Project is consistent with the major themes and city-wide elements of the Comprehensive Plan, including the Land Use, Educational Facilities, and Transportation Elements. The PUD is also consistent with the more specific goals and policies of the Rock Creek East Area Element.

10. 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 concerns expressed in the written report of the affected ANCs. As is reflected in the Findings of Fact, ANC 4A voted to support the application. The Commission has given ANC 4A's recommendation great weight in approving this application.

11. The Commission is also 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 the recommendations of OP. The Commission gives OP's

recommendation to approve the PUD modification great weight and concurs with its recommendation to approve the application.

12. The application for a modification to an approved 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 this application for review and approval of a modification to an approved planned unit development for the property (Square 2745F, Lots 815 and 817) and orders the revision to the following two conditions of Z.C. Order No 849-B:

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A. Condition No. 1 is modified to read as follows:

1. The planned unit development shall be developed in accordance with the drawings and plans prepared by Bowie Gridley Architects, dated September 13, 2010, and marked as Exhibit 51 (Tab B) of the record for Case No. 97-16A, as modified by the PowerPoint submitted into the record for Case No. 97-16B on October 4, 2012 as Exhibit 19, as further modified by the guidelines, conditions and standards of this Order and Order 849-B. These plans shall achieve an equivalent of LEED certification (at least 40 points).

B. Condition No. 5 is modified by adding the following bullet point at its end:

- If the analysis referenced in the preceding bullet point determines that the drive aisle is necessary, it shall be constructed prior to the issuance of the certificate of occupancy for the addition to the gymnasium and pool. If the analysis determines the drive aisle is not necessary, Lowell shall submit an application for a modification[1] to the Zoning Commission to abandon plans for the drive aisle. The drive aisle need not be constructed at the time of the Parkside construction work.

All other conditions in Z.C. Order No 849-B shall remain in full force and effect.

The Zoning Commission's approval of this modification is subject to the following condition:

1. No building permit shall be issued for this planned unit development until the Applicant has recorded a Notice of Modification to the PUD Covenant in the land

[1] Whether this would be a minor modification will be determined by the Zoning Commission at the time it considers such a request.

records of the District of Columbia. Such Notice shall serve as notice to any and all successors in title to construct on or to use this property in accordance with this Order or subsequent amendment thereof by the Zoning Commission.

On October 4, 2012, upon the motion of Commissioner May, 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 November 19, 2012, upon the motion of Chairman Hood, as seconded by Commission 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).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on December 21, 2012.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING