

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-35**

Z.C. Case No. 07-35

**(Consolidated PUD – Sheridan Redevelopment LLC + D.C. Housing Authority)
November 10, 2008**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on June 26, 2008 to consider an application from the D.C. Housing Authority and Sheridan Redevelopment LLC (collectively, the "Applicant") for review and approval of a consolidated planned unit development ("PUD") and related map amendment, for Lots 61-66 in Square 5869, Lots 49-56, 131-135, 940, 956, 958, 961, 963, 965, 967, 969, 971, and 972 in Square 5872, located on a site in the Hillsdale neighborhood of Anacostia, pursuant to Chapter 24 and § 102, respectively, of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The public hearing was conducted in accordance with the contested case provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application subject to the specified conditions.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On December 31, 2008 the Applicant submitted an application to the Zoning Commission for a consolidated PUD and a related map amendment from the R-5-A Zone District to the R-5-B and C-2-A Zone Districts. The application and supplemental submissions requested approval of architectural plans and site plans depicting 344 dwelling units, including a 104 unit apartment building, 68 stacked townhome units, 116 townhouses, and 56 units in 14 four-story walk-up buildings (each having four units).
2. Sheridan Redevelopment LLC is a partnership between William C Smith & Co., Union Temple CDC, and the Jackson Investment Co. The land is owned by the D.C. Housing Authority and William C Smith & Co. The D.C. Housing Authority property will be ground-leased to Sheridan Redevelopment LLC upon completion of the construction of the project.
3. At its public meeting on February 21, 2008, the Commission voted to schedule a public hearing on the application, and to waive the hearing fee for the portion of the project that was to receive a government housing subsidy.
4. The Office of Zoning received the Applicant's Pre-Hearing Statement on February 27, 2008 and a supplemental submission, including revised architectural plans on June 6, 2008.
5. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on April 18, 2008. The Notice of Public Hearing

002476

ZONING COMMISSION
District of Columbia
CASE NO.07-35B
EXHIBIT NO.1A

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 2

was mailed to all property owners within 200 feet of the subject property, as well as to Advisory Neighborhood Commissions ("ANC") 8A and 8C.

6. The parties in the case were the Applicant and ANCs 8A and 8C. The northern portion of the PUD site is located within the border of ANC 8C, and the southern portion of the site is located within ANC 8A. Accordingly, both ANCs are "affected" for purposes of receiving great weight as required by § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)).
7. After proper notice, the Commission opened and completed the public hearing on June 26, 2008. At the conclusion of the public hearing, the Commission requested supplemental information and analysis from the Applicant, which was received on July 24, 2008.
8. The Commission took proposed action to approve the application on September 8, 2008, but conditioned its approval on the receipt of further information from the Applicant and left the record open to receive that information. The Applicant submitted this requested information on September 29, 2008.
9. 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 September 25, 2008, found that the proposed PUD would not have an adverse effect on federal interests nor be inconsistent with the Comprehensive Plan for the National Capital.
10. The Commission took final action on November 10, 2008 to approve with conditions the application and plans that were submitted into the record.

The Site and Area

11. The property that is the subject of this Order consists of approximately 12 acres of land area (296,793 square feet) in the Hillside neighborhood of Anacostia. The site fronts on Sheridan Road, S.E., between Pomeroy Road and Howard Road, S.E. It is bisected by Sayles Place, S.E., Bowen Road, S.E., Stanton Rd., S.E., and Douglas Road, S.E. The site is a rolling hillside that changes in grade of approximately 70 feet of grade from north to south, rising from Sheridan Road to the top of the site and 10 to 20 feet of grade across the site. The property is identified as Lots 61-66 in Square 5869, Lots 49-56, 131-135, 940, 956, 958, 961, 963, 965, 967, 969, 971, and 972 in Square 5872 (the "PUD Site").

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 3

12. The PUD site is currently zoned R-5-A which generally permits low density residential development including multi-family residential to a maximum height of 40 feet and a maximum density of 0.9 FAR.
13. The apartment buildings formerly constituting the Sheridan Road public housing development have been demolished, and the PUD Site is currently vacant.
14. The area surrounding the PUD Site is generally developed with a mix of row dwellings and garden apartments. Properties to the east and west of the PUD Site are generally zoned R-5-A and properties adjacent to the site on the north are zoned C-2-A.

The PUD Project and Zoning Flexibility Requested

15. The Applicant testified that it plans to develop the PUD Site with 344 dwelling units, including 104 units in an apartment building with ground-floor, community-serving, flex space; 68 stacked townhome units; 116 townhouses; and 56 units in 12 four-story walk-up buildings (each having four units). The overall goal is to create a stable, mixed-income residential community, with the emphasis on affordable housing. Approximately 110 units (32%) will be in the low-income range, 119 units (35%) will be in the moderate-income range and 115 units (33%) will be market rate. In addition, the development will encourage and provide homeownership opportunities. Approximately 47% of the units will be for sale.
16. The site plan is described as follows. The apartment building fronts on Sheridan Road on the westernmost portion of the site closest to the Anacostia Metrorail Station. It will contain 104 residential units, ground floor flex space (as described in further detail below) and an underground parking garage. This parcel (Lots 62-65, Square 5869) is proposed to be rezoned to C-2-A. The remainder of the site will be rezoned to R-5-B. It will contain 240 residential units with a total of nine unit types to include stacked townhouses, traditional townhouses and four unit walk-up buildings. Along Sheridan Road, the units will be arranged in "U" shaped mews with the four-unit walk-up buildings fronting on Sheridan Road and the townhouses arranged along the arms of the "U." The inside of the "U" is devoted to a landscaped courtyard and parking area. The interior of the site will be developed with groups of stacked townhouses located along interior roadways. Three tot lots and additional landscaped, green space are also provided, as well as new sidewalks to facilitate ease of walking to the Anacostia Metro station.
17. The height and density of the apartment building, 65 feet and 2.8 respectively, are within the C-2-A PUD standards (i.e., 65 feet and 3.0). The maximum lot occupancy and side yards for the apartment building, 85% and 6 feet, require flexibility from the 60% and 10.83 feet requirements of the C-2-A standards.

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 4

18. The height of the single family units will range from 45 feet for the traditional townhouses to 55 feet for the stacked townhouses. The four-unit walk-ups are approximately 55 feet high. All of these proposed building heights are within the 60-foot building height allowed in R-5-B with a PUD. Lot occupancy varies on the individual townhouse lots with a maximum of 71.6% lot occupancy, requiring flexibility from the allowed 60% lot occupancy in the R-5-B Zone District.
19. A total of 263 off-street parking spaces will be provided to include 63 spaces in an underground garage for the apartment building, one space for each traditional townhouse (116 spaces total) and one space for each two units in the stacked townhouses and four-unit walk-ups (84 units total).
20. The "Site Access and Impact Analysis" dated May 30, 2008 prepared by O. R. George & Associates, Inc., indicated that: *[T]he proposed development can be accommodated without any appreciable adverse traffic impacts on the local area. The study area roadway network currently operates within the City's planning standards, would continue to do so upon build-out of the proposed development.*
21. Because of the PUD site's severe topography, the housing project previously located there had serious problems with stormwater run-off and flooding. To address these challenges, the Applicant retained a team of consultants to design an appropriate stormwater management system, and strategy for dealing with soil conditions. (Applicant's July 30, 2008 submission.) The Applicant will install an entirely new stormwater management system, intended to capture the first half inch of rainfall that falls within a 24-hour period, through use of Filtera, Baysaver, and sand filter systems throughout the site, and the use of permeable pavers where practical and possible. In addition the project uses native landscaping to prevent erosion and run-off. (Applicant's pre-hearing statement.)

Public Benefits and Project Amenities

22. The application offers the following public benefits and project amenities and other statements of compliance with the PUD Evaluation Standards set forth in 11 DCMR § 2403.
 - (a) The PUD project is a new, high-quality, mixed-income residential community. The revitalization plan features a housing mix tailored to homeowners and renters with a wide spectrum of incomes.
 - (b) The PUD project is directly in furtherance of specific public plans and policies, including expanding the area's housing supply and affordable housing for families and housing tenure diversity.

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 5

- (c) The development plan exhibits attractive urban design, new landscaping and environmental improvements. A new street network will be created, and a balanced mixture of housing types and densities are proposed according to planning principles.
- (d) The site plans, landscape plans and architectural plans exhibit a high quality of urban design and environmental features.
- (e) The project includes 5,000 square feet community meeting space and flexible social service space ("flex space") on the ground floor of the multi-family building for community related use. A portion of the flex space will be set aside for meeting space for residents of Sheridan Terrace and the larger community, this portion of the space will be furnished and made available free of charge. The remainder of the flex space will be reserved for one or more of the following uses:
 - Health, Wellness, and Environmental related uses
 - Fitness and Exercise related uses
 - Arts or culture related uses
 - Computer and/or technology space

The final programming for the flex space will be made with input from the Sheridan Terrace Steering Committee and the surrounding community. (Exhibit 70, Attachment 2.)

- (f) Eighty-nine of the 104 units of the multi-family building will be reserved for and affordable to residents at or below 60% AMI. One hundred twenty-five out of the 240 units will be reserved for and affordable to residents at or below 80% of AMI. (Exhibit 70, Attachment 3.)
- (g) The multi-family building also includes a green roof/recreation space and on-site secured bike parking. (Exhibit 70, Attachment 3.)
- (h) All units will be Energy Star compliant. (Exhibit 70, Attachment 3.)
- (i) The project includes a green roof terrace. The project will achieve LEED ND, and LEED for Homes Certification. The project will include Low Impact Development practices. (Exhibit 70, Attachment 3.)
- (j) The project includes three playgrounds/tot lots; native landscaping; a new stormwater management system with low impact development practices; and a new natural stone wall along Sheridan Road. (Exhibit 70, Attachment 3.)

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 6

Consistency with the Comprehensive Plan

23. The PUD is not inconsistent with the *Comprehensive Plan for the National Capital* (the "Plan"). The Site is one of the designated Neighborhood Enhancement Areas in the Plan. The guiding philosophy in the Neighborhood Enhancement Areas is to ensure that new development "fits in" and responds to the existing character, natural features and existing/planned infrastructure capacity. New housing is encouraged to improve the neighborhood. The PUD helps carry out numerous goals and objectives regarding the development of housing and affordable housing in the District of Columbia.
24. The scale of development and the proposed R-5-B and C-2-A zoning are fully consistent with the "Moderate Density" land use designation on the 2006 Future Land Use Map of the Plan.

Office of Planning Report

25. By report dated June 19, 2008 and by testimony at the public hearing, OP recommended approval of the Application with the condition that no retail uses be allowed on the apartment building site. OP stated that the development will accommodate residents with a variety of incomes as well as family sizes and would allow residents of the former development to return to the site with a significant improvement in accommodations.
26. OP stated that the project conforms to the recommendations of the Comprehensive Plan, including the Future Land Use Map and the Generalized Policy Map Neighborhood Enhancement Area designation.
27. OP cited public benefits including affordable housing, urban design and architecture, preservation of natural site topography, extensive landscaping, stormwater management, LEED features, and First Source employment and Certified Business Enterprise commitments.

Reports of Other Agencies

28. The D.C. Department of Transportation ("DDOT"), by reports dated June 24, 2008 and July 10, 2008 and by testimony at the public hearings, indicated that it has no objection to the proposed development provided that there are no general commercial uses in the project given the constraints of the nearby Martin Luther King intersection. DDOT's July 10, 2008 report states that the project will provide 263 off-street parking spaces compared to the 178 spaces required by the Zoning Regulations. DDOT recommended that the Applicant provide 40 secured

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 7

off-street bicycle racks and implement a traffic management plan. DDOT offered to work with the Applicant to coordinate traffic and roadway improvements in the area.

ANCs 8A and 8C

29. ANC 8A submitted a letter dated July 1, 2008 that attached the minutes of its July 1, 2008 meeting, and a statement signed by ANC 8A Chairperson Anthony Muhammad. The letter indicated that ANC 8A held a meeting to consider the application that was attended by a quorum of the single member district commissioners, that a majority present voted to approve a motion in support of the PUD project, and designated Anthony Muhammad to speak on behalf of ANC 8A at the hearing. The attached minutes stated the, "Commission voted to support the Sheridan Terrace project, the support also included an amendment to the project that states: The developers shall have in their possession the property that is attached to the Sheridan Project." The attached letter signed by Chairperson Muhammad stated that he was concerned about the possibility of landslides and building foundation issues as a result of the site's topography and existing storm-water systems. The statement further stated that the ANC wanted the District to hire an independent consultant to report on the site's topographic and stormwater issues and present its findings and recommendations to ANC 8A. Finally, the statement indicated that the Applicant should sign a Memorandum of Understanding ("MOU") with terms acceptable to ANC 8A, but does not indicate what those terms are.
30. ANC 8C submitted a report indicating that, at an ANC meeting held on July 9, 2008, the ANC voted to support the project but also expressing concerns about stormwater management, the use of the flex space in the apartment building, and the inability of the Applicant to agree to all of the ANC requested terms of the MOU with the Applicant. The report does not indicate what terms the ANC requested in the MOU. The report was not signed.
31. On September 29, 2008, the Applicant submitted a supplemental filing that included a description of the use of the flex space, and a final MOU signed by a representative of the Applicant, and representatives of ANCs 8A and 8C.

Public Testimony

32. Several individuals testified in support of the application. There was no opposition testimony.

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 8

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means for controlling development of the site in a manner consistent with the best interests of the District of Columbia. The PUD process is designed to encourage high-quality development that provides public benefits (11 DCMR § 2400.1.) and allows 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 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 and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. Approval of this application is not inconsistent with the *Comprehensive Plan for the National Capital*.
5. Approval of this application is consistent with the purposes of the Zoning Regulations and the Zoning Map of the District of Columbia and will promote orderly development in conformity with the Zone Plan as a whole.
6. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the proposed height and density of buildings will not cause any adverse effect on nearby properties. The proposed residential uses are appropriate on this site, which is well served by a major arterial street, bus lines, and a nearby mass transit station. The impact of the project on the surrounding area will not be adverse, but rather will enhance and promote the revitalization of the area.
7. The development of the project is compatible with District-wide and neighborhood goals, plans and programs and is sensitive to environmental protection, public safety and other significant public objectives.
8. The Commission is required under D.C. Code §1-309.10(d) to give great weight to the issues and concerns raised in the written recommendations of the affected

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 9

ANCs. The Commission notes that the affected ANCs 8A and 8C provided reports and testified in support of the application. The report submitted by ANC 8C was unsigned, but the Commission nonetheless will address the issues and concerns raised in report.

- Both ANCs expressed concerns about the topography of the site and related issues of stormwater management, and ANC 8A recommended that the District hire an independent consultant to report on the site's topographic and stormwater issues and present its findings and recommendations to ANC 8A. The Applicant submitted evidence that its site design and new stormwater management measures are adequate to meet the needs of the PUD site. The addition of such a condition would not mitigate any adverse impact and, therefore, is not appropriately included in this Order. Nor does the Commission believe there is a potential for such adverse impacts because it believes that the related issues and concerns that gave rise to ANC 8A's concern about these issues have been addressed by the Applicant.
 - Both ANCs also expressed a concern that the Applicant completes the MOU with the terms sought by ANCs. The Commission notes that the Applicant submitted an MOU signed by the developer and both ANCs with its September 29, 2008 supplemental filing. The record does not contain information to indicate whether the signed MOU contained all the terms sought by the ANCs. However, the Commission concludes that because the MOU was signed by both ANCs, the issues and concerns underlying the terms sought by the ANCs were sufficiently addressed by the agreement.
 - ANC 8A expressed a concern that the PUD did not include all the property commonly understood to comprise Sheridan Terrace. The Commission notes that the Applicant expanded the PUD site by submitting applications to include Lots 961, 965, 967, and 969 in Square 5872 on July 24, 2008 into the PUD, and believes that this addressed the ANC's concern. In any event, the boundary of a PUD site is based upon the area within which all PUD-related improvements are to be constructed.
 - ANC 8C expressed a concern that the use of the flex space was not defined. The Commission believes this concern was addressed by the Applicant's supplemental filings that fully described how the use of the space would be programmed.
9. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 10

DECISION

In consideration of the Findings of Fact and Conclusions of Law stated herein, the Zoning Commission orders **APPROVAL** of the consolidated PUD for property bounded generally by Sheridan Road, S.E., Pomeroy Road, S.E., and Howard Road, S.E., specifically Lots 61-66 in Square 5869, Lots 49-56, 131-135, 940, 956, 958, 961, 963, 965, 967, 969, 971, and 972 in Square 5872. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the site plan and architectural and landscape plans submitted as Exhibits 51 and 64 in the record of this case, and as modified by the guidelines, conditions, and standards of this Order.
2. The project shall be developed with an apartment building to include ground floor community-serving space, townhomes and four-unit walk-up residential buildings, accessory parking, and open space as depicted on the approved plans. No general commercial retail uses are permitted. In accordance with the plans cited above, the approved PUD shall consist of a total of 344 dwelling units, distributed as follows by building type:

(a) An apartment building	104
(b) Single-family Stacked Townhouses	68
(c) Single-family Townhouses	116
(d) Grandhomes, with four units in each of the 14 buildings	<u>56</u>
Total dwelling units	344
3. The maximum building height in the project shall be 65 feet for the apartment building, 55 feet for the townhomes, and 55 feet for the four-unit walk-up buildings and the maximum aggregate gross floor area shall be 1.05 FAR.
4. Approximately 32% of the dwelling units will be reserved for and made affordable to households having 60% or less of Area Median Income, and approximately 35% will be moderate-income units reserved for and made affordable to households having incomes between 60% and 80% percent of AMI in accordance with the requirements of the public agencies providing financial subsidies for this purpose.
5. There shall be a minimum of 263 off-street parking spaces provided in the project.

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 11

6. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - (a) To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the buildings;
 - (b) To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials; and to make minor refinements to exterior details and dimensions, including window frames, glass types, belt courses, sills, bases, cornices, railings, roofs (i.e., substitute pitched for flat roofs and vice-versa), and architectural embellishments trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit;
 - (c) To vary the location of the affordable units within the project so long as they are evenly disbursed throughout the site; and
 - (d) To vary the location of parking spaces on the PUD site so long as the overall number of spaces is not reduced.
7. The Applicant shall execute a Certified Business Enterprise Utilization Agreement with the District of Columbia Office of Local Business Development to ensure minority vendor participation prior to the issuance of a final order.
8. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct and use the subject property in accordance with this Order, or amendment thereof by the Zoning Commission.
9. The PUD related map amendment shall be effective upon the recordation of the covenant discussed in Condition No. 8, pursuant to 11 DCMR § 3028.9.
10. This final PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, the Applicant shall file for a building permit as specified in 11 DCMR §§ 2408.8 and

Z.C. ORDER NO. 07-35

Z.C. CASE NO. 07-35

PAGE 12

2409.1. Construction shall start within three (3) years of the effective date of this Order.

11. 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 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 sexual 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.

On September 8, 2008, upon the motion of Vice Chairman Jeffries, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Gregory N. Jeffries, Curtis L. Etherly, Jr., Peter G. May, and Michael G. Turnbull to approve).

On November 10, 2008, upon the motion of Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **4-0-1** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve; Gregory N. Jeffries to approve by absentee ballot; 3rd Mayoral appointee position 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*, that is, on _____.