

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**ZONING COMMISSION ORDER NO. 05-30C**  
**Z.C. Case No. 05-30C**  
**Karajoel, LLC**  
**(PUD Modification @ Square 3719)**  
**May 13, 2013**

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on February 21, 2013 to consider an application from Karajoel, LLC ("Applicant"), owner of Lot 41 in Square 3719 ("Property" or "Subject Property"), for approval of a modification to a planned unit development ("PUD") approved pursuant to Z.C. Order No. 05-30. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

1. On November 13, 2012, the Applicant submitted an application to the Commission for approval of a minor modification to a PUD approved pursuant to Z.C. Case No. 05-30. (Exhibit ["Ex."] 1-1D, 4.)
2. Pursuant to Z.C. Order No. 05-30, the Commission approved a PUD for former Parcels 126/24 and 126/74, and Lots 69, 70, 71, 72, 73, 801, 824, and 826 in Square 3714, and former Lot 858 in Square 3719, of which the Subject Property is a portion. The Subject Property contains 83,140 square feet of land area and two existing buildings.
3. The approved PUD includes construction of a residential development of 169 units – including 38 detached single-family dwellings, 73 townhomes, and 58 condominium apartments – containing approximately 369,684 square feet of gross floor area. Furthermore, the project will include 14 units (three townhomes and 11 condominiums) offered as affordable housing units. The affordable apartment units will be distributed vertically and horizontally throughout the two apartment buildings. The three affordable townhouse units will be units randomly distributed with not more than one per group of townhouses. The project will have an overall density of 0.73 floor area ratio ("FAR") and a maximum building height of approximately 40 feet for the townhouses and single-family homes. The project includes a total of over 186,000 square feet of green space within the development.

4. After the PUD was approved pursuant to Z.C. Order No. 05-30, the original applicant sold off its interest in the apartment component of the project to the Applicant. Now, the Applicant owns the apartment component and the existing two buildings on the original PUD site. The original applicant continues to own the entirety of the detached house and townhouse portion of the PUD. (Ex. 1.)
5. Pursuant to Z.C. Order No. 05-30A, which became final and effective on March 13, 2009, the Commission approved the validity of Z.C. Order No. 05-30 for a period of two additional years, such that a building permit application for the PUD must be filed no later than January 19, 2011 and construction must start no later than January 19, 2012.
6. Pursuant to Z.C. Order No. 05-30B, which became final and effective on April 13, 2012, the Commission approved the validity of Z.C. Order Nos. 05-30 and 05-30A such that construction must start no later than January 19, 2013.
7. The Applicant now seeks a modification to the approved PUD. Specifically, the Applicant requested approval to change the use of the smaller existing building from apartments to an adult day treatment facility and to reduce the total number of condominium apartments to 46, all of which will be in the larger existing building. In addition, the Applicant requests the approval of a small addition to the smaller building to accommodate the adult day treatment facility. Further, the Applicant requests that the existing larger building that will become apartments not be expanded, as previously approved. Finally, the Applicant has requested an extension of the validity of the PUD such that the Applicant may apply for a building permit up to two years from the effective date of this Order. Except for the modifications and the conditions contained herein, the proposed project, in all other respects, will be substantially consistent with the prior approval and the conditions set forth in Z.C. Order Nos. 05-30, 05-30A, and 05-30B. The PUD and Zoning Map amendment approved in Z.C. Order Nos. 05-30, 05-30A, and 05-30B shall otherwise remain the same. (Ex. 1, 13-13D, 25.)
8. On November 20, 2013, the Office of Planning (“OP”) submitted a report recommending that the application be heard at a public hearing rather than as a minor modification. (Ex. 5.)
9. At its December 10, 2012 public meeting, the Commission set the case down for a public hearing as a contested case. (12/10/12 Transcript [“Tr.”] at pp. 79-81.)
10. On December 17, 2012, the Applicant submitted a letter requesting a hearing date. (Ex. 7). On February 1, 2013, the Applicant submitted supplemental information, including a traffic and parking analysis for the proposed modification as well as revised plans for the proposed apartment building. (Ex. 13.)

11. After proper notice, the Commission held a hearing on February 21, 2013 on the application. Advisory Neighborhood Commission (“ANC”) 4B was automatically a party. The Commission received no requests for party status.
12. OP provided a report dated February 8, 2013 and provided testimony at the hearing in support of the application with conditions. The contents of the report are discussed below. (Ex. 15; 2/21/13 Tr. at pp. 103-04.)
13. At the public hearing, the Commission heard testimony and received a report from the District Department of Transportation (“DDOT”) stating that the proposed adult day treatment facility would not have adverse operational or safety impacts on the roadway network or study intersections. (Ex. 14; 2/21/13 Tr. at pp. 104-06.)
14. At the public hearing, the Applicant testified that despite its best efforts to find a partner to develop the both buildings with residential uses, it was unable to interest a residential developer because of the high cost of renovating the buildings for a comparably small number of units. The Applicant further testified that it subsequently sought other partners to develop the site and that charter schools tended to express the most interest. The Applicant testified that, out of respect for the community’s wishes, it declined to partner with charter schools. The Applicant testified that Metro Homes, the proposed adult day treatment facility operator, would be the best partner for the smaller existing building because it would have the fewest impacts on the community and its purchase of the smaller building would then allow redevelopment of the larger existing building into condominium apartments. (2/21/13 Tr. at pp. 19-23.)
15. The Applicant testified about his commitment to involving the community in selecting a development partner. The Applicant testified that in the more than three years that it has sought a development partner, it has extensively engaged members of the community and ANC 4B. The Applicant testified that it met with Councilmember Muriel Bowser no less than four times and attended at least 10 community and ANC meetings. In addition, the Applicant testified that it engaged members of the community about Metro Homes at least nine months prior to the hearing date. (2/21/13 Tr. pp. 20-23.)
16. The Applicant’s architect testified that the modification to the PUD will result in a few changes to both existing buildings that differ from the original PUD. The modification will include 27 surface parking spaces for the smaller building and 46 surface spaces for the larger building. The larger building will not include an underground parking garage. The larger building will not be enlarged and will contain the 11 of the affordable condominium units that have yet to be constructed. (2/21/13 Tr. at pp. 27-30.)
17. The Applicant’s architect further testified that the smaller building will be used entirely by Metro Homes for its offices and adult day treatment program. The cellar and first floors would contain classrooms, activity rooms, a kitchen, and a cafeteria. The second and third floors will contain offices. The smaller building will receive an addition of

approximately 1,095 square feet on the first floor to accommodate the cafeteria. The Applicant will slightly modify the building's exterior, which will include extending the elevator to the third floor, adding dormers, and constructing a deck on part of the roof. (Ex. 1; 2/21/13 Tr. at pp. 34-42.)

18. In writing and at the public hearing, a representative of Metro Homes testified that the adult day treatment facility will accommodate 110 participants and 26 staff. However, the representative of Metro Homes testified that the average daily attendance will be approximately 93 participants. (2/21/13 Tr. at p. 52.)
19. The representative of Metro Homes further testified that Metro Homes will operate a small fleet of vans to transport participants to and from the facility. Metro Homes currently does this at its existing facility. The vans generally will arrive between 8:30 a.m. and 10:30 a.m. Monday through Friday to drop-off participants, with three or more vans unloading at a time. All participants will be escorted into the facility. Vans will pick-up participants from the facility between 2:00 p.m. and 4:30 p.m. (Ex. 13A; 2/21/13 Tr. at pp. 50-52.)
20. The Applicant's traffic expert provided testimony in writing and at the hearing that the proposed modification to include an adult day treatment facility with 110 participants and 27 staff will have only a minimal effect on traffic on the studied streets and intersections. The Applicant's traffic analysis assessed the impact of the arrival of participants by vans as well as all of the staff's arrival by automobile. In addition, the traffic analysis' background conditions included the planned charter school approximately one block from the Property. (Ex. 13A; 2/21/13 Tr. at pp. 55-57.)
21. ANC 4B initially submitted a report and resolution in opposition to the application, and a representative of the ANC testified in opposition at the public hearing. However, following the public hearing, the ANC changed its position and submitted a letter and resolution in support of the application based on a private agreement between the Applicant and community organizations in which the Applicant agreed to conditions regarding the proposed modification. The contents of the final ANC report are discussed more fully below. (Ex. 16, 26.)
22. Judi Jones, a nearby resident and ANC 4B commissioner, submitted a letter in support of the application. She stated that the adult day treatment facility would be an appropriate use and that she supports the application because it would allow redevelopment of the larger existing building. (Ex. 18.)
23. Stan Voudrie, Manager of Four Points LLC, testified in support of the application. Mr. Voudrie testified that Four Points is developing the townhouse and detached single-family dwelling portion of the original PUD. He stated that he has not received any negative feedback from salespeople or house purchasers about the proposed adult day treatment facility. (2/21/13 Tr. at pp. 143-45.)

24. On February 15, 2013, the Lamond-Riggs Citizens Association, the Lamond Community Action Group, and the Lamond-Riggs Development Task Force (the “Community Organizations”) submitted a letter in opposition to the application. The Community Organizations also testified in opposition at the public hearing. The Community Organizations acknowledged the extensive dialogue with the Applicant but opposed the application based on the original vision for the PUD as an all residential community and lingering concerns about Metro Homes’ van traffic. In addition, the Community Organizations expressed concerns about the number of participants in the adult day treatment facility, visitor parking for the adult day treatment facility, construction management, community, amenities and design. Following the public hearing, the Community Organizations entered into a separate agreement with the Applicant to address their concerns. Following the agreement, the Community Organizations changed their position and supported the application. (Ex. 17, 26; 2/21/13 Tr. at pp. 150-159.)
25. On March 22, 2013 the Applicant submitted supplemental information in response to questions and requests during the public hearing. Such information included a more detailed site plan, floor plans showing affordable units, a landscaping plan, and a circulation plan for Metro Homes’ vans. (Ex. 25-25C.)
26. The Commission finds that the Applicant’s separate agreement with the Community Organizations adequately addresses all of the Community Organizations’ concerns.
27. At a public meeting held on April 8, 2013, the Commission took proposed action to approve the application.
28. At a public meeting on May 13, 2013, the Commission took final action to approve the application in Z.C. Case No. 05-30C, subject to conditions.

**Benefits and Amenities**

29. The Commission found in Z. C. Case No. 05-30 that a number of public benefits and amenities will be created as a result of the approved PUD. (See Z.C. Order No. 05-30.) The Commission finds that approval of the proposed modification will result in a number of public benefits and amenities, including:
  - a. *Housing and Affordable Housing*

The modification will result in the construction of 46 condominium apartments, 11 of which will be affordable for households making at or below 80% of the Area Median Income; (Ex. 1.)
  - b. *Urban Design, Architecture, Landscaping, or Creation of Open Spaces*

The relocation of an existing operation to an improved facility represents an adaptive reuse of an existing structure with minor modification to the building's structure. This is a sustainable element of the proposal while accommodating a much needed service beneficial to the city as a whole; and (Ex. 15.)

c. *Uses of Special Value*

The Applicant agreed to make the following community amenities and public benefits: (Ex. 25C.)

- i. **Use of two large meeting rooms in the Metro Homes facility.** Metro Homes will provide the community with access to the 1,300 square foot training room, and 1,500 square foot cafeteria when the Metro Homes is not operating, subject to a separate agreement;
- ii. **Support community events.** The Applicant will support the expenses associated with two community events annually for 10 years in an amount not to exceed \$1,000 per year. The Applicant and the Community will make separate arrangements for the disbursements of those funds;
- iii. **Incorporate a car sharing location.** The Applicant will provide a permanent space for a car sharing station in or near the overflow parking area at the condo building site. The Applicant will make best efforts to arrange for such a car sharing service to locate at the PUD;
- iv. **Support community association services.** The Applicant will support administrative and constituent services in the amount of \$2,000 each (totaling \$6,000) to the following community organizations: Lamond Riggs Citizens Association, Lamond Community Action Group, and Citizens Aware. The contributions will be distributed prior to the issuance of a Certificate of Occupancy for the condominium. The Applicant and the officers of the listed organizations will make arrangements for the specific distribution of the contributions; and
- v. **Add sidewalks from 76 Peabody to 42 Peabody (across from site) and curbs on opposite side of Sligo Mill Rd. in 6000 block.** The Applicant will pay for or install approximately 300 square feet of sidewalk, in coordination with the D.C. Department of Transportation. This condition is contingent on the Applicant or DDOT developing a feasibility study and implementation plan, and may be revoked if the study results are that the sidewalk plan is not feasible. If given DDOT approval, the installation timing will coincide with the sidewalk installation planned for the PUD site.

**Zoning Flexibility**

30. In the original PUD, the Commission granted the following areas of flexibility from the Zoning Regulations:

*Flexibility from §§ 410 and 2516.* Section 410.1 provides that in an R-5 Zone District, if approved by the Board of Zoning Adjustment as a special exception, a group of one-family dwellings, flats, or apartment houses, or a combination of these buildings, with division walls erected from the ground or lowest floor up, may be erected and deemed a single building for the purpose of the Zoning Regulations. (11 DCMR § 410.1.) Section 2516 allows multiple buildings on a single, subdivided record lot, which is useful where—as here—there are large, deep lots having a smaller amount of street frontage.

As shown on the proposed site plan [...] the Applicants proposed to erect the townhomes in groups of buildings. All buildings in each group will be erected simultaneously, and all front entrances of the group will abut either a street, front yard, or front court. However, since the Subject Property has a large land area compared to the amount of street frontage, the Applicants proposed that the Commission treat each grouping of townhomes as a single building for the purpose of the Zoning Regulations so that each individual dwelling need not satisfy all the area and bulk provisions.

*Flexibility from Yard Requirements.* Pursuant to § 405.9, side yards provided in the R-5-A Zone District must have a minimum width of eight feet. A rear yard with a minimum depth of 20 feet is also required. (11 DCMR § 404.1.) For lots having no street frontage, a front yard equal to the minimum required rear yard is also required by § 2516.5(b). The Applicants requested flexibility from these requirements because a number of the yards provided will be less than the required width. As shown on the proposed site plan [...] the Applicants designed the layout of the proposed development to meet as many of the applicable zoning requirements as possible. However, due to design and massing features of the project, and the clustering of units to ensure open space, a number of units will not have complying yards. However, the project will include a significant amount of open space, as the overall lot occupancy is approximately 26.6%, and approximately 36.9% of the Subject Property will be devoted to open, green space.

31. Through this modification application, the Applicant seeks additional relief to permit an adult day treatment facility use. This use is permitted as a special exception under §§ 205 and 3104 of the Zoning Regulations. The Commission is authorized by § 2405.7 of the Zoning Regulations to approve special exception uses through a PUD.
32. No additional zoning flexibility was requested, or is granted through this Order.

33. The Application satisfies the special exception requirements of §§ 205 and 3104 of the Zoning Regulations, as follows:

- a. The center or facility shall be capable of meeting all applicable code and licensing requirements; (§ 205.2.)

The proposed facility is the relocation of an existing facility operating at a different location since 2001. The operator understands that the renovated building will be inspected for code and licensing compliance prior to its operation at this location.

- b. The center or facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance; (§ 205.3.)

Drop-off and pick-up would be solely with the PUD site on private streets. Clients would be brought to the site by van, with approximately 22 van arrivals between the hours of 8:45 a.m. and 12 noon, with a similar departure between 2:00 p.m. and 3:30 p.m. Food delivery to the site would occur once per day prior to noon. The Applicant agreed to a condition that no van queuing shall occur on adjacent public streets.

DDOT concluded in its report that the proposed adult day treatment facility would not have adverse operational or safety impacts on the roadway network or study intersections.

- c. The center or facility shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors; (§ 205.4.)

The facility has a maximum of 26 staff persons, some of whom may drive to the site. The facility satisfies its on-site parking requirement of one-space per employee using the areas identified as alleys on the Applicant's site plan. Up to five overflow parking spaces are available at the residential building to the east of the facility.

- d. The center or facility, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual, or other objectionable conditions; (§ 205.5.)

The facility clients will not participate in outdoor activities. There are no other objectionable impacts.

- e. The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties; (§ 205.6.)

No residential homes front on the parking areas along the alley of the facility. OP recommended that no special screening features were necessary.

- f. Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at center or facility in traveling between the play area and the center or facility itself; (§ 205.7.)

Off-site play is not a feature of the facilities programming.

- g. The Board may approve more than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors; (§ 205.8.)

There are no other like facilities within a 1,000 foot radius.

- h. Before taking final action on an application for use as a child/elderly development center or adult day treatment facility, the Board shall submit the application to the D.C. Departments of Transportation and Human Services, the D.C. Office on Aging, and the D.C. Office of Planning for review and written reports; (§ 205.9.)

The Office of Planning noted in its report that it had referred the application to the appropriate government agencies for comment.

- i. The referral to the D.C. Department of Human Services shall request advice as to whether the proposed center or facility can meet all licensing requirements set forth in the applicable laws of the District of Columbia; and (§ 205.10.)

The D.C. Department of Human Services did not provide comments.

- j. The special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. (§ 3104.1.)

The proposed facility satisfies the purpose and intent of the Zoning Regulations and Map. It is well separated from the single-family residential uses of the approved PUD by an alley, so as not to adversely impact the use of the neighboring properties. No outdoor activity is programmed by the proposed use and the facility would not be in operation on weekends or during the evening hours when residents would most likely return from work. The community will have access to the kitchen facility and community room for meetings.

#### **Final Office of Planning Report**

34. OP submitted a final report on the modification application dated February 8, 2013. The report evaluated whether the newly proposed adult day treatment facility satisfied the established special exception criteria set forth in §§ 205 and 3104 of the Zoning Regulations, recommended that the new use met the special exception criteria, and recommended the following conditions limiting this use:

- The adult day treatment facility shall be limited to a maximum of 110 clients and 26 staff;
- The number of clients at any one time shall not exceed 110;
- The hours of operation shall be from 8:30 a.m. to 4:00 p.m.;
- Drop-off shall be between the hours of 8:45 a.m. and 12 noon and pick-up shall be completed no later than 3:30 p.m. All drop-off and pick-up shall be on-site. No van queuing shall occur on adjacent public streets;
- The facility's cafeteria shall be made available to community use when no clients are present;
- The approved 11 affordable units shall be located in the larger residential building consistent with Condition 4 of the approved PUD Order (Z.C. Order No. 05-30); and
- A reduction in the number of apartment units of the approved PUD from 58 to 46 units, all to be located in the larger of the existing buildings, with provision of 11 affordable units as approved under Z.C. Order 05-30.

The OP report concluded the application was consistent with elements of the Comprehensive Plan and satisfied the PUD evaluation standards. (Ex 15.).

#### **Final ANC 4B Report**

35. By letter dated March 26, 2013, ANC 4B submitted its final report on the Application. The letter attached a resolution approved by the ANC at a properly noticed meeting at

which a quorum was present. The attached resolution stated that the ANC supported the Application, subject to the condition that the Applicant would not include a public charter school facility in the project, and that a particular charter school had identified the PUD site as a potential location. The resolution also attached a signed memorandum of agreement between the ANC, other community groups, the Applicant, and the operator of the adult treatment facility. The signed memorandum stated that the ANC would proffer its support of the Application contingent on the inclusion of fifteen conditions in this Order. (Ex 26.)

### CONCLUSIONS OF LAW

Pursuant to the Zoning Regulations, the PUD process provides a means for creating a “well-planned development.” The objectives of the PUD process are to promote “sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces-and other amenities.” (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.” (11 DCMR § 2400.2.)

Under the PUD process, the Commission has the authority to consider this application as a consolidated PUD. (11 DCMR § 2402.5.) The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking and loading, and yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405.)

The development of the PUD project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design and that would not be available under matter-of-right development.

As was the case for the original PUD approval, the Commission, as part of its approval of a modification may grant or impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, parking, loading, or any other applicable zoning requirement.

Development of the property included in this application carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

The modified PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

The modified PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. The uses for this project are appropriate for the Subject Property. The impact of the project on the surrounding area and the operation of city services are acceptable given the quality of the public benefits in the project.

Approval of this modification to an approved PUD is appropriate because the proposed development is consistent with the present character of the area, and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the Property in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

The benefits and amenities of the PUD, as modified, are an adequate tradeoff for the requested zoning flexibility.

The Commission is required under Section 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 issues and concerns raised in the affected ANC's written recommendation. Great weight requires the acknowledgement of the ANC as the source of the recommendations and explicit reference to each of the ANC's concerns. The written rationale for the decision must articulate with precision why the ANC does or does not offer persuasive evidence under the circumstances. In doing so, the Commission must articulate specific findings and conclusions with respect to each issue and concern raised by the ANC. (D.C. Official Code § 1-309.10(d)(3)(A) and (B).)

The Commission has carefully considered the ANC's recommendation that it include a condition in this Order prohibiting a charter school within the PUD. The Commission notes that a charter school is not an approved use within the approved PUD, or this modification of the PUD. The Zoning Regulations provide that in order to obtain a building permit, the Applicant must record a covenant on the land records restricting use of the Property in accordance with the PUD Orders. (11 DCMR § 2409.3.) Accordingly, a charter school cannot locate within the PUD site unless this PUD Order is modified by the Commission. If an application to modify the PUD is filed in the future, the Commission will judge the application on its own merit, and therefore declines to include a condition prohibiting a charter school use. The ANC will have an opportunity to participate in any modification proceeding, if one is filed. The Commission believes this process adequately addresses the ANC's concern about this issue.

The ANC also stated in its resolution that fully supported and is a party to all the terms and conditions of the signed "Memorandum and Agreement of Approved Conditions" that was attached to the ANC resolution. The Applicant submitted a draft order that included all of the conditions listed in the agreement. The Commission has included the substance of all of the conditions in this Order, but has revised the form of the conditions so they can be enforced by the Zoning Administrator.

The Commission is required under Section 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) to give great weight to OP recommendations. The Commission carefully considered OP's recommendation for approval, and concurs in this recommendation.

OP also recommended several conditions in its report. The Commission has included the substance of these recommendations in this order, with two exceptions. First, the OP report suggested restricting the hours of operation of the adult day treatment facility so that they would end at 4 p.m., and in another condition recommended that all transportation pick up from the facility end by 3:30 p.m. The Applicant stated that the facility will operate until 4:30 p.m. and that pickup will also end at 4:30 p.m. The Commission concludes that the Applicant's proposed hours are reasonable, and therefore adopted conditions consistent with this proposal, requiring operating hours to end at 4:30 p.m. Second, the OP report recommended a condition requiring all drop-off and pick up to occur on site, and that no van queuing will occur on public streets. The Applicant negotiated an agreement with interested Community Organizations that includes a requirement that, "the Applicant shall evaluate the adult day treatment facility's vehicular traffic and provide any signage deemed necessary to ensure that shuttle van services does not encroach on residential areas (to include but not limited to parking/standing in non-designated areas and idling for extended periods)." The Commission has included that requirement as a condition of this Order. The Commission believes this condition is an adequate substitute for the condition OP recommended.

### **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 modification of a PUD approved pursuant to Z.C. Order No. 05-30. This approval is subject to the guidelines, conditions and standards as set forth in the Decision of Z.C. Order No. 05-30, as modified by the following guidelines, conditions, and standards.

Conditions 1 and 2 of Z.C. Order 05-30 are modified to read as follows:

1. The PUD shall be developed substantially in accordance with the plans prepared by Franck Lohsen McCrery Architects, dated March 30, 2006, marked as Exhibit 26 in the record (the "Plans"); as modified by Exhibit 83 and Exhibit 88; **as further modified by the architectural plans and elevations in Exhibits 25A1 and 25A2 in Z.C. Case 05-30C**; and as further modified by the guidelines, conditions and standards herein.
2. The PUD shall be a residential development, **and an adult day treatment facility**, as shown on the approved plans. The PUD shall have a maximum FAR of 0.73 and a combined gross floor area of no more than 369,684 square feet. The project shall contain no more than 169 dwelling units, including 38 single-family dwellings, 73 townhomes, and **46** condominium apartments. The Applicants shall be permitted to adjust the layout,

configuration and number of apartment units, provided the total number of units (169) is not exceeded.

The following additional conditions shall apply. For the purposes of these conditions, the term "Applicant" means the person or entity then holding title to the Property. If there is more than one owner, the obligations under this Order shall be joint and several. If a person or entity no longer holds title to the Property, that party shall have no further obligations under this Order; however, that party remains liable for any violation of these conditions that occurred while an Owner.

1. Prior to the issuance of a certificate of occupancy ("CO") for the condominium apartment building, and for the life of the PUD, the Applicant shall provide at least five overflow parking spaces for the adult day treatment facility at the site of the condo building.
2. For the life of the PUD, the Applicant shall maintain common areas of two buildings as well as upkeep along public streets and sidewalks surrounding the buildings.
3. For the life of the PUD, the Applicant shall provide the community with access to the 1,300 square foot training room, and 1,500 square foot cafeteria when the adult day treatment facility is not operating, subject to a separate agreement.
4. Karajoel, LLC shall support the expenses associated with two community events annually for 10 years in an amount not to exceed \$1,000 per year. Karajoel, LLC and the Community Organizations will make separate arrangements for the disbursements of those funds.
5. Prior to the issuance of a CO for the condominium apartment building, the Applicant shall make best efforts to arrange for a car sharing services to locate a car sharing station in or near the overflow parking area at the condo building site. If a car sharing service is willing to locate a station, the Applicant shall reserve a parking space in or near the overflow parking area at the condo building site for the car sharing station.
6. Prior to the issuance of a CO for the condominium apartment building, the Applicant shall evaluate the adult day treatment facility's vehicular traffic and provide any signage deemed necessary to ensure that shuttle van services does not encroach on residential areas (to include but not limited to parking/standing in non-designated areas and idling for extended periods).
7. Within six months of opening the adult day treatment facility, with advance notice and arrangements, the Applicant shall arrange site visits to existing Metro Homes facilities and site visits to the new facility for interested members of the community.

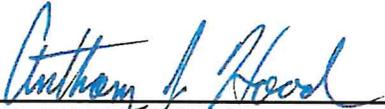
8. The Applicant shall provide construction updates, at least monthly, via email and/or phone, to the community. The Applicant also will provide updates on the Trout Design website.
9. Prior to the issuance of a CO for the condominium apartment building, the Applicant shall develop lighting and security plans and seek community input.
10. The Applicant will extend the cornice line to the addition at the rear of the second (small) building, as reflected in the revised plans submitted by the Applicant in Exhibit 25A.
11. Prior to the issuance of a CO for the condominium apartment building the Applicant will support administrative and constituent services in the amount of \$2,000 each (totaling \$6,000) to the following community organizations: Lamond Riggs Citizens Association, Lamond Community Action Group, and Citizens Aware. The Applicant and the officers of the listed organizations will make arrangements for the specific distribution of the contributions.
12. Prior to the issuance of a CO for the condominium apartment building, the Applicant will pay for or install approximately 300 square feet of sidewalk, in coordination with the D.C. Department of Transportation. This condition is contingent on the Applicant or DDOT developing a feasibility study and implementation plan, and may be revoked if the study results are that the sidewalk plan is not feasible. If given DDOT approval, the installation timing will coincide with the sidewalk installation planned for the PUD site.
13. The adult day treatment facility shall be limited to a maximum of 110 clients and 26 staff.
14. The hours of operation for the adult day treatment facility shall be 8:30 a.m. to 4:30 p.m.
15. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time, an application for a building permit must be filed as specified in 11 DCMR § 2409.1; the filing of the building permit application will vest this Order.
16. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.1 *et seq.* (the "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 that is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violations will be subject to disciplinary action. The failure or refusal of the Applicant to comply with the

Act shall furnish grounds for the denial or, if issued, the revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On April 8, 2013, upon the motion of Chairman Hood, as seconded by Vice Chairman Cohen, the Zoning Commission **APPROVED** this application at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to approve).

On May 13, 2013, upon the motion of Commissioner Turnbull, as seconded by Vice Chairman Cohen, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on May 31, 2013.



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**ANTHONY J. HOOD**  
**CHAIRMAN**  
**ZONING COMMISSION**



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**SARA A. BARDIN**  
**DIRECTOR**  
**OFFICE OF ZONING**