

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION CORRECTED¹ ORDER NO. 08-30A1

Z.C. Case No. 08-30A

**(Modification to a Design Reviewed and Approved Project within the Capitol Gateway
("CG") Overlay Zone for 25 M Street, S.E., Square 700, Lots 33, 802, 840, 841, 850, 864,
865, 868, 871, 872, 873, 874, and 875 ("Property"))**

February 28, 2011

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on February 28, 2011. At the meeting, the Commission approved an application from West Half 1 LLC, West Half 2 LLC, and West Half 3 LLC (collectively, the "Applicant") for a minor modification to an approved design for the mixed-use project being constructed at 25 M Street, S.E., that review having been carried out pursuant to Chapter 16 (Capitol Gateway Overlay) and the Consent Calendar Regulations of Chapter 30 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. Because the proposed modifications were deemed minor, a public hearing was not conducted.

The Commission determined that this modification request was properly before it under the provisions of §§ 1604, 1607, 1610, and 3030 of the Zoning Regulations.

FINDINGS OF FACT

1. By Z.C. Order No. 08-30, dated February 23, 2009, and effective April 10, 2009, the Commission approved the design of a mixed-use development that includes approximately 260-300 market-rate residential units, approximately 370,019 square feet of office space and approximately 53,840 square feet of retail uses located predominantly on the ground floor (the "Project"). The Commission reviewed the project pursuant to §§ 1604, 1607, and 1610 of the Zoning Regulations. It also granted variance and special exception relief pursuant to §§ 3103 and 3104 of the Zoning Regulations.
2. The Property is located immediately north of the Washington Nationals' baseball stadium. It is bounded by M Street, S.E. on the north, Half Street, S.E. on the east, N Street, S.E. on the south, and Van Street, S.E. on the west.
3. By letter dated January 28, 2011, and plans accompanying the letter, the Applicant requested approval to modify the following aspects of the Project's design:

¹ This order corrects Decision Paragraph No. 5 to reflect that the office components will meet LEED Gold and the residential component will continue to be certifiable at least at the LEED Silver Level. No other changes were made.

- 1) Modifications to the building elevations: As illustrated in Exhibit 1 of Z.C. Case No. 08-30A, these modifications include the elimination of the tower element in the northeast corner of the building at the intersection of Half and M Streets, modification of the materials used along Half Street and Van Street; modification of the balcony locations on the residential portion of the Project; and modification of the windows on the office component of the Project.
- 2) Retail Gross Floor Area: The Applicant is modifying the ground floor plan to reconfigure the lobby space for both the office and residential buildings. This will reduce the amount of retail space from 69% to 68% of the ground floor space.
- 3) Modifications to the Roof Plan and Sustainability: The Applicant is reducing the size of the pool on the residential roof and establishing a walkable terrace on the office portion of the building. It is also replacing the green roof on the top of the penthouses with a white-reflective roof. The Applicant has further committed to achieving a sustainable program that is certifiable at the LEED Gold level for the office components of the project.
4. Each of the approved modifications is detailed on the plans submitted into the record as a part of Exhibit 1.
5. The approved modifications² will increase the gross floor area by approximately 4,347 square feet, or 0.05 floor area ratio. The Project will continue to have a maximum height of 110 feet and include approximately 260-300 market-rate residential units.
6. By memorandum dated February 18, 2011, the Office of Planning (“OP”) recommended that the Commission approve the minor modification. It stated specifically that “[a]ll of the architectural modifications are minor, in keeping with the original design intent and approval, and improve the overall appearance of the project.” OP further found that “[a]lthough the total amount of retail would slightly decrease, the retail spaces have been made more useable.” Finally, with respect to the rooftop changes, OP noted that “the impacts of the proposed changes at the roof level would be minimal, and the increased LEED level would in fact be a net improvement for the project.”
7. By letter dated February 25, 2011, David G. Garber, the Single Member District Commissioner for Advisory Neighborhood Commission 6D voiced his support for the Project and asked the Commission to approve the updated plans.

² The Applicant did not request that the Commission modify its approval to permit this additional gross floor area (“GFA”), but instead will request the Zoning Administrator to permit the additional GFA pursuant to Condition No. 7 of Z.C. Order No. 08-30.

8. The Commission finds that the requested minor modifications do not affect the essential elements of the approval given by the Commission for this Project, including height and lot occupancy. It further finds that it only has a minor effect on the approved uses, gross floor area, and setbacks and that these modifications are of no great significance to the Project.
9. On February 28, 2011, at its public meeting, the Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modifications to the design originally approved.
10. The Commission concurs with the Applicant that approving the application is appropriate and is not inconsistent with the intent of Chapters 16, 30, or 31 of the Zoning Regulations.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission concludes that the proposed modifications are minor and do not change the intent of the previously approved Z.C. Order No. 08-30. Further, the Commission concludes that its decision is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The proposed modifications do not affect the essential elements of the approved Project, including height or lot occupancy. The modifications only have a minor effect on the approved uses, gross floor area, and setbacks, and these modifications are of no great significance to the Project. As permitted by Condition No. 7 of Z.C. Order No. 08-30, the Zoning Administrator will still retain the flexibility to make minor modifications to the plans as approved by the Commission herein, including a change not to exceed two percent in the percentage of lot occupancy or gross floor area of the building; and a change not to exceed two percent in the number of residential units or gross floor area to be used for commercial uses.

Other than the aspects noted in the Applicant's statement and the approved plans, no other condition of the approved design will be affected. The material facts relied upon by the Commission in approving the design in Z.C. Order No. 08-30 have not changed as set out herein. The modifications are minor such that consideration as a Consent Calendar item without public hearing is appropriate.

As provided in the decisions, the Commission approves the modifications requested.

DECISION

In consideration of the Findings of Fact and Conclusions of Law provided herein, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for minor modifications of the design for the property located at the southwest corner of M and Half Streets, S.E., more formally known as Square 700, Lots 33, 802, 840, 841, 850, 864, 865, 868, 871, 872, 873, 874, and 875, approved by Z.C. Order No. 08-30, as set out in the Applicant's letter, and the accompanying plans, dated January 28, 2011. Z.C. Order No. 08-30 is hereby modified as follows:

Conditions Nos. 1, 3, 4, and 5, are revised to read as follows:

1. The Applicant shall develop the Property in accordance with the plans approved as Exhibits 13, 21, and 31 in Z.C. Case No. 08-30, as modified by the guidelines, conditions, and standards stated therein, and as further modified by the plans submitted as Exhibit 1 of Z.C. Case No. 08-30A.
3. Except for the roof structures and architectural embellishments for which a waiver has been granted under the Height Act, the maximum permitted height of the building shall be 110 feet. The project in its entirety shall include approximately 288, 242 s.f of residential use (260-300 market-rate residential units), 369,292 s.f. of office use and 51,624 of retail use.
4. A minimum of 68% of gross floor area of the ground floor shall be devoted to preferred uses.
5. The roof shall contain the green roof and white reflective roof elements depicted in the plans submitted as Exhibit 1 of Zoning Commission Case No. 08-30A. The Applicant shall provide sustainable building design features such that the office components of the Project will qualify for at least a LEED Gold building and the residential components of the Project will qualify for at least a LEED Silver building

All other conditions of Z.C. Case No. 08-30 shall remain in effect.

On February 28, 2011, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order taken 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).

871, 872, 873, 874, and 875, approved by Z.C. Order No. 08-30, as set out in the Applicant's letter, and the accompanying plans, dated January 28, 2011. Z.C. Order No. 08-30 is hereby modified as follows:

Conditions Nos. 1, 3, 4, and 5, are revised to read as follows:

1. The Applicant shall develop the Property in accordance with the plans approved as Exhibits 13, 21, and 31 in Z.C. Case No. 08-30, as modified by the guidelines, conditions, and standards stated therein, and as further modified by the plans submitted as Exhibit 1 of Z.C. Case No. 08-30A.
3. Except for the roof structures and architectural embellishments for which a waiver has been granted under the Height Act, the maximum permitted height of the building shall be 110 feet. The project in its entirety shall include approximately 288, 242 s.f of residential use (260-300 market-rate residential units), 369,292 s.f. of office use and 51,624 of retail use.
4. A minimum of 68% of gross floor area of the ground floor shall be devoted to preferred uses.
5. The roof shall contain the green roof and white reflective roof elements depicted in the plans submitted as Exhibit 1 of Z.C. Case No. 08-30A. The Applicant shall provide sustainable building design features such that both the residential and office components of the Project will qualify for at least a LEED Gold building.

All other conditions of Z.C. Case No. 08-30 shall remain in effect.

On February 28, 2011, upon the motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order taken 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 June 17, 2011.


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION


JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NO.: 08-30A

JUN 17 2011

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 08-30A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|--|--|
| 1. <i>D.C. Register</i> | 5. Gottlieb Simon
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| 2. Christine Roddy, Esq.
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ATTESTED BY: _____


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