

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-46F

Z.C. Case No. 06-46F

Half Street Residential PJV, LLC

**(Modification Without Hearing of the Approved Design Review @ Lots 857, 858, and 859
in Square 701)**

December 19, 2024

Pursuant to notice, at its December 19, 2024, public meeting, the Zoning Commission for the District of Columbia (the “**Commission**”) considered the application (the “**Application**”) of Half Street Residential PJV, LLC (the “**Applicant**”) for a Modification Without Hearing of the Approved Design Review Application approved in Zoning Commission Order No. 06-46B (the “**Original Order**”), as modified by Zoning Commission Order Nos. 06-46C, 06-46D, and 06-46E for Lots 857, 858, and 859 in Square 701 (the “**Property**”).

The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016, the “Zoning Regulations”, to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

FINDINGS OF FACT

BACKGROUND

1. Located in the Navy Yard/Ballpark neighborhood, the Property is bounded by mixed-use developments to the north and east, N Street SE to the south, and Half Street SE to the west. It is directly across N Street from the Nationals Ballpark. The Property is located in the CG-4 Zone District. (Exhibit [“Ex.”] 5.)
2. The Property is currently improved with a nine-story mixed-use building containing approximately 463,854 square feet of GFA, which includes approximately 403,215 square feet of residential use (312 units) and approximately 60,630 square feet of retail use (the “**Building**”). The Building is known as The Kelvin. The Applicant received Design Review approval for the Building in Z.C. Order No. 06-46B to develop the site with flexibility to subsequently pursue a combination of residential, retail, and hospitality uses throughout the Building. Notably, the Building’s second floor was marked solely for retail use on the approved plans. (Ex. 5.)

3. By Z.C. Order No. 06-46B, issued in July 2015, the Commission approved modifications to two mixed-use buildings jointly approved in Z.C. Case No. 06-46 and modified in 06-46A. The Building is to the south and was approved for a maximum height of 110 feet with a maximum density of 6.83 FAR. The maximum residential gross floor area (GFA) has an approved range of approximately 318,400 – 402,800 square feet, the maximum retail GFA range is approximately 55,100 – 69,200 square feet, and the maximum hotel GFA range is between 0 – 78,300 square feet. (Ex. 5.)
4. By Z.C. Order No. 06-46C, issued in October 2016, the Commission approved a minor modification to permit the addition of and modifications to penthouse habitable space. The revised penthouse added approximately 9,936 square feet of floor area. (Ex. 5.)
5. By Z.C. Order No. 06-46D, issued in August 2017, the Commission approved a modification of consequence and granted special exception relief to permit a bowling alley use on the second floor and to modify the design of Monument Place. Monument Place is a pedestrian walkway located between the mixed-use building and office building to the north. (Ex. 5.)
6. Finally, by Z.C. Order No. 06-46E, issued in October 2019, the Commission approved another modification of consequence to modify the plans approved in Z.C. Order No. 06-46D to add one static illuminated sign and two digital signs on the building at the corner of Half and N Street SE. (Ex. 5.)

PARTIES

7. The only party to the Original Order was ANC 8F.
8. On October 23, 2024, and November 12, 2024, the Applicant served the Application on ANC 8F, the Office of Planning (“OP”) and the District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application. (Ex. 2, 5.)

THE APPLICATION

9. On October 23, 2024, the Applicant filed the Application (pursuant to Subtitle Z §703.1) seeking modification to a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission. (Ex. 2.)
10. On November 12, 2024, the Applicant filed revisions to the Application. The changes propose to convert the existing second-floor retail space into lodging, with the flexibility to later convert it into residential use. The changes proposed in this Application are minor and are primarily interior redesign of the second floor for lodging with the flexibility to convert to residential use by amending the Architectural Plans and Architectural Plans initially referenced in Z.C. Case No 06-46, as amended in Z.C. Order No. 06-46A, 06-46B, 06-46C, 06-46D, and 06-46E. (Ex. 5.)
11. As constructed, the Building currently contains approximately 24,242 GSF of second -floor retail space on its north side. Until more than a year ago, this space was occupied by

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Swingers, a bar/restaurant with mini golf. The space has remained vacant since Swingers left. (Ex. 5.)

12. Due to the loss of Swingers and the difficulty in leasing second floor retail space, the Applicant proposes to convert that second-floor retail space into lodging with the flexibility to later convert to residential use. The area proposed for conversion is shown in the updated plans filed with the Application (“Updated Plans”), and it will result in 16 lodging units. If the Applicant thereafter converts these lodging units into residential use, then the conversion will result in approximately one (1) Inclusionary Zoning unit. Along with that potential later conversion to residential use, the Applicant would make minor exterior changes to add operable windows and exhaust vents in the conversion area, as shown on the Updated Plans. (Ex. 5.)
13. Although the uses approved for the Building under Z.C. Order No. 06-46B included lodging (hospitality) and residential, the approved plans do not show the subject second-floor area as including either use. Therefore, the proposed Modification is necessary to revise the plans for the current second-floor retail space to be converted to lodging with the flexibility to later convert to residential use. (Ex. 5.)
14. As shown in the Updated Plans, the Project design remains consistent with the overall design concepts and program originally approved by the Commission, and the revised plans merely reflect the new lodging or residential use and, potentially, very minor refinements to the Building’s façade, as discussed above. The proposed changes are almost entirely limited to an interior reconfiguration of the second floor, and the mix of uses remains consistent with the intent previously approved by the Commission. The proposed Modification will not change the approved overall building FAR or other zoning metrics, and the façade design and materials remain wholly consistent with the design intent originally approved by the Commission and reviewed by the community. (Ex. 5.)

Responses to the Application

Office of Planning (“OP”)

15. OP submitted a report dated December 3, 2024 (“OP Report”). The OP Report stated that OP is not opposed to the Application being considered a Modification Without Hearing recommends approval of the Application. The OP Report explained that the original approval, 06-46B, contemplated residential, retail, and lodging uses for the Building. However, retail was the only use contemplated in this area of the second floor. The modification, therefore, is necessary to allow lodging and potential future residential use to occupy the space. The OP Report concluded, however, that the overall use mix would remain consistent with the uses approved with the original design review application. The design of the Building, as originally approved by the Commission, would only change slightly. The OP Report continued that the proposed lodging use would also be in keeping with the intent of the Capitol Gateway Zone, which seeks to support certain uses, including lodging uses. The potential future conversion of the lodging to residential units would be consistent with the overall use within the Building, which is largely residential. It would also further policy objectives for the creation of additional housing opportunities in transit

and retail/services rich areas and would include at least one affordable unit consistent with the IZ program. (Ex. 6.)

ANC 8F

16. ANC 8F did not file a response to the Application.

CONCLUSIONS OF LAW

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications Without Hearing to final orders and plans without a public hearing.
2. Subtitle Z § 703.6 defines a Modification Without Hearing as “a modification in which impact may be understood without witness testimony, including, but not limited to a proposed change to a condition in the final order, a change in position on an issue discussed by the Commission that affected its decision, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission. Determination that a modification can be approved without witness testimony is within the Commission’s discretion. A request to add or change a zoning map designation to an approved planned unit development shall not be considered without a hearing.”
3. Subtitle Z § 703.6 includes “a redesign or relocation of architectural elements and open spaces from the final design approved by the Commission” as an example of a Modification Without Hearing.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 8F.
5. The Commission concludes that the Application qualifies as a Modification Without Hearing within the meaning of Subtitle Z § 703.6, as a request to redesign or relocate architectural elements from the final design approved by the Commission, and therefore can be granted without a public hearing.
6. The Commission finds that the Application is consistent with the previously approved design, as to the general size, height, and massing of the Building. The Commission also finds that the proposed architectural changes to the Building are all improvements to the Building that will allow the vacant second floor space to be used and active.

“Great Weight” to the Recommendations of OP

7. Pursuant to §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)) and Subtitle Z § 405.8, the

Commission must give “great weight” to the recommendations of OP. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A. 3d 1079, 1087 (D.C. 2016).)

8. The Commission notes OP’s lack of objection to the Application being considered as a Modification Without Hearing and finds OP’s recommendation persuasive that the Commission approves the Application and therefore concurs in that judgement.

“Great Weight” to the Recommendations of the ANC

9. Pursuant to §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)) and Subtitle Z §406.2, the Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A. 3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A. 2d 85, 91 n.10 (1978).)
10. ANC 8F did not file a response to the Application; therefore, there is nothing to which the Commission can give great weight.

DECISION

In consideration of the case record and the Findings of Fact and Conclusions of Law herein, the Commission concludes that the Applicant has satisfied its burden of proof and therefore **APPROVES** the Application’s request for a Modification Without Hearing to modify Condition No. 2 of Zoning Commission Order No. 06-46, as amended in Z.C. Order No. 06-46A, 06-46B, 06-46C, 06-46D, and 06-46E, to read as follows (deletions shown in ~~bold and strikethrough~~ text; additions in **bold and underlined** text). All other conditions in Zoning Commission Order No. 06,46, as modified by Zoning Commission Order Nos. 06-46A, 06-46B, 06-46C, 06-46D, and 06-46E remain unchanged and in effect.

Condition No. 2 of Zoning Commission Order No. 06-46 is revised as follows:

2. The project shall be built in accordance with the Architectural Plans and Elevations, marked "Exhibit A" in the post-hearing filing, dated January 25, 2007, at ~~and marked~~ Exhibit 33 in ~~the record of the case~~ **Z.C. Case No. 06-46** as modified by:
 - the Architectural Plans and Elevations dated January 7, 2008, at Exhibit 7 in Z.C. Case 06-46A;
 - the Architectural Plans and Elevations dated June 15, 2015, at Exhibit 22 in Z.C. Case 06-46B;
 - the Architectural Plans and Elevations dated May 11, 2016, at Exhibit 2B in Z.C. Case 06-46C;

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- the Architectural Plans and Elevations dated June 12, 2017, at Exhibit 12 in Z.C. Case 06-46D;
- the Architectural Plans and Elevations dated August 29, 2019, at Exhibit 1A in Z.C. Case 06-46E;
- **the Architectural Plans and Elevations dated November 12, 2024, at Exhibits 5A1-5A3 in Z.C. Case 06-46F; and**
- the guidelines, conditions, and standards below.

Final Action

VOTE (December 19, 2024): 4-0-1 (Anthony J. Hood, Tammy Stidham, Robert E. Miller, and Gwen Wright to approve.)

In accordance with the provisions of Subtitle Z DCMR § 604.9, this Order No. 06-46F shall become final and effective upon publication in the DC Register; that is on .

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

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, 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 SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.