

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-27**

Z.C. Case No. 07-27

EYA, LLC and St. Paul's College

(Consolidated Planned Unit Development and Related Zoning Map Amendment)

November 10, 2008

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on July 17, 2008 to consider an application for EYA, LLC and the Missionary Society of Saint Paul the Apostle, for the consolidated review and approval of a planned unit development ("PUD") and a PUD-related amendment to the Zoning Map from the R-5-A Zone District to the R-5-B Zone District for a portion of the property known as Square 3648, Lot 808, pursuant to Chapter 24 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.

At its public meeting on September 29, 2008, the Commission took proposed action to approve the application and plans that were submitted into the record.

The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated October 7, 2008, found that the proposed PUD and related map amendment to change the zoning from R-5-A to R-5-B is not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any federal interests.

The Commission took final action to approve the application on November 10, 2008.

FINDINGS OF FACT

PROCEDURAL HISTORY

1. The property that is the subject of this application is an irregularly-shaped portion of Lot 808 in Square 3648 bounded by 5th Street N.E. and 6th Street N.E. to the south, Hamlin Street N.E. and Jackson Street N.E. to the east, the campus of St. Paul's College to the west, and the United States Conference of Catholic Bishops to the north (the "Subject Property" or "Property"). The PUD is located in the Brookland/Edgewood neighborhood in Ward 5. The Property consists of approximately 10.2 acres or 444,312 square feet. The Property is located in the R-5-A Zone District.
2. EYA, LLC ("EYA") is a residential developer based in Bethesda, Maryland, and the Missionary Society of Saint Paul the Apostle ("St. Paul's College") is a Catholic Paulist

seminary (collectively, the “Applicant”). St. Paul’s College is the current owner of the Property. EYA is a contract purchaser of the Property and developer of the PUD project.

3. The Applicant seeks to construct a 237-unit townhome development consisting of three sizes of single-family townhomes (14-foot, 16-foot, and 18-foot-wide models). (Exhibit 16, pp. 4-5.)
4. The Commission to set the case down for a public hearing at its November 19, 2007 public meeting. At that meeting, the Commission members and the Office of Planning (“OP”) expressed the following concerns and/or requested additional information: density of the project, adequacy of green space, traffic circulation, amount of surface parking, type and amount of affordable housing units, extent of environmental impacts, extent of public improvements, types of streetscape improvements, and extent of community participation. (November 19, 2007 Transcript, pp. 76-87.)
5. In its Pre-Hearing submission, dated April 18, 2008, the Applicant addressed and submitted information on the above-mentioned issues. In addition, the Applicant made other modifications to the plans, including:
 - A reduction in the number of townhomes from 251 to 237;
 - Elimination of the largest unit types that sealed off open spaces;
 - A reduction in the variety of floor plans;
 - A reduction in the number of off-street parking spaces from 542 to 403;
 - A four percent increase in overall green space from 107,000 square feet (24%) to 126,504 square feet (28%);
 - Expansion of the central green park area to 14,200 square feet; and
 - Improved vehicular circulation patterns and street configuration. (Exhibit 16.)
6. The Applicant filed a supplemental submission on June 30, 2008, which included the following: a revised site plan illustrating the locations of the affordable units; an illustration of the elevations of the rear of the townhouses; an illustration of private green spaces in the development; an updated explanation of community benefits; and resumes of proposed expert witnesses. (Exhibit 25.)
7. The Commission held a public hearing on the above-mentioned application on July 17, 2008, which was conducted in accordance with the provisions of 11 DCMR § 3022.
8. At the July 17, 2008 public hearing, the Commission recognized Jack McLaurin of Lessard Group, Inc. as an expert in architecture, Jami Milanovich of Wells & Associates, LLC as an expert in traffic engineering and transportation planning, and Mark Morelock of VIKA as an expert in engineering. (July 17, 2008 Transcript, pp. 9-10.)

9. At the July 17, 2008 public hearing, the Commission requested the following additional information from the Applicant:
- Details of the amenities package;
 - Reconsideration of the size affordable housing units in response to the OP's position;
 - A site plan better illustrating the relationship between the private streets and the neighborhood streets;
 - Three-dimensional views of the project to depict how an observer will view the project;
 - Volumetric study and perspective of a typical courtyard;
 - Photographs of the surrounding neighborhood; and
 - Detailed color renderings of the houses including the downspouts. (July 17, 2008 Transcript, pp. 259-262.)
10. The Applicant filed a post-hearing submission on August 15, 2008, which included the following responses to the Commission's requests: photographs of the surrounding neighborhood; a depiction of the project's relationship to the neighborhood; a vignette of views into the project; a volumetric study of the courtyard; detailed color renderings with roof line variety; graphic depictions of traffic circulation patterns; and a checklist of LEED commitments. (Exhibit 44.) The Applicant filed a supplemental post-hearing submission on September 25, 2008. The submission stated the Applicant had continued its discussions with ANC 5C but the parties were unable to reach a mutually agreeable resolution. The submission also proffered enhancements to the amenities package. (Exhibit 50.) The Applicant filed a second supplemental post-hearing filing on October 25, 2008 proffering a Construction Management Plan for the PUD project.

PUD SITE AND SURROUNDING AREA

11. The Property is located in Ward 5 and is composed of approximately 10.2 vacant acres or 444,312 square feet. It is an irregularly shaped parcel bounded by 5th Street N.E. and 6th Street N.E. to the south, Hamlin Street N.E. and Jackson Street N.E. to the east, 4th Street N.E. and the campus of St. Paul's College to the west, and the United States Conference of Catholic Bishops to the north. (Exhibit 4, Exhibit A.)
12. The subject site is part of the 19.68-acre St. Paul's College campus. The subject site occupies approximately one-half of the College campus and will be under separate ownership. (Exhibit 4, p. 1, Exhibit A.)
13. The Property has significant grade changes, with the St. Paul's College building being located at the high point. The Property slopes downward from the College's main building to the subject site. Open fields interspersed with large, mature trees dominate most of the subject site. The site is bordered mainly by moderate-density residential

development to the south and to the east and institutional uses to the north and west. (Exhibit 16, p. 4; Exhibit 4, Exhibit B.)

14. The project will leave the College's Main Building unchanged. (Exhibit 16, Exhibit B.)

DESCRIPTION OF THE PUD PROJECT

15. The proposed 237-unit townhouse development will provide a variety of housing options for individuals and families seeking homeownership opportunities in Ward 5. The various unit types have been interspersed throughout the Property. The proposed density of the PUD project (1.27 FAR) is significantly lower than the matter-of-right density limitation (1.8 FAR) and the proposed building heights (38-48 feet) are also lower than the maximum matter-of-right building height (50 feet) in the R-5-B Zone District. (Exhibit 16, p. 6.)
16. The 14-foot-wide townhomes will include approximately 2,022 square feet of living area; the 16-foot-wide townhomes will include approximately 2,318 square feet of living area; and the 18-foot-wide townhomes will include approximately 2,586 square feet of living area. These homes are comparable in size to typical single family detached homes located in an R-5-B Zone District. Each single family townhome will be three or four stories with varying layouts. All of the single-family townhome units will have garages on the first floor and two or three bedrooms on the upper floors. All of the townhomes will have optional rooftop terraces. (Exhibit 16, Exhibit B; Exhibit 17.)
17. The Project will provide a significant amount of open and green space. Open space accounts for 126,504 square feet (2.9 acres) or 28% of the site area. The overall building lot occupancy (which includes decks) is 31%. (Exhibit 16, Exhibit B, p. C-48.)
18. The central open space provided in the project is the large Corner Park, which includes a total of 14,000 square feet, is intended for non-organized, passive and active recreational use. The southeast corner of the Corner Park will include a plaza with stadium style seating. The park will be a mostly level expanse of lawn punctuated by shade trees and surrounded by masonry seat walls and retaining walls, benches, and mixed border plantings (Exhibit 16, p. 16).
19. Many of the townhomes will open onto shared courtyards of varying widths and lengths. These courtyards will feature outdoor seating and panels of lawn surrounded by flowers, evergreen shrubs and ornamental grasses. In addition, smaller open spaces and lawns will weave throughout the development, particularly on the sides of some of the buildings and along the perimeter of the subject site. Many townhomes will have lawns in their rear and side yards, and one-third of the townhomes will have private yards. (Exhibit 16, p. 16.)

20. The front façades and sides of most the buildings will be predominantly brick. Siding will be used on the loft levels and on the alley façades. The homes located near the existing St. Paul's College will have a more complimentary architectural style with stone veneer. (Exhibit 16, p. 5.)
21. All units will have one or two garage parking spaces accessed from the rear of the units via alleys. The 14-foot-wide and 16-foot-wide units will have a single parking space in the garage with the option of an additional tandem parking space, while the 18-foot-wide units will have two side-by-side parking spaces in the garage. In addition, 85 additional guest parking spaces will be made available throughout the site on the interior private street system. (Exhibit 16, pp. 5-6; Exhibit 17, pp. A-100, A-104, A-120.)
22. The Applicant requests a PUD-related amendment to the Zoning Map, from the R-5-A to the R-5-B Zone District, in order to accommodate all of the specifications and goals of the project. (Exhibit 4, p. 8.)
23. Pursuant to 11 DCMR Chapter 24, the Applicant also requests relief from the rear and side yard requirements (§§ 2516.5(b), 404 and 405) and to allow more than one principal structure on a single lot (§ 2516.1). This flexibility requested to the R-5-B Zone District will have no impact on the surrounding properties. (Exhibit 16, p. 6.)

SATISFACTION OF PUD EVALUATION STANDARDS

24. Through written submissions and testimony to the Commission, the Applicant and its representatives noted that the application will provide high-quality residential development on the Subject Property with significant public benefits to the neighborhood and the District as a whole.
25. The goal of this project to create high quality homeownership opportunities and an attractive community that would be an integral part of the larger Brookland/Edgewood neighborhood. This project will be integrated with the neighborhood and will benefit the community as a whole. Neighborhood residents will be able to enjoy the large Corner Park. (Exhibit 16, pp. 7-8.)
26. At the hearing, the Applicant's representative, Jack Lester, noted that the amenities package had been thoroughly vetted with the ANC-5C Single Member District Commissioner and that the Applicant would continue to work with the ANC and community to satisfy its commitments (July 17, 2008 Transcript, pp. 45-48.)
27. The Applicant's architect, Jack McLaurin, admitted as an expert in architecture, testified that the project's design showed a strong sense of neighborhood compatibility by taking into account the streets, the nearby institutions, the neighborhood houses and the public spaces. Mr. Lester noted that the community will not be gated and will be directly accessible from several streets: 5th Street N.E., 6th Street N.E., Hamlin Street N.E., and

Jackson Street N.E. to connect the project to the surrounding street grid. Mr. Lester also noted the importance of open space in the project. (July 17, 2008 Transcript, pp. 21-24.)

28. Urban Design and Architecture: The proposed townhomes are designed to complement and elevate the level of architectural quality and design in this area of the District. The proposed design connects the homes to the public streets and courtyards, incorporates the entire development into the existing neighborhood, and enhances the walkability of the entire project. The façades of most of the townhomes have been designed in a traditional brick front-porch style that is common in the neighborhood. A variety of color schemes will be used create a varied streetscape. Townhomes near, and facing, St. Paul's College have been designed in a complementing architectural style in order to provide a transition from the College's Main Building to the more traditional townhomes. The proposed landscape plan and treatment of the Corner Park, the courtyards and the private open spaces will provide active and passive recreation opportunities for residents of the project and their guests. (Exhibit 16, p. 7; July 17, 2008 Transcript, pp. 25-34; Exhibit 44, Exhibit F.)
29. Site Planning: The site plan for the proposed project makes efficient use of an undeveloped site that sits in the center of a developing neighborhood. The site is laid out in a general pattern of orthogonal streets and blocks. The design of the residential complex intersperses street-oriented, rear-loaded townhomes in an efficient and economical manner appropriate for the R-5-B Zone District. The plan seamlessly ties the new development with the existing neighborhood in a fashion that encourages pedestrian activity. (Exhibit 16, p. 8.)
30. Effective and Safe Vehicular and Pedestrian Access: The Project provides four means of vehicular access: 5th, 6th, Hamlin, and Jackson Streets N.E. The connections to the surrounding street allow pedestrians and vehicular traffic to enter and exit the development safely and efficiently. The new internal road system allow for two way traffic. Safe and ample sidewalks will be created along the surrounding public streets and throughout the site to encourage pedestrian activity and also mitigate any pedestrian/vehicular conflicts. The PUD will provide residents with 403 parking spaces and 85 spaces designated for guests. (Exhibit 16, p. 8.)
31. The Applicant's traffic and parking expert provided written documentation and testimony that analyzes the Subject Property and the neighborhood as recommended by the District of Columbia Department of Transportation ("DDOT"). (Exhibit 4, Exhibit C; July 17, 2008 Transcript, pp. 40-41.)
32. The private roadway improvements recommended by the traffic and parking expert and proposed by the Applicant include:
 - Adjustments to the green light times during the AM and PM peak hours at the Michigan Avenue/Harewood Road intersection;

- Adjustments to the green light times during the AM peak hour at the Michigan Avenue/4th Street intersection;
 - Adjustments to the green light times during the PM peak hour at the 7th Street/Monroe Street intersection;
 - Install signs to help lower speed and update pavement markings on Franklin Street; and
 - Provide incentives for new residents to use public transit. (Exhibit 4, Exhibit C, p. 36.)
33. Housing: In addition to providing a significant amount of market rate housing units, the project will also set aside 28 affordable units. The sale of the affordable units will be targeted buyers with annual household incomes (four person family size) at or below 50% of the Washington Metropolitan Area Median Income (“AMI”) and to those with annual household incomes at or below 80% of the Washington Metropolitan AMI. The 28 affordable units will be divided equally between both income distributions (14 units for 50% AMI and 14 units for 80% AMI). All affordable units will be the 14-foot-wide model. The gross floor area for this unit type is approximately 2,022 square feet and these homes contain two or three bedrooms and two or three bathrooms. Each unit has a one car garage and an optional second tandem space. The Affordable Housing Program will commence on the date that the first building including an affordable unit has received a certificate of occupancy and will run for 20 years. Upon expiration of the 20 year term, these units may be sold at market rates. (Exhibit 22, p. 19.)
34. First Source Employment Program: The Applicant will enter into an agreement to participate in the Department of Employment Services (“DOES”) First Source Employment Program to promote and encourage the hiring of District of Columbia residents during the development and construction process. (Exhibit 16, p. 9.)
35. Environmental Benefits: The construction of this project will have no adverse environmental impact. The Applicant stated that it is committed to building a community that meets LEED – ND certification, which includes low energy appliances and low-e glass. In addition, the project includes a Low Impact Development strategy that will reduce and treat stormwater runoff; this will include bioretention facilities, a rain garden, bioswales, interconnected water mains, separate storm water and sewer systems, and new storm drains on some streets. The Applicant also will minimize the number of trees that it must remove. (Exhibit 4, pp. 9-10, 15; Exhibit 16, p. 12.)
36. Uses of Special Value to the Neighborhood: The Applicant is providing the following public benefits and amenities. The total value of the community amenities package is at least \$1.58 million:
- Affordable Dwelling Units – 28 units, as described above, will be set aside as affordable dwelling units.

- The Triangle Park – The Applicant will make \$315,000 in improvements to the District of Columbia Department of Parks and Recreation’s “Triangle Park” bounded by 4th Street, Lincoln Road, and Franklin Street N.E. This park is within 150 feet of the Subject Property. The Applicant will make this improvement upon completion of one half of the townhomes (unit 119). The Applicant will plant trees; install sidewalks, lights, and outdoor furniture; construct a cast iron fence around the perimeter; and create stone dust paths through the park in accordance with the plan approved by the Department of Parks and Recreation. The Applicant will maintain the park for three years after completion with a maintenance cost of approximately \$35,000.00. (Exhibit 50.)
- Improvements to Public Infrastructure – Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner will spend approximately \$340,000 to improve the existing infrastructure for 4th, 5th, 6th, and Hamlin Streets above and beyond what would be required for the project. Such improvements shall include sidewalks, street trees, new curbs and gutters, water mains, storm sewers. (Exhibit 50.)
- Local College Scholarship Fund – The Applicant will provide \$60,000 to a fund for the purpose of granting college scholarships to deserving District of Columbia Public School high school seniors residing within ANC 5C. This contribution will be made in single lump sum at the time of the settlement of the first home to the Community Foundation for the National Capital Region, which has a specific administrative infrastructure in place to manage this fund. (Exhibit 50.)
- Homeownership Training – The Applicant will sponsor training for people interested in purchasing the affordable for sale homes in the new community. Specifically, prior to releasing the affordable homes for sale, the Applicant will organize and sponsor informational sessions to meet the various needs of potential purchasers as described in Exhibit 50 of the record.
- Improvements to Shaed Elementary School – Representatives from EYA inspected the school with its head custodian on May 28, 2008 and compiled a detailed list of improvements to be made. EYA completed the list of improvements, including electrical repairs, tile replacement, masonry and concrete repairs, painting, and landscaping, prior to the start of the 2009 school year. The improvements have a value of \$35,000. (Exhibit 50.)
- Mass Transit Incentives – The Applicant will provide each new homeowner with a Transit Welcome Package, which will be intended to educate new residents on the many options available for transit usage. This package will include a \$20.00 Metro SmartCard (\$25), Metro map, bus schedules and routes, and information concerning retailers and service providers within walking distance of the site. (Exhibit 50.)

The Applicant will also make an application for a ZipCar location on the site and will pay the application fee (currently \$25) for each homeowner to become a ZipCar member.

Prior to the issuance of a Certificate of Occupancy for this PUD project, the Applicant will also install a SmartBike kiosk at the site's property line at Hamlin Street N.E.

- Small Business Grants – The Applicant will make a \$55,000 contribution to the Ward 5 Business Council to fund grants and training to small businesses within ANC 5C. EYA's contribution will be made in single lump sum at the time of the settlement of the first home. (Exhibit 50.)
- Contribution to Edgewood Civic Association – Prior to the issuance of a Certificate of Occupancy for this PUD project, the Applicant will provide \$15,000 for equipment and services for the benefit of Edgewood Civic Association. EYA will purchase a laptop and printer for the Association so that it may further its membership goals. Any funds remaining from the purchase of the referenced equipment will be used pay legal fees for establishing the Association as a non-profit 501(c)(3) and to prepay printing costs of the Association. (Exhibit 50.)

37. Comprehensive Plan: The PUD is consistent with many Major Elements of the Comprehensive Plan, including; the Land Use Element, the Transportation Element, the Housing Element, the Environmental Protection Element, the Parks, Recreation, the Open Space Element, the Urban Design Element, the Generalized Land Use Map, and portions of the Upper Northeast Element.

- Land Use Element: The proposed development is consistent with the land use provisions of the Comprehensive Plan since it is an infill development within one-half mile of a Metro station. The proposed project will be complementary to the surrounding neighborhood and will create a walkable community with usable green space.
- Housing Element: The proposed development is consistent with the housing provisions of the Comprehensive Plan since it creates 237 new townhomes. The Housing Element of the Plan seeks to ensure housing affordability; foster housing production, promote home ownership, and limit displacement. The Property is located in a residential and institutional neighborhood. A new development of townhomes in this neighborhood will not be disruptive, and in fact provides a new type of residential opportunity for existing residents of the neighborhood. No displacement of residents will occur as a result of this application. The proposed project will create new homes in a community with significant for-sale housing needs on property that is currently vacant. The proposed high-quality residential community will serve as an anchor that strengthens and enhances the surrounding residential neighborhood.
- Transportation Element: The proposed development is consistent with the Transportation element because of its proximity to the Brookland-CUA Metrorail Station. This site is also well served by the Metrobus service. These transit options will encourage people to live within the District and utilize public transportation resulting in a decrease in automobile traffic. The Plan promotes smart growth as a

regional solution of promoting infill and transit-oriented development. In addition, the Applicant will enhance the existing road network of the District by creating an effective and safe internal street system. Further, the sidewalks of the proposed development will be connected to the existing sidewalk system on 5th, 6th, Hamlin and Jackson Streets N.E. The sidewalks on these streets will be safer and more user-friendly with the integration of a complete pedestrian sidewalk system for the surrounding neighborhood.

- Urban Design Element: The proposed development will reflect the beneficial architectural qualities of the surrounding neighborhood, including St. Paul's College. In site planning and architectural detailing, the Project will emphasize and help strengthen a neighborhood identity for this area while still creating a new development that is in harmony with the strong architectural character of St. Paul's College. The Project proposes an appropriate number and density of residential units, while allowing for sufficient private and public open space for the residents.
- Parks, Recreation, and Open Space Element: The proposed project will offer new parks and public open space for residents of the new community and the surrounding neighborhood. Many of the townhomes will open onto shared courtyards of varying width and length. These courtyards will feature outdoor seating areas and panels of lawn surrounded by lush and diverse plantings of flowering and evergreen shrubs, herbaceous perennials and ornamental grasses. The Project will have a primary public open space: a 14,000 square foot park with a relatively level expanse of lawn punctuated by shade trees and surrounded by masonry seat walls and retaining walls, benches and mixed border plantings of ornamental trees, shrubs, herbaceous perennials, and ornamental grasses. The park will be suitable for both active and passive recreational activities and will include a paved plaza to serve as a community gathering place.

In addition, one of the public amenities, as discussed above, is the improvement of the existing public Triangle Park located a short distance away.

- Environmental Protection Element: The proposed project incorporates an extensive landscape plan providing for abundant trees and for comprehensive and creative stormwater treatment. The Low Impact Development ("LID") strategy included in this project will both reduce stormwater runoff and help treat stormwater prior to it leaving the Property. In addition, the Project will promote environmental sustainability by complying with the U.S. Environmental Protection Agency and the U.S. Department of Energy's Energy Star Program for new homes and the equivalent of the LEED – ND certification from the U.S. Green Building Council.
- Generalized Land Use Map: The Comprehensive Plan Generalized Land Use Map includes the Subject Property in the Institutional land use category. The Institutional land use category envisions multiple-unit housing as well as low and moderate density housing such as row houses. The proposed project is entirely consistent with the Generalized Land Use Map designation of this site.

- Upper Northeast Element: The project is consistent with the area element calling for the capitalization on the presence of Metro stations. The creation of 237 new townhouses so close to the Brookland – CUA Metrorail station will capitalize on the presence of this Metro station and will improve transit ridership on both Metrorail and Metrobus.

The project is also consistent with the area element recognizing the importance of institutional open space. Accordingly, the development's primary public open space will be a 14,000 square foot on-site park. In addition, the Applicant is proposing to make improvements to the landscaping of the nearby, off-site Triangle Park.

GOVERNMENT REPORTS

38. In its July 7, 2008 report, OP recommended that the Commission approve the project. OP determined that the project is consistent with the goals and objectives of the Comprehensive Plan by increasing the range of housing options within Edgewood/Brookland. OP noted although the Property is designated as Institutional on the Generalized Land Use Map, this project would not be inconsistent with this designation. OP also noted that the project supports several Smart Growth principles. (Exhibit 28, p. 5.)
39. The July 7, 2008 OP report included the following:
 - A recommendation that the affordable units be distributed among all sizes (14-, 16-, and 18-foot widths);
 - More information about some of the community amenities, such as the scholarship, the contribution to the Edgewood Civic Association, the homeownership training, the improvements to Shaed Elementary School, and the contents of the Transit Welcome Package;
 - Installation of a SmartBike kiosk along the 7th Street frontage;
 - Dedicate 2-3 ZipCar parking spaces on-site; and
 - Copies of the First Source Employment Program contract be placed in public record before any permits are issued. (Exhibit 28, pp. 4, 12, 13.)

ADVISORY NEIGHBORHOOD COMMISSION REPORT

40. Silas Grant, ANC Commissioner of 5C09, testified on behalf of concerns expressed from citizens in the community. He noted first that EYA has done a good job in engaging the community and in designing the project. He then stated that many citizens are concerned that the project will decrease the availability of on-street parking in the neighborhood and that traffic (both from residents and from construction) will adversely impact the neighborhood. He also expressed that the amenities should be refined to reflect the needs

of the community most directly impacted by this project (July 17, 2008 Transcript, p. 200-209).

41. By resolution dated September 16, 2008, ANC 5C voted to oppose the PUD because the community and the Applicant could not agree on the components or value of the community benefits package and because the residents continued to have concerns about construction traffic and commuter traffic on the proposed ingress and egress streets. (Exhibit 41.)

PARTIES AND PERSONS IN SUPPORT

42. Victoria Leonard Chambers, Senior Policy Analyst, testified in support of the project on behalf of Ward 5 Councilmember Harry Thomas, Jr. She noted the importance of building housing in the area and praised EYA for its engagement of the community. In addition, she commented on how EYA, the community, and Councilmember Thomas worked closely to design the community amenities package. (July 17, 2008 Transcript, p. 58.)
43. Deborah Smith, a nearby resident, testified in support of the project but with reservations. She testified that the community should have more input concerning the community amenities package and that the number of amenities should be increased. She also noted that the additional traffic should be considered more. (July 17, 2008 Transcript, pp. 223-230.)
44. Linda Yahr, a nearby resident, testified in support of the project but with reservations. She testified that she was pleased with the development and that it would be an asset to the community. However, she also stated that the community amenities being offered are insufficient for the impact that the project will have on the neighborhood, so she requested an increase in the amenities. She noted that more green space should be provided. (July 17, 2008 Transcript, pp. 233-239.)

PARTIES AND PERSONS IN OPPOSITION

45. Other than ANC 5C, which was automatically a party and whose opposition is discussed above, no parties testified in opposition to the project.
46. By letter dated July 3, 2008, the Dominican House of Studies and College of the Immaculate Conception (the "Dominicans") requested to participate as a party in opposition to the project. The Dominicans withdrew their request prior to the hearing.
47. Carol Parks, a nearby resident, testified as a person in opposition to the project. She noted that she does not oppose the project but that she opposes the parking scheme. She stated that the project does not provide a sufficient amount of off-street parking. (July 17, 2008 Transcript, pp. 240-243.)

DECISION MEETING

48. At the September 29, 2008 decision meeting, the Commission asked the Applicant to provide a Construction Management Plan including the study of the use of 4th Street N.E. for construction traffic and a clarification on the Applicant's proposed benefits package. (September 29, 2008 Transcript, pp. 35-51.)
49. In its post-hearing supplementary filing, dated October 20, 2008, the Applicant addressed and submitted information on the preceding requests of the Commission. This filing provided a detailed Construction Management Plan, including construction vehicle routing, work hours, parking, deliveries, site management, and cleanliness. The filing also included greater explanation of the amenities package. (Exhibit 56, Exhibits 1, 2.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide 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, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission finds that the requested relief from the rear and side requirements and to allow more than one principal structure on a single lot can be granted with no detriment to surrounding properties and without detriment to the zone plan or map.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage 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 Commission agrees with the written submissions and testimony of the Applicant's representatives that the project will provide superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right project on the Subject Property would provide. The Commission finds that the mix of residential unit sizes, the harmonious architecture and design, the extensive green spaces, the pedestrian-friendly streets, the orientation of the residential units to front on courtyards or private streets, and the transportation oriented design are significant project amenities and exemplify superior features of urban design and architecture and site planning.

5. The Commission determines that the provision of 28 14-foot-wide affordable units made available to purchasers at or below 50% AMI (14 units) and to purchasers at or below 80% AMI (14 units) is a significant project amenity. The Commission also concludes that the proposed community amenities package will provide appropriate benefits to members of the surrounding area and the District as a whole.
6. The Commission finds that the proposed low impact development strategy proposed by the Applicant is an environmentally sensitive approach to development on the Property and is a public benefit and project amenity. The Commission believes that the landscape elements of the project add to the attractiveness of the immediate area and the comfort of the residents of the project and their guests and are therefore deemed to be another amenity of the project.
7. The Commission agrees with the testimony and written submissions of the Applicant and its experts, as well as the recommendations of OP, that approval of the proposed project is not inconsistent with the Comprehensive Plan. The Commission finds that the project is consistent with and promotes numerous elements and policies of the Comprehensive Plan. Specifically, the Commission believes that the project furthers the elements of: land use by creating an infill and transit-adjacent project; transportation by capitalizing on its proximity to the Brookland – CUA Metro station; housing by providing more neighborhood housing; environmental protection through its stormwater runoff plan; parks, recreation, and open space by offering extensive green space; and urban design by providing a harmonious and pedestrian-friendly design. The Commission also finds that the proposed PUD is also consistent with policies from the Upper Northeast Area Element.
8. The Commission agrees with the conclusions of the Applicant's traffic and parking expert and DDOT that the proposed project will have negligible adverse traffic or parking impacts on the surrounding community. The Commission believes that the proposed traffic signal adjustments at the identified intersections and that signs and pavement markings on Franklin Street are important in reducing any traffic impacts.
9. The impact of the project on the surrounding area and the operation of city services and facilities is acceptable given the quality of the public benefits in the project.
10. Judging, balancing, and reconciling the project amenities and public benefits offered, the degree of development incentives requested and the potential adverse affects of the project, the Commission concludes that the Application warrants approval.
11. In accordance with D.C. Official Code §1-309.10(d), the Commission must give great weight to the issues and concerns of the affected ANC raised in its written recommendation. ANC 5C stated in its resolution that it opposed the application because the community and the Applicant could not agree on the components or value of the amenities package and because the residents had ongoing concerns about construction

and commuter traffic on the streets proposed as entrances/exits to the project. In particular, the Applicant and the ANC 5C09 Commissioner could not agree on the amount of money to be allocated to each of the particular amenities and whether certain amenities held value for the community. While the Commission acknowledges the ANC's concerns, it concludes that the Applicant's benefits and amenities are comprehensive, complete and in keeping with the requirements of the Zoning Regulations and § 2403.9. Further, the Commission concludes that it credits the Applicant's traffic expert and DDOT that the PUD will not create adverse impacts on neighboring property or the neighborhood due to an increase in vehicular traffic.

12. 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 agrees with the OP recommendation for approval and accords those recommendations the great weight to which they are entitled.
13. Approval of the application 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 Zoning Map of the District of Columbia.
14. Notice of the public hearing was provided in accordance with the Zoning Regulations.
15. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
16. The Applicant is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Finding of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review of a planned unit development and related Zoning Map amendment application from the R-5-A Zone District to the R-5-B Zone District for a portion of Lot 808 in Square 3648 as shown on Exhibit 1. The approval of this PUD and related Zoning Map amendment is subject to the following guidelines, conditions, and standards of this Order.

Except where otherwise noted, compliance with the following conditions shall be the sole responsibility of the Owner, although the Owner may authorize others to perform on its behalf. For the purposes of these conditions, the term "Owner" shall mean the person or entity then holding title to the subject 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 Subject 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. Reference to the Applicant shall refer to EYA, LLC and any successor in interest.

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 16, 17, 25, and 44 of the record, as modified by the guidelines, conditions, and standards of this Order.
2. Twenty-eight of the residential units shall be reserved as affordable housing dwellings. Fourteen of the affordable units will be available to purchasers with annual household incomes at or below 50% of the Washington Metropolitan Area Median Income and 14 of the units will be available to purchasers at or below 80% of the Washington Metropolitan Area Median Income. The 28 affordable housing units offered will be the 14-foot-wide units and will be dispersed evenly throughout the project in accordance with the plan submitted by the Applicant.
3. Upon completion of one half of the townhomes, the Owner shall make \$315,000 in improvements to the District of Columbia Department of Parks and Recreation's "Triangle Park" bounded by 4th Street, Lincoln Road, and Franklin Street N.E. The improvements shall include, but not be limited to planting trees; installing sidewalks, lights, and outdoor furniture; constructing a cast iron fence around the perimeter; and creating stone dust paths through the park in accordance with the plan approved by the Department of Parks and Recreation. The Owner shall maintain the park for three years after completion of these improvements.
4. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner shall improve the existing infrastructure for 4th, 5th, 6th, and Hamlin Streets in accordance with the plans contained in Exhibit 16 of the record.
5. On or before the settlement date of the first home, the Owner shall provide \$60,000 to a fund that will grant college scholarships to deserving District of Columbia Public School high school seniors residing within ANC 5C. The funds shall be deposited with the Community Foundation for the National Capital Region, which will administer the fund.
6. Prior to the release of the affordable homes for sale, the Owner shall organize and sponsor informational sessions to meet the various needs of potential purchasers as described in Exhibit 50 of the record.
7. The Owner shall provide each new homeowner with a Transit Welcome Package to educate new residents on the options available for transit usage. This package shall include a \$20.00 Metro SmartCard, Metro map, bus schedules and routes, and information concerning retailers and service providers within walking distance of the site.
8. The Owner shall apply for a ZipCar location on the site and pay the application fee for each homeowner to become a ZipCar member.
9. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner shall install a SmartBike kiosk at the site's property line at Hamlin Street N.E.

10. The Owner shall make a \$55,000 lump sum contribution to the Ward 5 Business Council to fund grants and training to small businesses within ANC 5C on or before the time of the settlement of the first home.
11. Prior to the issuance of a Certificate of Occupancy for this PUD project, the Owner will provide \$15,000 for equipment and services for the benefit of Edgewood Civic Association. The contribution will be conditioned upon the use of the money for a laptop and printer and that any remaining may only be used to pay legal fees for establishing the Association as a non-profit organization recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.
12. The Project shall include the low-impact development features specified in Exhibit 16 of the record, including the following features:
 - Four underground storm water management facilities, which will have integral sediment traps, will provide water filtration, and will reduce peak flows;
 - A rain garden to treat the runoff from the roof and paved parking areas of some buildings;
 - Bioswales along the roadways to filter the runoff;
 - Existing water mains will be looped and interconnected throughout the site to improve the water system;
 - Separate storm water and sewer systems;
 - New storm drains on Hamlin Street, Jackson Street, and 5th Street to accommodate runoff from the project;
 - Compliance with the Energy Star Program for new homes; and
 - Compliance with LEED – ND standards of the U.S. Green Building Council.
13. Prior to the issuance of a building permit for the PUD project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services. In addition, the Applicant shall provide information session for relevant Ward 5 businesses about the type of subcontractors needed for the project and the qualifications for completing the work.
14. The Applicant shall abide by the Construction Management Plan in Exhibit 56 of the record.
15. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;

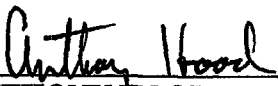
- To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials;
 - To vary the exact location of the affordable units, as show on the plans, provided they are so located in the same townhome building units or in the townhome building across from a common open space as shown on the plans; and
 - To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit.
16. The PUD shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1, the filing of the building permit application will vest the Zoning Commission Order. Construction of the PUD project must start within three (3) years of the date of the effective date of this order.
17. No building permit shall be issued for the PUD until a covenant has been recorded in the land records of the District of Columbia, between the Owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (“DCRA”). Such covenant shall bind the Owner and all successors in title to constrict and use the Property in accordance with this order, or amendment thereof by the Zoning Commission. The Applicant shall file a certified copy of the covenant with the records of the Office of Zoning.
18. The PUD related map amendment shall be effective upon the recordation of the covenant discussed in Condition No. 20, pursuant to 11 DCMR § 3028.9.
19. The Applicant and Owner are 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, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which 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. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

For these reasons above, the Commission concludes that the applicant has met the burden, it is thereby ORDERED that the application is GRANTED.


On September 29, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the Application by a vote of **4-1-0** (Anthony J. Hood, Curtis L. Etherly, Jr., Michael G. Turnbull to approve; Gregory N. Jeffries to approve by absentee ballot; Peter G. May to oppose).

On November 10, 2008, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Order was **ADOPTED** by the Zoning Commission at its public meeting by a vote of 3-1-1 (Anthony J. Hood, Michael G. Turnbull to adopt; Gregory N. Jeffries to adopt by absentee ballot; Peter G. May to oppose; Third Mayoral Appointee seat vacant, 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* on May 8, 2009.



ANTHONY HOOD
Chairman
Zoning Commission



RICHARD S. NERO, JR.
Acting Director
Office of Zoning

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., May 18, 2007

Plan for Building Permit of SQUARE 3848 LOTS 807 & 808

Scale: 1 inch = 100 feet Recorded in Book A&T Page 3788-C

Receipt No. 07888

Furnished to: PWSP

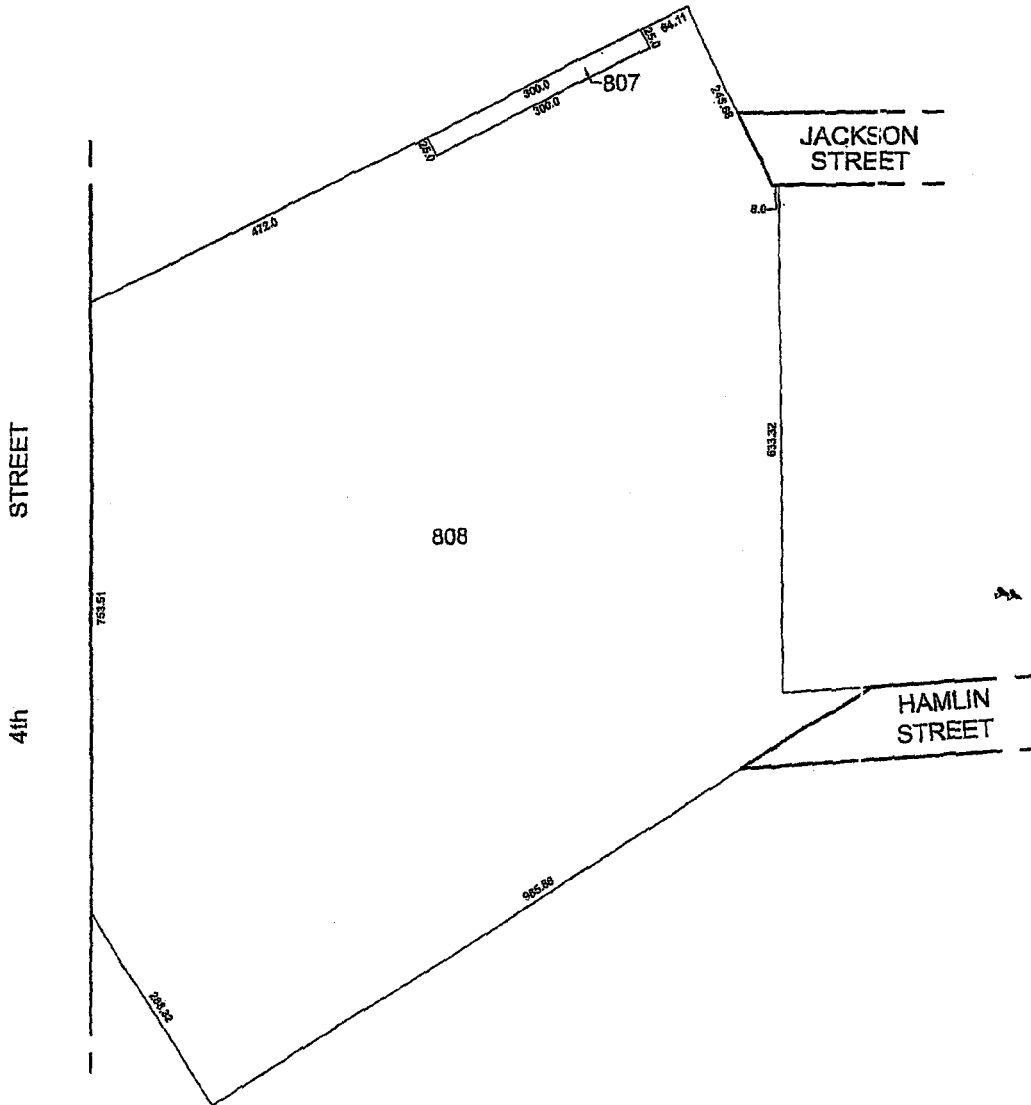
[Signature]
Surveyor, D.C.
B/c L.M.A. *[Signature]*

I hereby certify that all the measurements shown hereon, are completely true and correct, and are correctly placed, that all proposed buildings or constructions, or parts thereof, including covered porches, are shown, dimensioned and plotted, and agree with plans accompanying the application, and that the foundation plus its shown height is shown, and dimensioned accurately as the same appear in the plat, and that the plat is correct in every respect of the proposed measurements to be located as shown, unless the size of any adjoining lot or premises is not discussed in an order hereon as required by the zoning regulations for light and ventilation; and if in any case existing and agreed that accessible parking has been required by the zoning regulations, and that the same has been correctly shown and dimensioned hereon, it is further agreed that the elevation of the accessible parking area shall comply with the Highway Department's approved standards and shall conform to the use of grade survey certificate of driveway at any point on a main roadway in excess of 20% for single-family dwellings or lots, or in excess of 12% in any case for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and lot areas situated property.)

Date: _____

[Signature]
(Signature of owner or his authorized agent)

NOTE: Data shown for Adjoining Lots and Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



Z.C. Case 07-27

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 07-27

MAY - 6 2000

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 07-27 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, NW. |
| 2. Phil Feola, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037-1128 | 6. Councilmember Harry Thomas, Jr. |
| 3. Anita Bonds, Chair
ANC 5C
P.O. Box 77761
Washington, DC 20013 | 7. DDOT (Karina Ricks) |
| 4. Commissioner Silas Grant
ANC/SMD 5C09
2830 6 th Street, NE
Washington, DC 20017

Washington, DC 20004 | 8. General Counsel - DCRA
941 North Capitol Street, NE
Suite 9400
Washington, DC 20002 |
| | 9. Office of the Attorney General
(Alan Bergstein) |

ATTESTED BY:

A handwritten signature in black ink, appearing to read "S.S. Schellin", is written over a horizontal line.

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