

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 09-08
Z.C. Case No. 09-08

Conditions of Approval

1. The consolidated PUD for the Northern Parcel shall be developed and the first-stage PUD is approved in accordance with the plans prepared by Hickok Cole Architects and marked as Exhibits 4, 25, 32, and 32[post-hearing submission] in the record, as modified by the guidelines, conditions and standards herein.
2. The Applicant shall submit, with the application for second-stage approval of the PUD for the Southern Parcel, an application for rezoning the Southern Parcel from the C-M-1 Zone District to the C-2-B Zone District that specifies the proposed rezoning by square and lot. first-stage PUD for the Southern Parcel is approved in accordance with the plans prepared by Hickok Cole Architects and marked as Exhibits 4, 25, and 32 in the record, as modified by the guidelines, conditions and standards herein.
3. The second-stage design of the PUD shall be based on further development and refinement of the plans marked as Exhibits 4, 25, and 32 of the record, as modified by the guidelines, conditions, and standards of this Order and shall include all public benefits described herein.
4. The Applicant shall submit, as part of the second-stage application for the Southern Parcel, landscape plans, detailed architectural plans and elevations indicating the design treatment of the dance studio.

5. ~~4. The Northern Parcel shall be rezoned to the C-2-B Zone District. The change of zoning from the C-M Zone District to the C-2-B Zone District for the Northern Parcel shall be effective upon the recordation of the covenant discussed in Condition No. 12, pursuant to 11 DCMR §3028.9.~~

6. The change of zoning from the C-M Zone District to the C-2-B Zone District for the Southern Parcel shall not be effective until approval of an application for a Second-Stage PUD and upon recordation of a PUD Covenant pursuant to 11 DCMR §3028.9.
Further, the Southern Parcel includes a one-block portion of Kearny Street, which is a public right-of-way. No rezoning of Kearny Street shall be effective until the street is officially closed pursuant to Section 9-202, et seq, of the District of Columbia Official Code.

7. An application for second-stage PUD approval shall address the status of closing Kearny Street. If Kearny Street is not closed by the time of the public hearing for the second-stage PUD, the Commission shall address the implications of removing Kearny Street from the Property.

8. ~~5-~~ The Project shall have flexibility from the rear yard, parking, and rooftop structure requirements as necessary per the approved plans.

9. ~~6-~~The Applicant will distribute information about Zipcar to new residents upon completion of construction of the Northern Parcel and it will distribute bicycle route maps and safety information to all residents upon their move-in.

10. ~~7-~~The Applicant shall have flexibility with the design of the Project in the following areas:

- a. To vary the location and design of all interior components, including, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structures.
- b. To vary final selection of the exterior materials within the color ranges and materials types as proposed, [without a reduction in quality,] based on the availability at the time of construction.
- c. To make minor refinements to exterior details and dimensions, including belts, courses, sills, bases, cornices, railings, and trim or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.
- ~~d. To refine and make adjustments to the trash room on the Northern Parcel for the purpose of developing an alternative system for removing trash from the facility. The Applicant shall be given the flexibility to alter the garage, including a reduction of up to 2 parking spaces, should the Applicant need to use it for trash removal.~~
- d.** ~~e-~~To refine and make adjustments to its landscape plans pending comments from District entities, including Fire and Emergency Management Services and the Washington Area Sewer Authority.

11. ~~8.~~ The Applicant shall reserve 50% of the residential units for households with an income no greater than 60% of AMI and 50% of the residential units for households with an income no greater than 50% of AMI.

~~9. The Applicant shall submit, as part of the second stage application for the Southern Parcel, landscape plans, detailed architectural plans and elevations indicating the design treatment of the dance studio.~~

12. ~~10.~~ No building permit shall be issued for the Northern Parcel until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners 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. Such covenant shall bind the Applicant and all successors in title to construct on or use the Northern Parcel in accordance with this order and any amendment thereof by the Zoning Commission.

13. ~~11.~~ The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

14. ~~12.~~ The consolidated PUD approved by the Zoning Commission for the Northern Parcel shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed by the Applicant for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin on the Project within three years of the effective date of this order.

15. ~~13.~~ The first-stage approval for the Southern Parcel is valid for a period of three years, within which time a second-stage application shall be filed. It is within the Zoning Commission's discretion to extend this period.

16. ~~14.~~ The Applicant is 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 section 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, 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 the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

On _____, 2009, the Zoning Commission approved the application by a vote of _____. This order was adopted by the Zoning Commission at its public meeting held on _____, by a vote of _____.

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

Anthony Hood, Chairman

Zoning Commission

Richard Nero

Acting Director, Office of Zoning