

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 07-26C
Z.C. CASE NO. 07-26C
O Street Roadside, LLC
(Modifications to the Approved PUD at Square 398, Lots 829 and 830)
June 13, 2011

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on June 13, 2011. At the meeting, the Commission approved an application from the O Street Roadside, LLC for modifications to an approved planned unit development ("PUD") for property identified as Lots 829 and 830 in Square 398, located in the Shaw neighborhood of Northwest Washington, 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. 07-26 ("Order No. 07-26") the Commission approved a consolidated PUD and related zoning map amendment from the C-2-A Zone District to the C-3-C Zone District for the property. The property includes all of the area bounded by 7th, 9th, O, and P Streets, N.W. The approved PUD authorized construction of a mixed-use development that includes affordable residential units for rent to senior citizens, homeownership and rental residential units, and a hotel with 210 rooms (or additional residential units in the space reserved for the hotel use). The project also includes retail and services uses including a 65,000-square-foot grocery store, 10,000 square feet of additional retail space, and an 8,000-square-foot restaurant. The existing historic O Street Market will be rehabilitated and incorporated into the new grocery store. The project will have an overall density of 5.15 floor area ratio and a total gross floor area of approximately 770,780 square feet. Z.C. Order No. 07-26 became effective upon its publication in the *D.C. Register* on July 18, 2008.
2. By Z.C. Order No. 07-26A, the Commission approved a two year extension of the validity of the PUD. The final PUD and map amendment are valid until July 18, 2012, within which time an application shall be filed for a building permit, as specified in § 2409.1 of the Zoning Regulations. Construction shall commence no later than July 18, 2013. Z.C. Order No. 07-26A became effective upon its publication in the *D.C. Register* on August 27, 2010.

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3. By Z.C. Order No. 07-26B, the Commission approved minor modifications to the PUD to change the rooftop configuration and certain other aspects of the approved facades. The proposed changes were the result of the owner's decision to pursue a central mechanical plant option for the O Street Market buildings. Other minor roof structure modifications have occurred as a part of the overall design development of the project and certain other minor design modifications were made after PUD approval as a result of further discussions and review by the Historic Preservation Office and the Historic Preservation Review Board and the normal evolution in the design process in going from the schematic level plans submitted as part of a PUD to design development level drawings and ultimately to construction documents submitted as part of a building permit application. Z.C. Order No. 07-26B became effective upon its publication in the *D.C. Register* on August 27, 2010.
4. By letter dated May 17, 2011, the Applicant requested that the Commission modify the approval of the PUD to eliminate the 80 parking spaces proposed to be located in the vaults in public space.
5. The approved plan for the typical garage levels, Sheet A6 of the plans dated February 15, 2008, shows approximately 40 parking spaces on each of two levels in the vaults along O, P and 9th Streets. These spaces would be eliminated and the project would remain at approximately 500 on-site spaces. The Applicant proposes to have available those spaces as follows:
 - Retail (including the supermarket): 220 spaces
 - Hotel: 45 spaces
 - Residential: 150 spaces
 - Shared and public parking: 85 spaces.
6. The Zoning Regulations require a minimum of 304 off-street parking spaces for the uses described above. The 500 spaces proposed are still substantially in excess of the minimum number required.
7. The proposed change to not provide parking in the vault follows the Applicant's evaluation of the need for that parking. Subsequent to approval of the application, the Applicant's experience with market demand for parking for the various component uses suggests that the 80 additional spaces which were to be in the vault are not necessary to serve the project. With the parking space distribution as set forth above, the Applicant has enough on-site spaces to meet minimum requirement under the Zoning Regulations for each use, meet the actual expected practical demand for parking spaces and still have 85 spaces on-site which can be allocated among the various uses as future demand requires.

8. In all other respects, including height, gross floor area, number of units, yards, courts, parking, and loading, the PUD will remain as approved by the Commission.
9. Pursuant to 11 DCMR § 3030.11, the Director of the Office of Zoning placed the request for modifications on the Commission's Consent Calendar for its public meeting on June 13, 2011. At that meeting, the Commission voted to approve the application for modifications to Z.C. Order No. 07-26.
10. There was no opposition to the modification request. Advisory Neighborhood Commission ("ANC") 2C was served by the Applicant with the requested modifications, but the ANC did not submit a written report.
11. The Office of Planning submitted a report, dated June 3, 2011, recommending approval of the proposed modifications. The report stated that the proposed changes do not materially affect the facts upon which approval of the PUD was granted, including the building's height, loading, number of units, courts, yards, and gross floor area.

CONCLUSIONS OF LAW

Upon consideration of the record in this case, the Commission concludes that the proposed modifications are of little or no importance or consequence and are consistent with the intent of the Commission in approving the original project in Z.C. Case No. 07-26. The subject request does not affect the essential elements of the approval given by the Commission for this project, such as use, height, gross floor area, lot occupancy, or setbacks. This proposed change affects only the parking that was in the vault in public space, which is subject to approval by the District Department of Transportation and is outside the private property. The number of parking spaces to be provided still substantially exceeds the minimum number required under the Zoning Regulations and still allows for 85 swing spaces to accommodate potential future shifts in demand. Accordingly, the request falls within the scope of §3030.

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 approval of these modifications is not inconsistent with the Comprehensive Plan.

The modifications are of such a minor nature that their consideration as a Consent Calendar item without public hearing is appropriate.

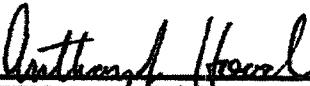
DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of this application for a minor modification of an approved PUD. Condition Nos. 2 and 7d are hereby amended as follows (language to be deleted is shown in ~~struckthrough~~; language to be added is shown as underlined):

2. The project shall be a mixed use commercial and residential development consisting of approximately 770,780 square feet of gross floor area. ... The project shall provide approximately 500 parking spaces; ~~an additional 80 parking spaces will be located in the vault space.~~
7. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - d. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as there are a minimum of 475 parking spaces. ~~does not exceed the 475 zoning compliant spaces and 80 vault spaces specified.~~

On June 13, 2011, upon the motion of Vice Chairman Schlater, as seconded by Commissioner May, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Konrad W Schlater, Peter G. May, Greg M. Selfridge, and Michael G. Turnbull to adopt).

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 August 5, 2011.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING