

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 08-33C
Z.C. Case No. 08-33C
Conference Center Associates I, LLC
(Modification of Consolidated Planned Unit Development)
September 24, 2015

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia (the “Commission”) was held on September 24, 2015 to consider the request of Conference Center Associates I, LLC (the “Applicant”) for a modification of the consolidated planned unit development (“PUD”) approved in Zoning Commission Case No. 08-33, and the time extensions granted in Zoning Commission Case Nos. 08-33A and 08-33B. The property (Parcel 121/31) that is the subject of this application is located at the intersection of Irving Street, NE and Michigan Avenue, NE (the “Property”). The public hearing was held in accordance with the provisions of 11 DCMR §3022 and the Commission considered the application pursuant to 11 DCMR §§ 2400 et seq.

FINDINGS OF FACT

1. Zoning Commission Case No. 08-33 included both a Consolidated PUD approval and a First-Stage PUD approval. The consolidated PUD project approved in ZC Order No. 08-33, which became final and effective on December 25, 2009, authorized the construction of a hotel, conference center, restaurant, parking structure, and retail space on the eastern half of the Property. The 314 room hotel (which includes a restaurant) and conference center has frontage along Michigan Avenue, NE and Irving Street, NE and a four-story above-grade structure along Michigan Avenue that will include retail uses at grade and in a basement level and 400 parking spaces. A 200 space surface parking lot on the northern portion of the Property was also approved in the consolidated PUD application. ZC Order No. 08-33 also authorized the rezoning of the Property from unzoned (designated as GOV) to the C-3-A Zone District. (Ex.1)
2. The first-stage PUD approval included two nine story buildings with a measured building height of 94.5 feet (as measured from the curb at Irving Street) that will be no taller than 90 feet as measured from the finished grade at the building. The two buildings will be dedicated to either additional hotel and/or residential units and may include more space for conference center uses. A below-grade parking structure including 295 parking spaces is also included in the first-stage PUD approval. The first-stage PUD approval is effective until December 25, 2014. (Ex.1)
3. On December 21, 2011, the Applicant filed an application requesting that the Zoning Commission grant a two-year time extension in which the Applicant was required to file a building permit application for the consolidated PUD and Zoning Map Amendment application. Pursuant to ZC Order No. 08-33A, the Zoning Commission determined that

the Applicant had met the relevant requirements of Section 2408.8 of the Zoning Regulations and extended the time period in which the Applicant was required to file a building permit application for the consolidated PUD until December 25, 2013. (Ex.1)

4. In the December 21, 2011, time extension application, the Applicant also requested approval to extend the period of the First Stage PUD approval. Pursuant to Condition No. 20 of Zoning Commission Order No. 08-33, the first-stage PUD approval is effective until December 25, 2014. The Applicant requested that the first-stage PUD approval be extended until December 25, 2016. In ZC Order No. 08-33A, the Zoning Commission denied the two-year time extension request for the first-stage PUD application approved in ZC Order No. 08-33. However, the Zoning Commission's denial was "without prejudice to the Applicant filing a renewed request once the issue becomes ripe." (Ex.1)
5. On December 23, 2013, the Applicant filed a second time extension application which sought an additional two years, until December 25, 2015, in which time it would be required to file a building permit application to construct the approved Consolidated PUD project and file the PUD Covenant which will change the zoning of the Property from unzoned to C-3-A. The Applicant also requested a one year time extension of the approval of the First-Stage PUD approval, so that the first stage PUD approval would be extended until December 25, 2015. Pursuant to ZC Order No. 08-33B, the Zoning Commission determined that the Applicant had met the relevant requirements of Section 2408.10 of the Zoning Regulations and extended the time period in which the Applicant was required to file a building permit application for the consolidated PUD and the first stage PUD approval until December 25, 2015. (Ex.1)
6. On June 29, 2015, the Applicant filed the current application as a minor modification request in accordance with §3030 of the Regulations. The Applicant sought approval of the following modifications to the plans approved in ZC Case No. 08-33:
 - Change in hotel brand from SpringHill Suites by Marriott to a combined Residence Inn/Courtyard by Marriott. The previously approved plan included 314 hotel rooms. The proposed plan includes 336 hotel rooms (168 for the Residence Inn and 168 for the Courtyard by Marriott). The gross floor area of the hotel has increased by 26,194 square feet. The Conference Center ballroom also increased in size to better accommodate anticipated uses and a roof terrace level was added. The gross floor area of the conference center has increased by 14,743 square feet. The total increase in gross floor area for the Consolidated PUD is 40, 980 square feet, resulting in a FAR of 1.63 (rather than the previous 1.46).
 - The height of the four story above-grade parking structure/conference center has increased from 49 feet, 9 inches to 58 feet, 2 inches. The additional building height allows for retail space that has a floor to ceiling height of 14 feet, and additional height at the ballroom level which provides support space for ballroom functions and the opportunity to create an outdoor terrace. These increases in height of the parking structure/conference center also improve the pedestrian experience and view corridors from Michigan Avenue, NE to the future second phase of development on the property. These view corridors are also enhanced by the removal of the columns

which were previously located below the conference center at the ground floor.

- The location of the “white table cloth” restaurant has not changed, but the entrance to the restaurant has been relocated so that it is adjacent to the hotel entrance on Michigan Avenue, NE.
 - The hotel building has been extended to the property line on Irving Street. The approved project was previously set-back from the property line along Irving Street a distance of 19 feet, 9 ¼ inches. This created a non-conforming side yard which required flexibility from the Zoning Commission. The Applicant is no longer requesting side yard flexibility along the Irving Street façade as the structure is now located on the property line. A series of court niches have been created along this façade to provide dynamism to the building’s façade along Irving Street, NE. Based on input from District Department of Transportation (“DDOT”) staff, the landscape and streetscape plans along Irving Street, NE have been modified to accommodate the extension of the hotel building to the property line.
 - The basement level of the parking structure has been modified to include parking spaces. This allows for a reduction in the number of surface parking spaces on the Property, while still maintaining the previously approved count of 600 parking spaces in the project.
 - The Zoning Commission previously granted flexibility from the roof structure requirements regarding setbacks and the requirement to have a single enclosure. Due to programmatic changes in the hotel, the shape of the roof structure has changed and the amended roof structure still requires flexibility from the setback requirements and from the requirement to be included in a single enclosure. (Ex.1, Ex. 1C)
7. The Applicant noted that otherwise, the proposed Consolidated PUD project remains the same as the project that was approved in ZC Case No. 08-33, a hotel and conference center with an above-grade parking structure, and ground-floor retail uses. The Applicant also stated that it was not proposing any substantive changes to the benefits and amenities package which was approved by the ANC and the Zoning Commission in ZC Case No. 08-33. Due to the redistricting of the ANCs in accordance with the results of the 2010 Census, the Property is now located in ANC 5A, rather than ANC 5C. The only modification that is being proposed to the benefits and amenities package is to change the reference from ANC 5C (the previous ANC) to ANC 5A (the ANC in which the property is currently located) in Condition Nos. 14, 15, and 17. (Ex.1D)
8. The Office of Planning submitted a report, dated July 17, 2015, which noted that the Office of Planning could not conclude that the proposed modifications would be of little or no importance as contemplated under §3030.2. The OP report further stated: “However, OP is not opposed to the general direction of the proposed modifications and recommends that the application be set down for public hearing. OP requests the applicant provide the GAR score as part of its pre-hearing statement prior to the public hearing.” (Ex. 5)

9. At the Commission's July 24, 2015 public meeting, the Commission removed the minor modification request from its consent calendar, and instead set it down for a public hearing.
10. The Applicant submitted a supplemental statement, dated September 4, 2015, which included the names and resumes of expert witnesses, addressed transportation related issues and also included a GAR scorecard. In regard to the transportation issues, the Applicant noted that it filed a technical memorandum with DDOT on August 21, 2015 which analyzed the number of vehicular trips that will be generated by the modified PUD project. This memorandum concluded:

As a result, the modification to the development program would generate 9 additional AM peak hour trips (6 inbound and 3 outbound), 11 additional PM peak hour trips (6 inbound and 5 outbound), and 138 additional daily trips. The additional trips generated by the modified development program are minimal and would not result in any significant additional impact beyond that previously studied in the 2008 TIS. In addition, these additional trips would not meet DDOT Comprehensive Transportation Review (CTR) thresholds for additional vehicular study were they considered alone. DDOT CTR guidelines state that developments generating more than 25 peak hour trips in the peak direction should be studied for vehicular impacts, suggesting that developments generating less than this threshold would have minimal additional impact. Since the modified program would generate only 6 additional peak hour trips in the peak inbound direction in both the AM and PM peak hours, there will not be a significant adverse impact associated with the additional rooms and conference square footage, due to the resulting minimal increase in vehicular trips. (Ex. 16, Ex. 16B, Ex. 16D)

11. The Applicant's supplemental statement also noted that DDOT representatives requested that the Applicant provide additional information and detail on the public right-of-way configuration for the portions of the North Capitol Street ramp and Irving Street that will lead into the Irving Street access into the site. The Applicant provided that analysis. The Applicant noted that it understood that the ultimate configuration of the public right-of-way adjacent to the site will be reviewed and approved through DDOT permitting processes (which may include the DDOT Policy and Process for Access to the DC Interstate and Freeway System and the public space permitting process) and that the Applicant and DDOT will work together to create the appropriate public right-of-way configuration. The Applicant also noted that it understands that it will be responsible for the design, process/approvals, costs, and construction associated with this re-configuration of the public right-of-way. The Applicant agreed that construction of the approved re-configuration of the public right-of-way must be completed prior to the issuance of a certificate of occupancy for the hotel and conference center. (Ex. 16, Ex. 16C).
12. At the public hearing, the Applicant's architect, Sean Stadler (admitted as an expert in architecture) presented testimony describing the proposed modifications to the hotel and conference center project. In response to questions from the Commission, the Applicant's design team agreed to provide a post-hearing submission which addressed: (i) increasing the depth of the roof structure setback on the hotel building; (ii) increasing the amount of green roof area on the hotel building; and (iii) enhancing the appearance of the parking

structure through additional green screening elements. (Tr. of 9/24/15 Public Hearing page 40)

13. In a post-hearing submission dated October 19, 2015, the Applicant submitted an Amended Roof Plan which showed the roof structure being setback 11 feet, six inches from the exterior wall of the building that has frontage along Michigan Avenue, NE. The Applicant noted that this setback exceeded the roof structure setback (10 feet, six inches) that was originally approved by the Zoning Commission. The amended roof plan submitted by the Applicant also showed revisions to the amount of green roof area that will be provided on the roof of the hotel building. The amount of green roof area proposed is now very similar to the amount of green roof area that was approved by the Zoning Commission. The Applicant also included an Amended View from Michigan Avenue which shows the increased size of the green wall of the parking structure that faces Michigan Avenue, NE. (Ex. 22 and 23)

AGENCY REPORTS

14. The Office of Planning submitted its report on September 14, 2015. The Office of Planning recommended approval of the proposed modifications of the approved PUD. The Office of Planning noted that “The proposed changes are not inconsistent with the Comprehensive Plan and are in many respects an improvement over the original proposal. The proposed modifications would not change the decisions upon which the PUD was approved by the Zoning Commission.” (Ex. 18)
15. The Department of Transportation submitted a report, dated September 11, 2015, which noted that DDOT had no objection to the requested with the following conditions: (i) the Applicant complete a CTR as part of Phase 2 of the project; and (ii) the Applicant be responsible for the design, approvals, costs, and construction associated with the re-configuration of the Irving Street and North Capitol Street ramp prior to the issuance of a Certificate of Occupancy for Phase 1 of the project. (Ex. 17)
16. The Deputy Mayor for Planning and Economic Development submitted a letter in support of the application. The Deputy Mayor noted that it “agreed with the Applicant’s view that the proposed modifications are entirely consistent with the Zoning Commission’s original approval of the application.” (Ex. 15)

ANC REPORT

17. ANC 5A submitted a letter into the record on July 9, 2015. This letter noted that at a regularly scheduled public meeting on June 24, 2015, with a quorum present, ANC 5A unanimously approved a motion to support this application by a vote of 6-0, subject to modifications in all related documents substituting ANC 5A for 5C. Due to the redistricting of the ANCs in accordance with the results of the 2010 Census, the Property is now located in ANC 5A. ANC 5A wanted the record of this case to clearly reflect that the Property is located within the boundaries of ANC 5A. (Ex. 4)

PARTIES AND/OR PERSONS IN SUPPORT OR OPPOSITION

18. There were no other persons or parties in opposition to this application.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Commission concludes that the Applicant's modifications to the approved plans are consistent with the intent of the previous PUD approvals made in Zoning Commission Order Nos. 08-33, 08-33A, and 08-33B. The Zoning Commission agrees with the conclusions of the Office of Planning that the proposed modifications are in many respects an improvement over the original proposal. The Zoning Commission acknowledges the steps that the Applicant made to increase the roof structure setback to 11 feet, six inches on the hotel building, the increased amount of green roof area provided on the hotel building, and the enhanced green screening provided on the parking structure and finds that the project is better because of these modifications. The Commission concludes that the proposed modifications are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. The Commission also concludes that the approval of the modification application is not inconsistent with the Comprehensive Plan.

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)) to give "great weight" to the issues and concerns raised in the written report of the affected ANC. As noted above, ANC 5A submitted a letter in support of this application, provided that the appropriate conditions reflect that the Property is now located in ANC 5A. The revised conditions noted below reflect that change.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (DC Law 8-163, D.C. Official Code § 6-623.04), to give great weight to OP recommendations. OP recommended approval of this application and the Commission concurs in its recommendation. The Zoning Commission also notes the conditions that were raised by the Department of Transportation and acknowledges the Applicant's agreement to continue to abide by those requirements which were established in Condition No. 6 of Zoning Commission Order No. 08-33.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for Review and Approval of a Modification to an Approved Planned Unit Development for the Property. The approval of this PUD modification incorporates the conditions stated in Order No. 833 and modifies them as stated below:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 18, 19, 36 and 39 of Zoning Commission Case No. 08-33, as amended by the plans and materials submitted as Exhibits 1C and 23 of Zoning Commission Case No. 08-33C.
14. The Applicant shall provide ANC 5A or SMD 5A05 with meeting room space for monthly

public meetings on a scheduled basis, free of charge.

15. The Applicant shall establish a program to offer reduced rates for reasonable use of the hotel and conference center, including use of the conference facilities and rooms for the ballroom, by residents of ANC 5A, on a space available basis.

17. The Applicant shall provide meeting space for ANC 5A residents' annual holiday party for a period of 20 years from the date the hotel opens. The meeting space will be free of charge and will be on a space available basis.

On September 24, 2015, upon motion by Commissioner _____, as seconded by Commissioner _____, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 5-0-0 (Anthony J. Hood, Marcie I. Cohen, Peter G. May, Michael G. Turnbull, and Robert E. Miller 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 on _____.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING