

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 06-45

As Secretary to the Commission, I hereby certify that on **DEC 19 2008** copies of this Z.C. Order No. 06-45 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|--|
| 1. D.C. Register | 6. Councilmember Marion Barry – Ward 8 |
| 2. Cynthia Giordano, Esq.
Arnold & Potter, LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004 | 7. Office of Planning (Harriet Tregoning) |
| 3. Wanda D. Lockridge, Chair
ANC 8E
P.O. Box 7050
Washington, DC 20032 | 8. DDOT (Ken Laden) |
| 4. Commissioner Wanda D. Lockridge
ANC/SMD 8E06
419 Valley Avenue SE
Washington, DC 20032 | 9. Zoning Administrator (Matt LeGrant) |
| 5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 | 10. Jill Stern, Esq.
General Counsel – DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002 |
| | 11. Office of the Attorney General
(Alan Bergstein) |

ATTESTED BY:

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

ZONING COMMISSION
District of Columbia

CASE NO. 06-45
EXHIBIT NO. 50

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov
ZONING COMMISSION
District of Columbia
CASE NO. 06-45
EXHIBIT NO. 50

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C.ORDER NO. 06-45
Z.C. Case No. 06-45
(Consolidated PUD and Related Map Amendment – Highlands Addition)
July 30, 2007

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on April 26, 2007 to consider an application from the District of Columbia Housing Authority ("DCHA") and CEMI-NMI Highlands LLC, a joint venture between Crawford Edgewood Managers, Inc. and New Market Investors LLC ("Applicant"), for review and approval of a consolidated planned unit development ("PUD") pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The proposed development is a mixed-income residential community with several building types. The public hearing was conducted in accordance with the contested case provisions of 11 DCMR § 3022. For the reasons stated below the Zoning Commission hereby approves the application subject to the specified conditions.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On November 3, 2006, the Applicant submitted an application to the Zoning Commission for a consolidated PUD and related zoning map amendment from R-5-A to R-5-B.
2. The application requested approval of the building plans and site plans depicting 138 dwelling units, comprised of one single-family detached dwelling; 24 single-family semi-detached dwellings; 95 single-family row dwellings; and 6 triplex stacked flats (18 units).
3. The Office of Zoning received the Applicant's Pre-Hearing Submissions on January 11 and April 6, 2007.
4. The Office of Planning ("OP") submitted its preliminary report on December 29, 2006, and the Zoning Commission set the case down for public hearing at its January 8, 2007 meeting.

5. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on February 2, 2007. The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject property, as well as to Advisory Neighborhood Commission ("ANC") 8E, the ANC within which the property is located.
6. The parties in the case were the Applicant and ANC 8E.
7. The Commission opened and completed the public hearing on April 26, 2007. At the conclusion of the public hearing, the Commission requested supplemental information and analysis from the Applicant, which was received on May 10, 2007.
8. The Commission took proposed action to approve the application with conditions on June 11, 2007.
9. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to Section 492 of the Home Rule Act. The NCPC Executive Director, through a Delegated Action dated June 29, 2007, 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 July 30, 2007 to approve, with conditions, the application and plans that were submitted into the record.

The Site and the Area

11. The property that is the subject of this Order consists of approximately 402,885 square feet or 9.25 acres in area. Approximately 309,288 square feet of land will constitute the PUD site, and the remaining 93,597 square feet of area will be dedicated to public streets and alleys.
12. The site is comprised of a rolling hillside that changes in grade by approximately 80 feet, rising from Valley Avenue to the level of the majority of the neighborhood at its southern end near Condon Terrace. The property is generally bound by Condon Terrace on the south, 8th Street and existing residences on the west, Valley Avenue on the north, and 9th Street on the east, all S.E. This property is legally identified as Square 6123, Lots 78 and 80; Square 6125, Lots 20-25; and Square 6126, Lots 65-69 and 72.
13. The PUD site is located in the Washington Highlands neighborhood of Southeast Washington, on a vacant and demolished portion of the Highland Addition public

housing complex. It is located in Ward 8 and also within the boundaries of ANC 8E.

14. Surrounding development adjacent to the PUD site is predominantly residential and open space. Existing housing types include single-family dwellings, duplexes, and garden and high-rise apartment buildings. On the north, the site is bordered by the Oxon Run Parkway, a large public park system. To the east are the Parkside Terrace Apartments and Draper Elementary School. The southern portion of the PUD site is contiguous to privately-owned duplex and single-family homes, in addition to the Highland Addition apartments, which consists of family apartments owned and operated by DCHA. The western edge of the parcel abuts single-family homes located on Valley Avenue, Foxhall Place, and Condon Terrace.
15. The nearby neighborhood includes a large number of community facilities and recreation areas and facilities, including Oxon Run Park, baseball fields, Oxon Run Community Swimming Pool, Ferebee Hope Recreation Center, Barry/Southeast Tennis Center, athletic fields at Ballou High School, Walter E. Washington Estates Community Center, and the ARC Town Hall Education, Arts, and Recreation Campus. The Southeast Veterans Service Center and Clinic provides housing and services to veterans, including former and current homeless veterans.
16. The majority of the land area of the neighborhood, including the subject property, is zoned R-5-A (Low-Density General Residential). R-5-A is a low-density apartment house zone that allows a variety of residential building types within a height limit of 40 feet, three stories, and a maximum density of 0.9 floor area ratio ("FAR"). With a PUD, the maximum permitted height in R-5-A zones is 60 feet and the maximum density is 1.0 FAR. There are also several pockets of C-1 (Neighborhood Convenience Commercial) zoning within the general vicinity of the PUD site.
17. The application requested a map amendment from R-5-A to R-5-B in order to accommodate the proposed project density of 1.10 FAR. This is slightly more than the 1.0 FAR allowed with a PUD in the R-5-A District. As to proposed building height, the proposed buildings would comply with the R-5-A/PUD height limit of 60 feet. The proposed R-5-B District permits general residential uses to a maximum density of 1.8 FAR and a maximum height of 50 feet. With a PUD, the maximum height and density are 60 feet and 3.0 FAR, respectively.
18. The Applicant requested the following additional areas of flexibility from the Zoning Regulations:

- (a) *Yards.* The Applicant requested relief from the rear yard requirements of § 404 of the Zoning Regulations because five of the townhomes do not meet the 15-foot rear yard requirement. The Applicant also requested relief from the side yard requirement of § 405 of the Zoning Regulations because there are 24 lots with side yards of varying sizes that are all less than nine feet; and
- (b) *Multiple Buildings on a Single Lot.* The Applicant requested relief from § 2516.1 of the Zoning Regulations to permit two or more principal buildings on a single lot of record.

The PUD Project

- 19. The Applicant stated that the proposed Highlands Addition residential community will create a physically and socially vibrant neighborhood in place of this vacant site which is detrimental to the neighborhood. The project implements DCHA's and the Applicant's shared vision of creating a high-quality neighborhood of new housing in the District of Columbia for working families. The overall goal is to create a stable, mixed-income residential community, with a substantial component of affordable housing.
- 20. Other project goals cited by the Applicant are to:
 - (a) Stabilize and improve the neighborhood;
 - (b) Provide street and pedestrian connectivity internal to the new residential community and to external streets and areas;
 - (c) Create safer conditions in the neighborhood by removing a vacant site and filling it with new residents with a vested interest in the neighborhood and who will keep eyes on the street; and
 - (d) Create an environmentally responsible development with sustainability features such as enhanced stormwater management, Energy Star appliances and low-flow plumbing fixtures, and pedestrian-friendly, tree-lined streetscapes.
- 21. The new residential community is designed to create 138 dwelling units in the following building types:
 - (a) Single-family detached dwelling 1
 - (b) Single-family semi-detached dwellings 24

(c)	Single-family row dwellings	95
(d)	Triplex stacked flats (6 buildings)	18
	Total dwelling units	138

22. The breakdown of the 138 dwelling units by number of bedrooms, affordability, and tenure is as follows:

<u>Building Type/Number</u>	<u>Tenure</u>	<u>Affordability</u>
26 two-bedroom units	Rental	Below 60% AMI
4 three-bedroom units	Rental	Below 60% AMI
70 three-bedroom units	Sale	Market
38 four-bedroom units	Sale	Market

23. The project originated when DCHA successfully applied for a development grant from the D.C. Department of Housing and Community Development ("DHCD"), whose financial support aims to achieve success through participatory community planning, a holistic approach to creating a complete new community, a public-private sector partnership with market-rate business discipline, and high-quality design, with a pedestrian environment and other features that encourage social interaction. DHCD funds and support procedures will help the new Highland Additions community to provide high-quality housing affordable to people in a wide range of income levels, including 108 homeownership opportunities for market-rate homebuyers, as well as 30 rental units for low-income families. Both the homeownership units and the affordable units are high priorities in the District Elements of the Comprehensive Plan and Ward 8 policies specifically.
24. All of the affordable units will serve households earning 60% or less of Area Median Income ("AMI"). Although this development is mixed-income, including 108 market-rate homeownership units and will thereby promote community stability, the needs of very low-income persons are met as well, as DCHA has reserved some of the units for priority rental to public housing assisted tenants, including households earning less than 30% of AMI.
25. The Applicant's land use consultant testified that if the new Inclusionary Zoning ("IZ") requirements were in effect, the Highlands Addition PUD project would exceed the requirements by 54%. Moreover, the PUD will serve a greater percentage of low-income households than is required by IZ. Thus, the PUD will substantially exceed the projected IZ requirements as to both quantity of affordable housing and level of income served.

26. The project density as proposed is 1.1 FAR. This is only 0.2 FAR above matter-of-right R-5-A standards and only 0.1 FAR above the R-5-A PUD standard of 1.0 FAR. This is a very minor increase in density given the extent of public benefits and project amenities offered. The proposed density is also within the Moderate-Density Residential designation of the PUD site on both the Generalized Land Use Map of the existing Land Use Element of the Comprehensive Plan and the Future Land Use Map of the forthcoming Comprehensive Plan. The PUD is also consistent with numerous policies in the Land Use, Housing, Environmental, and other Elements of the Comprehensive Plan, and in general is "not inconsistent" with the Comprehensive Plan.
27. The PUD plan proposes a new network of public streets and alleys along which the residences will be constructed. The design of the grid and slope of the streets was closely coordinated between the Applicant's team and the District Department of Transportation ("DDOT"). The proposed new streets through the site connect with 9th Street, S.E., creating greater convenience of vehicular and pedestrian travel for neighborhood residents, as well as future residents of Highlands Addition. The new community is designed to be pedestrian-friendly, with ample sidewalks, street trees, and street lamps.
28. The comprehensive traffic study performed by the Applicant's certified traffic engineer concludes that the new site plan handles its vehicular traffic efficiently, creates no adverse traffic congestion internally or at nearby intersections, and ensures required pedestrian safety measures. In its May 10, 2007 supplemental submission, the Applicant transmitted a copy of DDOT's "Traffic Calming Policies and Guidelines." The Applicant stated a willingness to work with DDOT and the residents on adjacent streets, especially Foxhall Place, which will be extended through the PUD site, to assess potential traffic calming techniques suitable to this situation.
29. The project plans provide for a total of 309 parking spaces -- 57 spaces in garages, 81 spaces on parking pads, 50 tandem spaces (all off-street), and 121 curbside spaces.
30. Building heights will range from 32.29 to 53.3 feet, measured at the curb in the middle front of the building. All proposed heights are well within the 60-foot building height allowed in an R-5-B zone with a PUD. Lot occupancy is 32%, which is well within the allowed 60% lot occupancy in the R-5-B District.
31. The urban design and architecture of the new Highlands Addition community contributes a significant amount of public benefit to Ward 8 and the city, notwithstanding its relatively small size. The proposed plan extends and enhances the Washington Highlands street grid. Although the project site is constrained by

several existing conditions that dictate the need for a variety of building types and blocks, the resulting site plan effectively integrates the new development with its neighborhood. The site plan takes advantage of its steep slope by using basements and integral garages to accommodate the change in grade across the blocks while adding amenity to the new homes. The unit designs strive to minimize the building footprints in order to create an efficient, compact development on the hillside, while taking advantage of newly created street frontages. One positive result of the steep slope is the pleasing "hilltop" views from most of the houses of Oxon Run Park and the neighborhood beyond.

32. The urban design reflects the best of D.C.'s residential neighborhoods, with walkable streets defined by ordered strings of townhouses and stacked flats, lined by trees and streetlights. Row dwellings throughout the community will be designed with façade details and landscaping that reinforce the individuality of the homes. A variety of porches, stoops, and entries will support this distinctiveness and maintain a lively - and supervised - streetscape. The project is located adjacent to Oxon Run Parkway, and the new street and sidewalk connections increase safe pedestrian access (and vehicular access) to this open space, as well as other neighborhood institutions and amenities.
33. The exterior materials were chosen because of their quality, durability, and environmental benefit, rather than using the more typical product, vinyl siding. The brick is carefully interspersed throughout the site so as to blend the new development with the existing neighborhood while maintaining an appropriate mix of materials and details throughout the new development. The use of brick is to be maximized to the extent feasible without putting the home ownership price point in jeopardy, and brick has been placed in locations where appropriate for the scale and site relationships. Approximately one-third of the units have 100% brick front elevations. On those units, the brick will continue on the side, or street facing, elevation if they are located on a corner lot.
34. A mix of porches, stoops, and bay windows will add further variety to the streetscapes and promote a sense of pride in homeownership. The use of rich and varied color schemes accent Washington Victorian and Colonial style façade detailing, and will further contribute to this individualistic quality of the new homes. This variety of materials, elevation styles, and features create diversity and also reinforce the hierarchy of individual streets throughout the neighborhood. Primary streets such as Valley Avenue and 9th Street use more formal Washington Victorian elevations with brick, while the more casual, neighborhood streets such as Rolark Place have a combination of styles and materials.

35. The site plan weaves into the edge of the neighborhood grid of streets and alleys. More formally composed building strings of two-and-one-half to three-and-one-half stories will address the larger scale of Valley Avenue and 9th Street and create a hierarchy to recognize those as primary streets within the neighborhood. Within the site, along the extensions of Condon Terrace and Foxhall Place, the streetscapes transition to more varied, informal rowhouse strings and duplexes that mix two- and three-story façades. Throughout the neighborhood, the uniformity of setback will enhance the streetscape, as well as tie the new development in with the existing adjacent neighborhood. Green space located in the street right-of-way in front of units will be landscaped to subtly reinforce the threshold between the public street and the private houses.
36. The architecture and engineering team found that some retaining walls are required on this site to allow connections of new and existing streets and alleys, to provide usable rear yards for some units, and to facilitate a route from parking to handicapped accessible units. Where possible, foundation walls perform the secondary purpose of retaining the soil, thereby eliminating the use of site retaining walls at those locations. Where necessary, the height of retaining walls ranges between 2 and 10 feet, but they are typically not more than 6 feet. These walls will be topped by a guardrail as required by code. Constructability, safety of proposed street extensions or new streets, and the unit type locations were all crucial factors in planning this development.
37. The Applicant stated that, given the hilly nature of the site and challenging soil conditions, the plans carefully address storm water runoff, slope stability, open spaces, and tree preservation. Existing trees on the developed portion of the site, mostly located within the tree strip, will be preserved wherever possible, and new shade trees will be provided throughout the site. The storm water control plans use natural retention methods as well as traditional connections to existing underground sewers. Storm water management quality control will be met by utilizing the quality control catch basins on public streets, and quality control for the private lots will be provided by underground dry wells located on individual lots. This approach addresses the challenges of this site and maximizes open space and the currently approved mixture of vegetation for successful functioning of the system aesthetics.
38. Because of concerns raised by the Commissioners and public agency comments to OP, the Applicant's civil engineer performed additional computations and met with senior staff of the Watershed Protection Division of the D.C. Department of Environment ("DDOE"). The results of that meeting were conveyed to the Commission on May 10, 2007, in a memorandum that summarized the conclusions of the attendees. At the meeting, the civil engineer presented his calculations of storm water run-off for the 15- and 100-year storm events under

existing and proposed conditions, using the TR-55 methodology. The memorandum states that consensus was achieved with DDOE officials that, "the proposed development complies with DDOE's stormwater management *quantity* control requirements." As to *quality* controls, DDOE concurred that the proposed catch basins in public streets and alleys, together with recharge cells for private lots, will be acceptable. The civil engineer stated that runoff from the PUD site will actually be, "less than or equal to the pre-developed condition." The Applicant stated to the Commission that it will comply with storm water management requirements in the building permit process.

39. At the Commission's request, the Applicant submitted to the record a memorandum and checklist setting forth the District's new Green Communities Criteria and providing a preliminary assessment of their potential application to Highlands Addition. Although the Applicant has not committed to meeting the Green Communities Criteria, the Applicant estimates that the PUD project would score 32 "optional" points, compared to the program's requirement of 25 points.
40. On May 10, 2007, the Applicant submitted to the record a Construction Management Plan designed to, "mitigate any adverse impact on the surrounding neighborhood resulting from construction activities associates with the Highlands Addition project." The plan includes contact information for the developer's representative and duties; construction activity standards related to compliance with D.C. laws, site management, cleanliness, pest control, work hours, contractors and subcontractors, and traffic, loading, and parking; surveys of adjacent residences; and indemnification.

Public Benefits and Project Amenities

41. The proposed PUD 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) A new, high-quality, mixed-income residential community will replace the existing vacant site, pursuant to the plans of the District of Columbia Housing Authority and its joint venture with private developers to accomplish this neighborhood revitalization and residential development project. The project plan features a housing mix including homeowners and renters with a wide spectrum of incomes, as well as units specifically designed for occupancy by handicapped persons. All 30 of the rental units will be reserved and made affordable to households making less than 60% of AMI.

- (b) As described in the Findings of Fact and as described by the project architects at the public hearing, the PUD plan exhibits a high quality of urban design, architecture, and site planning.
- (c) The proposed PUD is not inconsistent with the *Comprehensive Plan for the National Capital* (the "Plan"), as summarized in Findings of Fact numbered 23, 26, 41, 42, and 43 and in other evidence of record. The PUD will help implement numerous goals and objectives regarding the development of housing and affordable housing in the District of Columbia and will advance at least six of the ten Major Themes of the Plan: "Stabilizing and improving the District's neighborhoods"; "Respecting and improving the physical character of the District"; "Preserving and promoting cultural and natural amenities"; "Preserving and ensuring community input"; "Providing for diversity and overall social responsibilities"; and "Promoting enhanced public safety."
- (d) The scale of development and the existing R-5-B zoning are fully consistent with the land use designation of "Moderate-Density Residential" on the Generalized Land Use Map of the Plan.
- (e) The project will fully comply with First Source and LSDBE goals and requirements.

Office of Planning Report

- 42. By report dated January April 13, 2007 and by testimony at the public hearing, OP recommended approval of the Consolidated PUD and the map amendment from R-5-A to R-5-B. OP also recommended approval of the requested flexibility from matter-of-right setback standards, multiple buildings on a single lot, and from front yard setbacks normally applicable to multiple buildings on a lot. OP cited the PUD's consistency with a number of Comprehensive Plan provisions, including increased homeownership housing, mixed-income housing development, street and sidewalk connections to the surrounding neighborhood, urban design quality, and Ward 8 policies.
- 43. OP stated that, "The storm water control plans would use natural retention methods as well as traditional connections to existing underground sewers. . . . This approach is most effective on sites with variable grade terrain. . . . [L]ocalized drywells would avoid greater maintenance and easement issues, while addressing the storm water quality control requirement on a lot by lot basis. This is a feature of low-impact development and is supported by the *draft* Comprehensive Plan's promotion of environmental sustainability."

44. OP cited public benefits including contributing to housing revitalization in Southeast Washington; dedication of public streets and alleys, with street trees and streetlights; integration of low-income units and ADA accessible homes in the development; diversity due to the affordability mix of the units; natural storm water retention methods that enhance water quality control in the city and which are also a feature of low-impact design; and First Source and LSDBE compliance.

Reports of Other Agencies

45. DDOT, by report dated April 23, 2007, indicated that it has no objection to the PUD project, "provided the applicant continues to work with DDOT staff to coordinate proposed new roadways and alley system design and construction." The report also concurred with the findings of the Applicant's traffic engineer, that traffic generated by this project will have a "negligible impact in terms of capacity and level of service at these [neighborhood] intersections." The project provides 188 off-street parking spaces versus 132 required under R-5-B provisions.
46. The D.C. Water and Sewer Authority ("DCWASA") submitted an undated report to OP, setting forth water pressure requirements applicable to the site and development and indicating that the separate sewer system in this vicinity will be able to handle both the sanitary flows from the proposed development and projected stormwater flows. DCWASA will review the project further in the building permit process.

Advisory Neighborhood Commission 8E

47. ANC 8E voted to support the PUD project and testified in support at the public hearing and submitted written reports dated January 16, February 7, and May 2, 2007. The ANC stated, "ANC 8E has supported this project from its inception, and we continue to support it. The ANC is impressed with the inclusion of many affordable housing units, as well as handicapped-accessible units. We are also happy that this vacant, fenced-in parcel will be developed with attractive new housing rather than remaining a potential public safety hazard."

Public Testimony

48. Two persons residing on Foxhall Place, S.E. near the PUD site testified in opposition. They were opposed to the extension of Foxhall Place through the PUD site to 9th Street for several reasons, including the loss of parking spaces on the existing cul-de-sac, increased traffic on this street, and a safety problem for one handicapped individual in particular. They also expressed concerns about

noise and construction traffic effects during the construction period, including potential damage to homes adjacent to the PUD site.

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 has the authority to consider this application as a consolidated PUD, and may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
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. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
5. This residential development will contribute vitality to the Washington Highlands neighborhood and provide needed dwelling units to accommodate households having a range of incomes. The project plans exhibit a high quality of urban design, architecture, and site planning. The extension of public streets and alleys through the site will increase connectivity with the surrounding neighborhood and improve traffic efficiency.
6. The development of this PUD is compatible with citywide goals, plans, and programs and is sensitive to environmental considerations. The Commission also finds that the proposed PUD is not inconsistent with the Comprehensive Plan.
7. The Commission finds that the impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is acceptable, given the

significance, quantity, and quality of public benefits provided, and the minor increase in density requested by the Applicant.

8. 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.
9. The flexibility granted from the Zoning Regulations is commensurate with the public benefits and amenities proffered.
10. The proposed 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 the street network, bus lines, and a mass transit station approximately one mile distant. The impact of the project on the surrounding area will not be adverse, but rather will enhance and promote the revitalization of the area.
11. 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.
12. The Commission is required under D.C. Code §1-309.10(d) to give great weight to the issues and concerns raised in the recommendations of the affected ANCs. The Commission notes that the affected ANC 8E voted to support the application and submitted written reports to that effect. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.
13. 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 (2001 ed.)) to give great weight to OP recommendations. For the reasons stated above, the Commission has considered OP's recommendation for approval and concurs in its recommendation.
14. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law stated herein, the Commission orders **APPROVAL** of the application for consolidated review of a Planned Unit Development and related Zoning Map Amendment from the R-5-A Zone District to

the R-5-B Zone District for property bound generally by Condon Terrace on the south, 8th Street and existing residences on the west, Valley Avenue on the north, and 9th Street on the east, all S.E. This property is legally identified as Square 6123, Lots 78 and 80; Square 6125, Lots 20-25; and Square 6126, Lots 65-69 and 72. The approval of this PUD and Zoning Map Amendment 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 32 and 36 in the record of this case, and as modified by the guidelines, conditions, and standards of this Order.
2. The maximum building height in the project shall be 55 feet and the maximum density shall be 1.20 FAR.
3. The PUD project shall consist of 138 dwelling units, distributed as follows by building type:

(a) Single-family detached dwelling	1
(b) Single-family semi-detached dwellings	24
(c) Single-family row dwellings	95
(d) Triplex stacked flats (6 buildings)	18
Total dwelling units	138
4. All thirty (30) of the rental units shall be reserved for and made affordable to households having 60% or less of Area Median Income. The remaining one hundred eight (108) units shall be homeownership units.
5. There shall be a minimum of 188 off-street parking spaces and approximately 121 curbside spaces as depicted on the plans, for a total of 309 spaces.
6. The Applicant shall implement the Construction Management Plan submitted to the record on May 10, 2007.
7. The Applicant shall have the flexibility to:
 - (a) Vary the location and design of all interior components of the buildings, provided that the variations do not change the exterior configurations of the buildings;

26. The project density as proposed is 1.1 FAR. This is only 0.2 FAR above matter-of-right R-5-A standards and only 0.1 FAR above the R-5-A PUD standard of 1.0 FAR. This is a very minor increase in density given the extent of public benefits and project amenities offered. The proposed density is also within the Moderate-Density Residential designation of the PUD site on both the Generalized Land Use Map of the existing Land Use Element of the Comprehensive Plan and the Future Land Use Map of the forthcoming Comprehensive Plan. The PUD is also consistent with numerous policies in the Land Use, Housing, Environmental, and other Elements of the Comprehensive Plan, and in general is "not inconsistent" with the Comprehensive Plan.
27. The PUD plan proposes a new network of public streets and alleys along which the residences will be constructed. The design of the grid and slope of the streets was closely coordinated between the Applicant's team and the District Department of Transportation ("DDOT"). The proposed new streets through the site connect with 9th Street, S.E., creating greater convenience of vehicular and pedestrian travel for neighborhood residents, as well as future residents of Highlands Addition. The new community is designed to be pedestrian-friendly, with ample sidewalks, street trees, and street lamps.
28. The comprehensive traffic study performed by the Applicant's certified traffic engineer concludes that the new site plan handles its vehicular traffic efficiently, creates no adverse traffic congestion internally or at nearby intersections, and ensures required pedestrian safety measures. In its May 10, 2007 supplemental submission, the Applicant transmitted a copy of DDOT's "Traffic Calming Policies and Guidelines." The Applicant stated a willingness to work with DDOT and the residents on adjacent streets, especially Foxhall Place, which will be extended through the PUD site, to assess potential traffic calming techniques suitable to this situation.
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30. Building heights will range from 32.29 to 53.3 feet, measured at the curb in the middle front of the building. All proposed heights are well within the 60-foot building height allowed in an R-5-B zone with a PUD. Lot occupancy is 32%, which is well within the allowed 60% lot occupancy in the R-5-B District.
31. The urban design and architecture of the new Highlands Addition community contributes a significant amount of public benefit to Ward 8 and the city, notwithstanding its relatively small size. The proposed plan extends and enhances the Washington Highlands street grid. Although the project site is constrained by


- (b) Make minor refinements to exterior details and dimensions needed to comply with the D.C. Building Code and the Americans with Disabilities Act ("ADA") or otherwise necessary to obtain a building permit;
 - (c) Make minor refinements in the site plan as needed for consistency with the street dedication plan to be approved by the D.C. Council and the storm water management requirements of the D.C. Department of Health;
 - (d) Erect an entry sign that is consistent with the design character of the development in compliance with 12A DCMR § 3107A;
 - (e) Vary the numbers of three-bedroom and four-bedroom units in market rate units according to the purchaser's preference; and
 - (f) Erect tubular metal fencing along side property lines as depicted in Exhibit 32, Sheet S18 and construct decks at the rear of units as illustrated in Exhibit 36, Sheet S26 of the record. Such decks may also be constructed later by individual homeowners.
8. The Applicant shall execute the following agreements prior to the issuance of a final Order:
- (a) A First-Source Employment Agreement with the Department of Employment Services; and
 - (b) A Memorandum of Understanding with the District of Columbia Office of Local Business Development ("LSDBE") to ensure minority vendor participation.
9. 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 Regulations 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.
10. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA until the Applicant has filed a certified copy of the covenant with the Office of Zoning.


11. The change in zoning from the R-5-A to the R-5-B Zone District for the property shall be effective upon the recordation of the covenant discussed in Condition No. 9, pursuant to 11 DCMR § 3028.9.
12. 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 2409.1. Construction shall start within three (3) years of the effective date of this Order.
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 § 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.

On June 11, 2007, the Zoning Commission **APPROVED** the application by a vote of 3-0-2 (Anthony J. Hood, Michael G. Turnbull, and John G. Parsons to approve; Carol J. Mitten and Gregory N. Jeffries, not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on July 30, 2007 by a vote of 3-0-2 (Anthony J. Hood, Michael G. Turnbull, and John G. Parsons to adopt; Carol J. Mitten and Gregory N. Jeffries, not having participated, 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 DEC 28 2007.


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION


JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

Washington, D.C., December 7, 2004

ARE 6126 LOTS 88, 87, 89, 69 & 72

Recorded in Book 129 Page 16 (Lots 68 - 69)
Book 134 Page 126 (Lot 72)

ORIGINAL

34

Surveyor, D.C.

By: L.E.S. *LMJ*

December 23, 2004

I certify and attest that the official records of the Zoning Commission for the District of Columbia indicates that Lots 56, 57, 68, 69 and 72 in Square 6126 are zoned R-5-A, with boundary lines as shown on this plat.

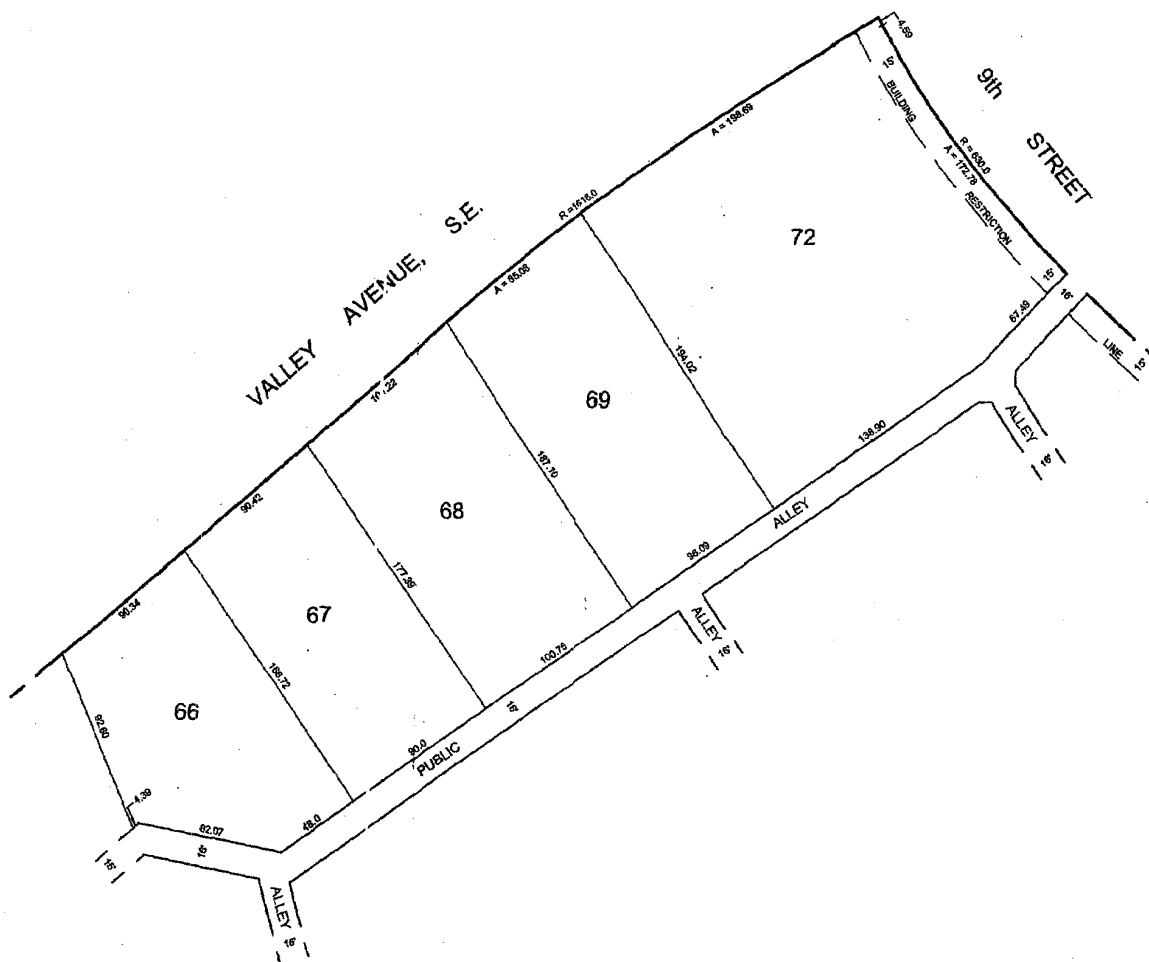
JERRILY R. KRESS, FAYAT
Director
Office of Zoning

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

[illegible]

Date:

(Signature of owner or his authorized agent)



Z.C. Case No. 06-45

Washington, D.C., December 7, 2004

Scale: 1 inch = 50 feet

Recorded in Book 129 Page 15

Receipt No. 16089

Furnished to: KAREN TOLSON

[Signature]
Surveyor, D.C.

By: L.I.S. *[Signature]*

[illegible]

Date: _____

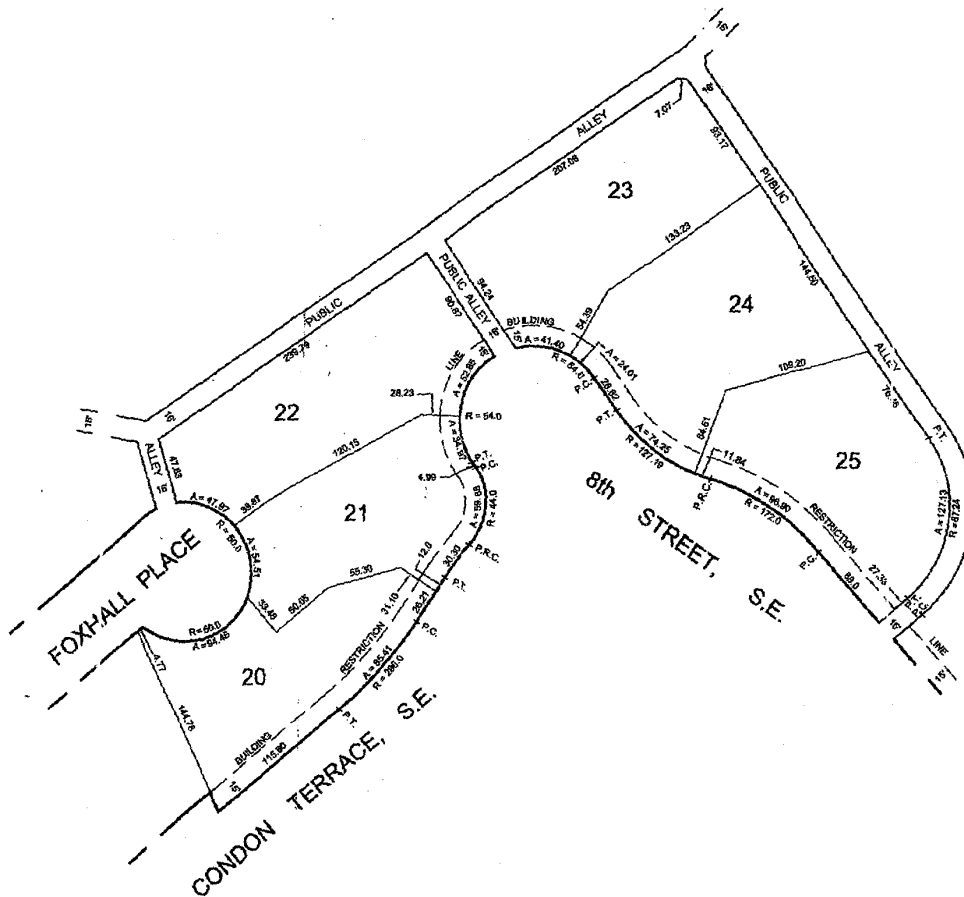
(Signature of owner or his authorized agent)

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

December 23, 2004

I certify and attest that the official records of the Zoning Commission for the District of Columbia indicates that Lots 20, 21, 22, 23, 24, and 25 in Square 6125 are zoned R-5-A, with boundary lines as shown on this plat.

JERRYLY R. XHESS, DATA
Director
Office of Zoning



Z.C. Case No. 06-45

Washington, D.C., December 7, 2004

Recorded in Book 134 Page 128 (Lot 78)
Book 153 Page 108 (Lot 80)

Furnished to: KAREN TOLSON

Date: _____

(Signature of owner or his authorized agent)

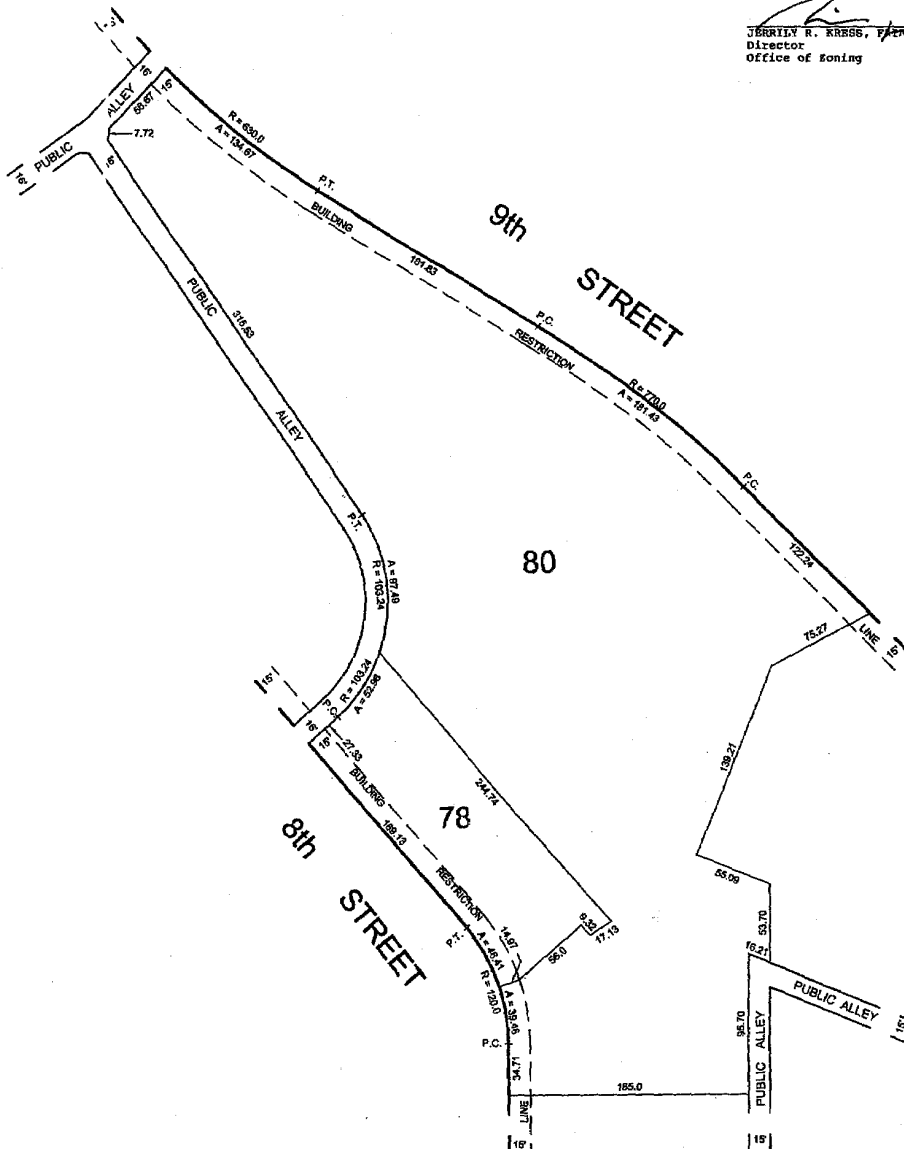
By: L.E.S. *LMF*

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

December 23, 2004

I certify and attest that the official records of the Zoning Commission for the District of Columbia indicates that Lots 80 and 78 in Square 5123 are zoned R-5-A, with boundary lines as shown on this plat.

JERRYLY R. KRESS, ~~FATT~~
Director
Office of Zoning



Z.C. Case No. 06-4⁴