

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-08C
Case No. 04-08C/02-45

**(District of Columbia Department of Mental Health - Modification to the Approved PUD
for St. Elizabeths Hospital)**

_____, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on April 25, 2013, to consider an application from the District of Columbia Department of Mental Health (the "Applicant"), for a modification to the planned unit development ("PUD") and related map amendment for St. Elizabeths Hospital to remove certain areas from the PUD. 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 Commission Order No. 02-45, dated May 1, 2003, and effective as of November 28, 2003, the Commission approved the application of the D.C. Department of Mental Health for first-stage review and approval of a PUD and related map amendment to permit St. Elizabeths Hospital to develop a new mental health hospital, parking, landscaping, stormwater controls, and related facilities within an SP-1 zoning designation. At the time of first-stage approval, the subject property consisted of approximately 49.4 acres of land area located on an irregularly shaped parcel in the southeast portion of the East Campus of St. Elizabeths Hospital.
2. By Commission Order No. 04-08A, dated September 13, 2004, and effective as of December 24, 2004, the Commission approved a minor modification to the first-stage PUD in order to add an additional 5.19 acres to the PUD site.
3. By Commission Order No. 04-08, dated January 13, 2005, and effective as of April 22, 2005, the Commission granted second-stage approval for the PUD and related map amendment.
4. As of April 2010, construction of the new St. Elizabeths Hospital was complete and the Applicant began operating in its new 448,190 square-foot facility, constructed in accordance with the PUD.
5. By Commission Order No. 04-08B, dated May 10, 2010, and effective as of June 25, 2010, the Commission approved a minor modification to the PUD in order to remove 3.3 acres from the PUD site to permit construction of a new water tower.

6. The PUD site consists of approximately 51.28 acres located at 1100 Alabama Avenue, S.E. in Washington, D.C. and comprises the southeast portion of the larger parcel known as the "St. Elizabeths East Campus", which is identified as Square S-5868, Lot 2 ("PUD Site").
7. The Final St. Elizabeths East Master Plan and Design Guidelines ("Master Plan") was released by the District of Columbia Office of Planning on June 4, 2012, calling for a "vibrant, mixed-use development with community-serving amenities that will create an important hub for the Ward 8 community and [the] District's emerging innovation economy". The Master Plan provides extensive direction for the redevelopment and reuse of the St. Elizabeths East Campus and specifically incorporates recommendations for those portions of the PUD Site proposed to be removed as part of the subject application.
8. By Commission Order No. 12-08, dated January 28, 2013, and effective as of March 29, 2013, the Commission adopted amendments to the Zoning Map and to the text of the Zoning Regulations to create and implement the Saint Elizabeths East (StE) District for the St. Elizabeths East Campus and to permit and guide the future development of the St. Elizabeths East Campus, including portions of the PUD Site proposed to be removed as part of the subject application.
9. By letter dated November 14, 2012, the Applicant submitted a Request for a Minor Modification to modify the PUD Site so as to remove 13.935 acres from the PUD area, rendering the PUD Site a total of approximately 37.345 acres.
10. The Zoning Commission considered the request at its January 28, 2013 public meeting. The Commission decided to set down the case for hearing. In setting the case down for hearing, the Commission waived the requirement that the Applicant submit a Prehearing Statement.
11. After proper notice, the Commission held a public hearing on the application on April 25, 2012. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 8C, the ANC within which the property is located.
12. The Office of Planning submitted a report in support of the application in the record at Exhibit 6. The Office of Planning also testified in support of the application at the public hearing.
13. The Applicant authorized the District of Columbia Office of the Deputy Mayor for Planning and Economic Development ("ODMPED") to appear on behalf of and represent the Applicant at the public hearing. ODMPED appeared and testified in support of the application at the public hearing.

14. There were no persons or parties in opposition to the application.
15. At the conclusion of its public hearing on April 25, 2013, the Commission scheduled a special public meeting on May 2, 2013 to take proposed action and held the public record open until April 29, 2013 to receive post-hearing submissions.
16. On April 26, 2013, the Applicant submitted certain items requested by the Commission related to environmental review jurisdiction over those areas proposed to be removed from the PUD Site.
17. At its public meeting on May 2, 2013, the Commission took proposed action by a vote of 5-0-0 to approve the application.
18. 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 _____, found that the proposed PUD _____. NCPC recommended that the Commission _____. The Commission finds that _____.
19. The Commission took final action to approve the application on _____ by a vote of _____.

Modified PUD Site

20. The PUD Site, as modified, will consist of approximately 37.345 acres and will continue to support the as-built St. Elizabeths Hospital facility (the "Modified PUD Site") (Exhibit 3, Attachment 4, "Sketch of Proposed Hospital A&T Lot/Legal Description").
21. The reduction in size of the Modified PUD Site will cause the FAR of the as-built hospital facility to increase from approximately 0.2 to 0.275, well within the 4.5 FAR permitted in the SP-1 zone, and the lot occupancy to increase from approximately 11% to 14.8%, well within the 80% lot occupancy permitted in the SP-1 zone (Exhibit 3, Attachment 8, "Development Data Comparison Chart").
22. The Modified PUD Site results in no changes to the previously approved public benefits and project amenities as identified in Finding No. 28 of Order No. 04-08.

Office of Planning Report

23. By report dated January 18, 2013, the Office of Planning ("OP") recommended approval of the requested modification (Exhibit 6). OP found no objection to the

proposed modification and indicated that the area to be removed from the PUD site would not alter the development of the hospital and that the Modified PUD Site would continue to be in compliance with applicable zoning regulations. The Commission concurs with these findings and recommendations of OP.

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 PUD and zoning map amendment.
3. 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.
4. The Modified PUD Site 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.
5. Approval of the Modified PUD Site is not inconsistent with the Comprehensive Plan and 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.
6. The Commission is required under D.C. Code Ann. § 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 8C did not participate in the public hearing or submit a written report to the case record.
7. The Commission is required under Section 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.

8. The application for the Modified PUD Site 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 modification to the approved planned unit development located on a portion of Lot 2 in Square S-5868 to remove 13.935 acres from the PUD Site that was approved in Z.C. Order Nos. 02-45, 04-08, 04-08A and 04-08B. The modification shall also remove the SP-1 zoning designation from the portions of land removed from the PUD Site such that the land shall revert to the underlying StE zoning designation. All other provisions of Z.C. Order Nos. 02-45, 04-08, 04-08A and 04-08B shall remain in effect.

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 May 2, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the request for modification at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Robert Miller, Peter G. May, Michael G. Turnbull, Marcie E. Cohen to approve).

On _____, _____, upon the motion of _____, as seconded by _____, the Order was **ADOPTED** by the Zoning Commission at its public meeting by _____ a _____ vote of _____ (_____).

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 _____, 2013.

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ANTHONY J. HOOD
Chairman,
Zoning Commission

SARA A. BARDIN
Director
Office of Zoning