

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12805, of North Capitol Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations for a special exception under Paragraph 3105.42 and Sub-section 3307.2 to permit a new residential development (Park Place) in the R-5-A District, consisting of groups of dwellings and flats with common division walls from the ground up and being considered as one building on the Trinity College site bounded by Michigan Avenue and North Capitol Street at the premises 3001 through 3363 Magnolia Drive, 3001 through 3038 Dogwood Court, 1 through 101 Magnolia Court, 2 through 100 Magnolia Court, 3200 through 3338 Chestnut Road, 3300 through 3326 Willow Street, 3301 through 3383 Willow Street, 3302 through 3376 Red Oak Way, 201 through 319 Willow Court, and 200 through 330 Willow Court, N.E. (Square 3499, Lot 1).

HEARING DATE: November 22, 1978
DECISION DATE: December 6, 1978

FINDINGS OF FACT:

1. the subject site is a substantially unimproved tract of land containing approximately 24 acres located at the northeast corner of North Capitol Street and Michigan Avenue, N.E., known as lot 1, square 3499.
2. The applicants plan to develop this tract with a low density, townhouse type condominium development to consist of 541 dwelling units to be used for single family purposes constructed in groups of dwellings which are to be considered single buildings under Section 3307. The proposal calls for forty-eight groups of buildings.
3. Under existing zoning, R-5-A, over 1,000 units could be built in a number of forms including high rise apartments. The proposed development calls for approximately one-half the density permitted in terms of dwelling units and approximately two-thirds of the permitted gross floor area, which is a maximum of 0.9.
4. The property has approximately 1800 linear feet of frontage on Michigan Avenue and approximately 1700 feet of frontage on North Capitol Street. The proposed development will meet the standards for R-5-A development.

5. The development calls for a density of approximately 22.4 dwelling units per acre with an average land area per unit of approximately 1,362 square feet. The lot occupancy of the proposal is approximately 19 per cent, with approximately 15 acres of land in green space. The details of compliance with the R-5-A District are set forth in the memorandum of the Building and Zoning Regulation Administration, September 12, 1978.

6. The proposed development has been processed through governmental review by virtue of Mayor's Order No. 78-58 dated March 15, 1978, coordinating "large tract developments."

7. Pursuant to the large tract review process, since May of 1978, the owners of the subject site have submitted information as required under the large tract review procedures to various concerned departments of the District of Columbia government as well as citizens groups.

8. The application was referred to the District of Columbia Board of Education, for its recommendation. The Board found no objection to the project in terms of school capacity. It is noted that the proposed development is in close proximity to a number of both public and private schools which are in walking distance. The Board so finds.

9. Plans for the development have been reviewed by the Department of Environmental Services. The Department has indicated to the Municipal Planning Office that water and sewer capacity is adequate to serve this site. Erosion control and sedimentation runoff during construction will be achieved through the Department's recently instituted review procedures. Storm drainage retention plans have been incorporated in the development. The Board so finds.

10. By memorandum, dated November 17, 1978, the Department of Housing and Community Development recommended the approval of the application. The Department is of the opinion that the proposed low-rise self contained project would continue the residential character of the existing neighborhoods across Michigan Avenue to the south. In addition, the proposed construction would permit opportunity for homeownership which is consistent with the District of Columbia's Housing Policy of encouraging home ownership. The Board so finds.

11. The Department of Transportation, by memorandum dated November 22, 1978, reported that the proposed development would generate approximately 320 work-oriented automobile trips during the peak hours. The Department reported that this could cause traffic northbound on North Capitol Street at Michigan Avenue to operate on the borderline of level of service E. The Department reported that it had no objection to the provision of 1.46 parking spaces per dwelling unit, as proposed by the applicant. The Department further reviewed the configuration of the internal circulation system and connection to public streets, and recommended the following:

- a. Elimination of the driveway between Holly Lane and Michigan Avenue. Alternatives would be to either redesign the skewed row of houses to front on Willow Street, or to extend Holly Lane to the Willow Street driveway to Michigan Avenue.
- b. Redesign of the Willow Street driveway to Michigan Avenue to attain a two-roadway facility, each being two lanes wide. This will accommodate entering and exiting right and left turning vehicles with minimum delay and turbulence both on and off site.
- c. Construction at the developer's expense of a 200 foot right-turn lane from northbound North Capitol Street to the proposed driveway. This facility will consist of 100 feet of parallel lane plus 100 feet of approach taper. This will serve to separate through traffic from local traffic destined for the site. To preserve functional character and capacity of the North Capitol Street expressway, a median break will not be considered.
- d. Relocation of the gates and gatehouses farther into the site. Although just one is shown on the site plan, this would apply to all driveway locations so as to prevent vehicle queues from extending into moving traffic lanes on the perimeter streets.
- e. Construction of sidewalk adjacent to Michigan Avenue for the length of the site. This will make all existing and potential bus stops on Michigan Avenue conveniently and safely accessible to residents of the site. Appropriate installation of crosswalks by the city will improve access to bus stops.

- f. Connections of site walkways to street sidewalks. Where appropriate, proposed site walkways need to be extended to close gaps that would otherwise occur in the pedestrian circulation system. Implementation of both items 5 and 6 will remove serious access obstacles to public transit services.

12. By report, dated December 1, 1978, the Department of Transportation further clarified its earlier report. The Department reported that the development proposed would not cause unacceptable impact provided the conditions enumerated in the earlier report were met by the applicant. The Board so finds.

13. The applicant has implemented all recommendations made by the Department of Transportation, which modifications as shown on the revised plans marked as Exhibit 30 of the record have been approved by the Department.

14. The Municipal Planning Office, by report dated November 21, 1978, recommended that the application be approved subject to the following CONDITIONS:

- a. That the maximum number of units be 541.
- b. That the site shall be developed in accordance with the plans submitted as Exhibit 30 in this case.
- c. That the overall F.A.R. for the site shall not exceed .9.
- d. The height of all structures shall be a maximum of 40 feet and the maximum lot occupancy shall be 20 per cent.
- e. That the recommendations of the District of Columbia Department of Transportation be addressed by the applicant.

The Municipal Planning Office reported that the property will provide a quality living environment for its residents, and that the property offers opportunities for home ownership. The MPO reported that this project is an appropriate one for this site, will provide a significant addition to the overall housing stock that is in keeping with the density and character of nearby residential neighborhoods. The Board so finds.

15. The applicant complies with Sub-Section 3307.2 in that: no rear or service entrance abuts a street, front yard or front court; any exterior stairways constructed above the level of the joist of the main floor will be calculated in building area; adequate fee access will be provided through a condominium association with private roadways as shown on the plan submitted with the application; and the proposed use of the property for single family dwelling units is compatible for existing uses in an area containing mixed residential uses and many large institution uses, including Trinity College, the U.S. Soldiers Home and the National Shrine.

16. The project has excellent access to the major arterials of North Capitol Street and Michigan Avenue. Walkways are provided in the project to provide access to bus stops on Michigan Avenue. Bus service is provided via Michigan Avenue to the site by the 80, 81, H-1, and H-2 routes. The Rhode Island metrorail station is approximately 1 and 1/2 miles away.

17. As stated by the applicant's expert traffic witness, anticipated traffic generation from the proposed development can be adequately accommodated by the capacity of existing public streets and the Board so finds.

18. A major recreational complex is planned for the proposed project consisting of a large swimming pool and bath/community house, as well as active and passive adult and child recreation areas.

19. In addition to the recreation facilities planned for Park Place, there are over twenty parks and public schools within 1 and 1/2 miles walking distance of the site.

20. Police and fire protection in this area is excellent.

21. Access to the property will be from both North Capitol and Michigan Avenue with a total of three entrances being provided. All interior streets will be private and ultimately will be owned by a condominium association.

22. The landscape treatment of the buildings calls for individual rear yard and substantial additional plantings. Landscaping will include evergreen plantings, both at the front and rear of the buildings as noted on the applicant's site plan and landscape plan.

23. The floor plans of the project reveal standard design with a mix of two units, containing one and one half baths to two and one half baths with an average width of eighteen to twenty feet.

24. The site plan is designed to preserve the existing terrain and foliage to the greatest extent feasible with the townhouse structures utilizing topographical differences of up to sixteen feet in grade.

25. Because of the relatively low density of development of this site, the particular type of dwelling units to be constructed and the large amounts of open space involved, light and air to the individual dwellings should be excellent.

26. The development plans for this project indicate that the project will have two major clusters of units and the remaining units will be arranged along the interior streets in rowhouse fashion. Most of the housing groups take advantage of the grades of the site by placing one two story unit above another. The effect, however, is that of a two story structure on one side and a four story structure on the opposite side. The maximum height of any single building is approximately thirty-five feet.

27. Support for the proposed project was submitted through the testimony of a representative of the Trinity College and through the submission of a petition stating no objection to the proposed development by property owners immediately south of the subject site across Michigan Avenue who could be most immediately affected by such development.

28. The Upper Northeast Coordinating Council appeared in opposition to the project on the basis that this development in conjunction with others in the area would adversely affect the area.

29. Advisory Neighborhood Commission 4D, within which the property is located was notified as to the hearing but did not present a report or recommendation to the Board on this case.

30. Advisory Neighborhood Commission 5A, the nearest boundary of which is approximately 1800 feet away, opposed the proposed development on the grounds that:

- a. The upper northeast area is already developed to a maximum acceptable density level and the ANC opposes the development of the few remaining green spaces left in the area.

- b. Traffic in the Catholic University/Brookland area due to the university metro station and major thoroughfares of North Capitol Street and Michigan Avenue has already created serious problems for residences in the area.
- c. A residential community on the site would destroy what is primarily an institutional setting so that from an aesthetic point of view, the development would not fit.
- d. The major civic associations in the area and the ANC's are opposed to the development, as are the overwhelming majority of citizens in the area.

31. With respect to the issues and concerns raised by ANC-5A the Board finds as follows:

- a. As set forth in previous findings, the Board finds that the proposed development will not create an adverse impact on the vicinity with respect to its density especially in light of the fact that the property could be developed to a much greater density under the R-5-A regulations. The contention that the area should remain open green space is not a proper issue to raise before this Board, since it is not reasonable to require a private property owner to reserve his property for public benefit under police power regulations.
- b. The Board finds the report of the District of Columbia Department of Transportation and the testimony of the applicant's traffic expert witness that the proposed development will have no unacceptable traffic impacts on the vicinity to be conclusive on that issue.
- c. The Board accepts the testimony of applicant's land planning expert witness that development of this site with residential units is compatible with the vicinity. The site development proposed is less dense than the only confronting residential development and is the approximate equivalent of R-3 zoning development.
- d. The fact that local citizens groups and the ANC involved are opposed to the development in and of itself is not a proper basis to deny the application.

CONCLUSIONS OF LAW AND OPINION:

The Board is of the opinion that the applicant has met all of the requirements of Paragraph 3105.42 and Sub-section 3307.2 of the Zoning Regulations as a special exception under Sub-section 8207.2. The site plan provided was duly referred to the departments and agencies specified in Paragraph 3105.42 with no objection to the approval of the project except as has been met by the applicant. The plans provide new housing in the District of Columbia in a manner of which will be compatible with the surrounding neighborhood. The density provided is far below the density permitted in the R-5-A zoning district. Ample open space, private recreation area, and landscaping are provided on the site. The groupings of the buildings have been laid out in a way to get maximum use of interior open space. The site plans meet the specific and individual criteria set forth in Paragraph 3105.42 and Section 3307.2. Additionally, the Board finds that the project will be in harmony with the general intent and purposes of the Zoning Regulations and will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps.

As to the issues and concerns of the Advisory Neighborhood Commission, the Board notes that it has not received a report from ANC 4-D, the ANC within which the site is located. The Board has addressed the issues and concerns of ANC 5-A in its findings and fact. However, in so doing, the Board takes no position on the question of whether it is required by statute to accord to that ANC, which is not immediately adjacent to the subject site, "great weight" as required by statute. The Board notes that the record indicates that the applicant has received approval from various District and postal authorities for the names of the streets in the project, which are proposed to be private streets. In this area, east-west streets should be two syllables in length and begin with the letters "G" or "H". The Board believes that the streets in this project should be consistent with that pattern to aid in location of the project and minimize confusion as to the location of the site.

In consideration of the Findings of Fact and Conclusions of Law set forth herein, it is therefore ORDERED that the application is GRANTED subject to the following CONDITIONS:

- (1) The site shall be developed in accordance with the plans marked as Exhibit 30 and 40 of the record.
- (2) The applicant shall rename the streets to be consistent with the current District of Columbia street naming system.

VOTE: 5-0 (William F. McIntosh, Walter B. Lewis, Leonard L. McCants, Charles R. Norris and Chloethiel Woodard Smith to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 29 JAN 1979

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12805, of North Capitol Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations for a special exception under Paragraph 3105.42 and Sub-section 3307.2 to permit a new residential development (Park Place) in the R-5-A District, consisting of groups of dwellings and flats with common division walls from the ground up and being considered as one building on the Trinity College site bounded by Michigan Avenue and North Capitol Street at the premises 3001 through 3363 Magnolia Drive, 3001 through 3038 Dogwood Court 1 through 101 Magnolia Court 2 through 100 Magnolia Court, 3200 through 3338 Chestnut Road, 3300 through 3326 Willow Street, 3301 through 3383 Willow Street, 3302 through 3376 Red Oak Way, 201 through 319 Willow Court, and 200 through 330 Willow Court, N.E. (Square 3499, Lot 1).

HEARING DATE: November 22, 1978

DECISION DATE: December 6, 1978

DISPOSITION: The Board GRANTED the application with CONDITIONS by a vote of 5-0 (William F. McIntosh, Walter B. Lewis, Leonard L. McCants, Charles R. Norris and Cloethiel Woodard Smith to grant).

FINAL DATE OF ORDER: January 29, 1979

ORDER

The Board granted the application by order dated January 29, 1979 subject to two conditions. Condition 1 of the order required that development be in accordance with Exhibit Nos. 30 and 40 of the record. Subsequent to the original BZA approval in Order No. 12805, a building permit application was processed and approved for Phase One of the project. When construction of Phase One was near completion, the applicant began construction of Phase Two. In 1982, market conditions forced the applicant to cease construction thereby leaving Phase Two incomplete. The final building in Phase One was also never constructed. The applicant abandoned plans to construct Phases Three through Six. Horning Associates is now under contract to purchase Phases Three and Four and the applicant has sold Phases Five and Six back to Trinity College.

On May 28, 1986, the applicant filed a request for modification of approved plans in an effort to complete Phases One and Two of the project. The applicant became aware of the need to seek a formal modification of plans from the Board during the building permit review process.

Because the request for modification of plans was filed more than six months after the final date of the written order and because of the change in the composition of the Board since the original approval, the applicant requested a waiver of Sections 506.2 and 506.5 of the Supplemental Rules of Practice and Procedure before the Board.

At its public meeting of June 4, 1986, the Board denied the applicants' request. On June 20, 1986, prior to the issuance of a written order reflecting the Board's decision, the applicant filed a revised request for modification of plans and again sought to waive the requirements of Sections 506.2 and 506.5 of the Rules. The revised request evidenced the efforts made by the applicant to contact area residents, property owners and the Advisory Neighborhood Commission which has jurisdiction over the subject site. The applicant submitted numerous letters expressing support for the proposed modification of plans, including a formal letter from ANC 4D expressing its unanimous support for the project. The Board waived the Rules to consider the request for modification of plans.

The proposed modification of plans are detailed on Exhibit No. 45 of the record. Specifically, the applicant proposes to convert the townhouses shown on the approved plans for buildings 5, 9, 10 and 16 from four to three stories. The applicant also proposes to change the two story townhouse configuration for buildings 6, 7 and 8 to two story flat layout. The total unit count set forth in the original plans will be maintained because the applicant proposes to remove the end units from buildings 5 and 10. Finally, the original plans filed with the BZA indicated a brick exterior treatment for the proposed units, although the order itself does not specify a material type. Since the cost of brick construction would be prohibitive today, the applicant has sought to modify the exterior treatment of the buildings to provide aluminum or vinyl siding in place of brick.

The modification is necessary because construction under the original plans is financially infeasible. The proposed change will render the units more economical and thus improve their marketability. As is noted in the letters of support from ANC 4D, the Park Place Condominium Association, the Park Place II Condominium Association and the Catholic University of America, area residents and property owners strongly support the requested modification.

These letters were submitted by the Applicant as attachments to the request for modification. Further, Fred Greene of the Office of Planning noted his support of the construction of additional housing in his letter dated June 2, 1986 which was also made part of the record in this case.

There was no opposition to the proposed modification of plans.

Upon review of the requested modification and the Order dated January 29, 1979, the Board concludes that the proposed modifications to the previous plans approved by the Board are minor in nature. The overall unit count will not be affected. The material facts relied upon by the Board in approving the application remain the same. No additional zoning relief is required. Further, the Board concludes that waivers of Rules 506.2 and 506.5 are necessary under the circumstances. The need for a modification did not arise within six months of the date of the written order. Also, Rule 506.5 cannot be satisfied because of the substantial change in the composition of the BZA since the date of the original plan. Accordingly, it is ORDERED that the MODIFICATION OF PLANS is APPROVED and that the plans marked as Exhibit No. 45 of the record shall be substituted for the plans previously approved by the Board and marked as Exhibit No. 30 of the record. In all other respects, the order of the Board shall remain in full force and effect.

DECISION DATE: July 2, 1986.

VOTE: 4-0 (Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to waive the rules and approve modification of plans; Lindsley Williams abstaining by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER:

SEP 26 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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