

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 15-21F

Z.C. Case No. 15-21F

Kenilworth Revitalization I JV, LLC

(Modification Without Hearing of the Approved PUD @ Square 5113, Lots 5-9, Square 5114, Lot 10 and Square 5116, Lots 164,165,172-180, and 186)

November 14, 2024

Pursuant to notice, at its November 14, 2024, public meeting, the Zoning Commission for the District of Columbia (the “Commission”) considered the application (the “Application”) of Kenilworth Revitalization I JV, LLC (the “Applicant”) for a Modification Without Hearing of the Approved Planned Unit Development (“PUD”) in Z.C. Order No. 15-21 (the “Original Order”), as modified by Z.C. Order No. 15-21B and extended by Z.C. Order Nos. 15-21A, 15-21C, 15-21D, and 15-21E, for Lots 5-9 in Square 5113, Lot 10 in Square 5114, and Lots 164, 165, 172-180, and 186 in Square 5116 (the “Property” or “PUD site”).

The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedure, 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

I. BACKGROUND

1. Pursuant to Z.C. Order No. 15-21 (the “Original Order”), effective January 20, 2017, the Commission approved a Consolidated PUD, a First-Stage PUD, and a Related Map Amendment for development of Squares 5113, 5114, and 5116, located west of Kenilworth Avenue, north of Douglas Street, east of Anacostia Avenue, and south of Shaw Drive. The Original Order approved a new mixed-use development on the PUD site, previously improved with a Department of Housing and Community Development public housing development known as Kenilworth Courts, to consist of approximately 530 residential units, including public housing replacement units, tax credit rental units, market rate units for rent and sale, and non-residential uses to include a grocer/fresh food use (the “Project”). The Project was approved to be developed in multiple phases. The first phase, approved as a Consolidated PUD, consists of 4.4. acres bounded by Kenilworth Avenue, Douglas Street, 45th Street, and Quarles Street and includes a mixed-use building with 65 residential

units above and ground floor non-residential use, a 42-unit senior building, and 59 single family homes and stacked flats. Construction of the Consolidated PUD is completed. The second phase, approved as a First-Stage PUD, is still pending (Exhibit [“Ex.”] 2).

2. Pursuant to Z.C. Order No. 15-21A, effective January 24, 2020, the Commission approved a two-year time extension for the Consolidated PUD and First-Stage PUD. Pursuant to Z.C. Order Nos. 15-21B and 15-21C, both effective April 16, 2021, the Commission approved a modification of consequence to the Project, and a two-year extension for the First-Stage PUD, respectively. Pursuant to Z.C. Order No. 15-21D, effective April 7, 2023, and Z.C. Order No. 15-21E, effective June 21, 2024, the Commission approved a one-year extension, and a two-year extension for the First-Stage PUD, respectively (Ex. 2). Based on the most recent extension granted in Z.C. Order No. 15-21E, the deadline to file a Second-Stage PUD application for the second phase is January 20, 2026, and the validity of the First-Stage PUD is extended to January 20, 2027.

PARTIES

3. The only party to the Original Order other than the Applicant was ANC 7D.
4. On September 24, 2024, the Applicant served the Application on ANC 7D and the Office of Planning (“OP”), as attested by the Certificate of Service submitted with the Application (Ex. 2 at 6).

II. THE APPLICATION

5. On September 24, 2024, the Applicant filed the Application requesting a modification without hearing, pursuant to Subtitle Z § 703.1, to modify Condition B.5. of the Original Order to clarify the duration of the van loop service from the Project to both the Deanwood and Kenilworth Recreation Centers. The proposed modified condition language would state that the van loop service shall continue until a more direct, well-lit pedestrian path from the Project to both the Deanwood and Kenilworth Recreation Centers is established. The Application notes that the van loop service has not yet commenced; however, the completed construction of the Frederick Douglass Memorial Bridge provides a pedestrian connection between the Project and the Deanwood and Kenilworth Recreation Centers (Ex. 2).
6. The Application states that the case record in Z.C. Case 15-21 demonstrates that the intent was for the van loop service to be provided only until better pedestrian connections were available, as evidenced by the discussion at the public hearing, the Applicant’s Proffers and Conditions, the Applicant’s Draft Findings of Fact and Conclusions of Law, the Applicant’s Revised Proffers and Conditions, and the Original Order itself (*See* Ex. 2 at 3-4). However, the full intent of the van loop service proffer was not captured in the conditions of the

Original Order; the proposed modified condition language would capture the intent for the duration of the van loop service.

III. Responses to the Application

Office of Planning (“OP”)

7. OP submitted a report dated November 4, 2024 (“OP Report”), recommending approval of the Application and concluding that the proposed modification of Condition B.5. appears to be consistent with the intent of the Original Order and the discussion at the public hearing, regarding a van loop service connecting the site to the Deanwood and the Kenilworth Recreation Centers until a more direct, well-lit pedestrian path is established. Moreover, it appears that reasonably convenient access from the Project to both the Deanwood and Kenilworth Recreation Centers is currently available (Ex. 4).

ANC 7D

8. ANC 7D 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. The Commission concludes that the Application qualifies as a Modification Without Hearing within the meaning of Subtitle Z § 703.6, as a proposed change to a condition in the final order and therefore can be granted without a public hearing.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.10 to serve the Application on all parties to the original proceeding- in this case ANC 7D- and OP, at the same time that the request was filed with the Office of Zoning. The Commission concludes that ANC 7D was allowed 30 days after the request was filed and served on September 24, 2024, to file a response to the Application in accordance with Subtitle Z § 703.12.
5. The Commission concludes that, in accordance with Subtitle Z § 703.13, this request for a Modification Without Hearing was filed with the Office of Zoning at least 35 days prior to

the public meeting at which the request was considered by the Commission. The request was originally filed on September 24, 2024, and considered by the Commission at its November 14, 2024 public meeting.

6. The Commission finds the Application consistent with the intent of the Original Order approval as the proposed modified language to Condition B.5. clarifies that the intent was for the van loop service to continue only until a better pedestrian connection was established between the Project and both the Deanwood and Kenilworth Recreation Centers. Further, the completion of the construction of the Frederick Douglass Memorial Bridge has established the pedestrian connection from the Project to both recreation centers that the van loop service was intended to rectify.

“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 § 405.9, 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 finds OP’s recommendation to approve the Application persuasive and therefore concurs in that judgment.

“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 7D 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 B.5. of the Original Order to clarify that the van loop service shall continue until a more direct, well-lit pedestrian path from the Project to both the Deanwood and Kenilworth Recreation Centers is established. Condition No. B.5. of Z.C. Order No. 15-21, as modified by Z.C. Order No. 15-

21B and extended by Z.C. Order Nos. 15-21A, 15-21C, 15-21D, and 15-21E, is amended to read as follows (deletions shown in ~~bold and strikethrough~~ text; additions in **bold and underlined** text). All other conditions in Z.C. Order No. 15-21, as modified, remain unchanged and in effect.

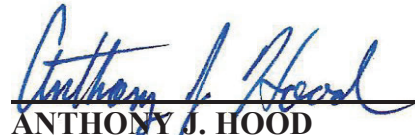
5. Commencing with the issuance of a Certificate of Occupancy for the first building in Phase 1 and continuing service up until the issuance of a Certificate of Occupancy for the first building in Phase 2, the Applicant shall provide a van loop service from the Project to both the Deanwood and the Kenilworth Recreation Center. The Applicant shall provide loop service from the Project to the Deanwood and Kenilworth facilities four times per weekday, in the morning hours and after school. **The van loop service shall continue until a more direct, well-lit pedestrian path from the Project to both the Deanwood and Kenilworth Recreation Centers is established.**

Final Action

VOTE (November 14, 2024): 5-0-0

(Tammy Stidham, Robert E. Miller, Anthony J. Hood, Joseph S. Imamura, and Gwen Wright to approve.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 15-21F shall become final and effective upon publication in the *District of Columbia Register*; that is on March 7, 2025.


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.