GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-24C
Z.C. Case No. 04-24C
RI Station, LLC
(Minor Modification to Approved Second-Stage Planned Unit Development)

May __, 2016

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on May 23, 2016. At the meeting, the Commission approved an application from RI Station, LLC (the "Applicant") for a minor modification to an approved planned unit development ("PUD") for property identified as Lot 59 in Square 3848 (formerly part of Parcel 130 and Lots 220-221) located in the Brentwood neighborhood of Ward 5, pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations ("Modification Application"). The Commission determined that the Modification Application was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

1. By Z.C. Order No. 04-24A, dated April 9, 2007, effective September 28, 2007 (the "Order"), the Commission approved a second-stage PUD for property then described as part of Parcel 130 and Lots 220-221, in Square 3848. This property was subsequently re-subdivided and is currently described as Square 3848, Lot 59. The Order approved the construction of a mixed-use town center immediately adjacent to the Rhode Island Avenue-Brentwood Metro Station comprised of approximately 270 rental apartments with a gross floor area totaling approximately 322,000 square feet, and approximately 70,000 square feet of space devoted to retail uses. The development is organized around a "Main Street" running perpendicular to the Metrorail station, with three stories of residential apartments above ground-floor retail uses on both sides of Main Street. Seven thousand gross square feet of the retail floor area was set aside for non-credit, community businesses. The project also includes approximately 531 garage and on-street parking spaces. Advisory Neighborhood Commission ("ANC") 5B was an automatic party in that case as the affected ANC. There were no other parties.

2. The Order was subsequently modified pursuant to Z.C. Order No. 04-24B, dated May 12, 2008, effective May 7, 2011. Order No 04-24B approved a minor modification to the Order to replace up to 14,000 square feet of the 70,000 square feet of gross floor area set aside for retail uses with floor area dedicated to office use. The reason for the minor modification was that the District of Columbia government was interested in leasing office space for a community-service oriented use, such as a local Department of Motor Vehicles or Tax Payer Services office.

3. On May 5, 2016, the Applicant submitted an application requesting a minor modification to Z.C. Order Nos. 04-24A and 04-24B. The Applicant requested the ability to replace up to 21,000 gross square feet of the gross floor area reserved for retail uses with customer

#46343525_v1

service oriented office use such as a tax professional, a medical or dental office, an insurance provider, a local real estate office, or other similar use.

4. ANC 5B was the ANC in which the property was located. However, the boundary lines have changed and the property is now located in ANC 5C. As a result, the Applicant served the Modification Application on both ANC 5B and ANC 5C.

5. Each office space will include the following characteristics: (i) active storefront windows that would contribute to the lively pedestrian environment envisioned for the development; and (ii) no physical alterations to the approved site plan and/or approved traffic circulation patterns. The proposed increase in office uses is also consistent with the overall vision for the development approved under the Order. The Order described the development as a vibrant, Class A, mixed-use town center offering new community-serving commercial uses and high quality mixed income apartments. The proposed office uses will be consistent with Class A office uses elsewhere in the District. In addition, the office uses will increase the daytime population around the PUD and bring vitality and diversity to the "Main Street" by reducing the amount of vacant store frontage on the ground floor. Furthermore, the increased office use square footage will offer more patrons for the retail uses that are currently located on the Property.

6. The Office of Planning ("OP") submitted a report dated May 13, 2016 in support of the Modification Application, stating that OP is not opposed to the Applicant's request to further increase the amount of the required retail space that could be used for customer-service oriented office space, from 14,000 square feet, as approved in Z.C. Case 04-24B, to 21,000 square feet and to refine the type of service uses that would be permitted.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed modification is minor and consistent with the intent of previously approved Z.C. Order No. 04-24A. The Commission is of the opinion that approving the Modification Application is appropriate and not inconsistent with the District of Columbia Comprehensive Plan (10 DCMR). The Commission further concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) "ANC Act"), to give great weight to the written recommendation of the affected ANC, provided that the ANC has considered the action at a properly noticed meeting that is open to the public. ANC 5B was the ANC in which the property was located. However, the boundary lines have changed and the property is now located in ANC 5C. The Applicant served the Minor Modification Application on both ANC 5B and ANC 5C and neither ANC submitted comments to the record and thus the Commission cannot afford great weight to the recommendation of the affected ANC.

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's recommendations. As discussed in paragraph 6 above, OP recommended approval of the modification request and the Commission concurs in its recommendation, and therefore gives OP the great weight to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby ORDERS APPROVAL of the application for a minor modification of an approved PUD. Condition 3 of Z.C. Order No. 04-24A is hereby revised to read as follows (new language added through this modification is shown in bold and underlined text):

3. The Project shall be a mixed use town center developed as depicted in the final plans approved in the second-stage application. The project will consist of approximately 370 rental apartments totaling approximately 322,000 square feet of gross floor area; 70,000 gross square feet of retail uses; additional ground floor uses for community businesses; and approximately 531 garage and on-street parking space. **Up to 21,000 gross square feet of the gross floor area reserved for retail uses may be used for customer service oriented office use such as a tax professional, a medical or dental office, an insurance provider, a local real estate office, or other similar use.**

On May 23, 2016, upon the motion of Commissioner Hood as seconded by Commissioner Cohen, the Zoning Commission APPROVED the application by a vote of 5-0-0 (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the D.C. Register; that is, on __________.