

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13056, of Christian Dutilh and Peter Schwartz, as amended, pursuant to Sub-section 8207.2s of the Zoning Regulations, for special exceptions under Paragraph 3105.42 to permit a subdivision and construction of a group of thirteen dwellings under Sub-section 3307.1 to permit the thirteen dwellings with division walls to be deemed a single building and under Sub-section 7205.3 to allow parking in front of the dwellings and within a court in an R-5-A District at the premises 4400 Lingan Road, N.W. (Square 1356, Lots 9, 10, 853, 854 and parts of street and alleys to be closed).

HEARING DATE: October 17, 1979  
DECISION DATE: November 7, 1979

FINDINGS OF FACT:

1. The subject site consists of Lots 9, 10, 853, 854 and 855 in Square 1356 and a street and alleys to be closed pursuant to Surveyor's office Case 78-363. The site is located in an R-5-A District.
2. The subject site consists of an area of approximately 25,000 square feet. It has 160 feet of street frontage along Lingan Road, N.W., which street leads into MacArthur Boulevard, N.W., approximately seventy-five feet west of Foxhall Road, N.W.
3. The applicants intend to erect thirteen single family low-rise townhouse type units constructed in a single grouping to be considered a single building under Section 3307 of the Regulations. The application had been advertised for fourteen dwellings. At the public hearing of October 17, 1979, by the Board's permission, the application was amended to request thirteen dwellings.
4. The subject site is presently improved with a single residential structure.
5. By Order No. 241 of the Zoning Commission, dated November 9, 1978, contiguous R-5-A zoning was extended to cover the subject site. In the case before the Zoning Commission, the applicant submitted two alternative site plans, one of which provided fourteen units in a "J" shaped configuration. In Findings of Fact 17 and 18 of the Order, the Commission specifically stated it "recommends that the Board take note of that plan in any deliberation that it may have on any application for this property."

6. The applicants' site plan presently before the Board is substantially similar to the site plan referred to in Zoning Commission Order No. 241. The configuration in the present plan has been altered to give more open space and provide for thirteen rather than fourteen dwellings.

7. The applicants filed for street and alley closings in Square 1356 on September 5, 1978. A public hearing was held on the aforesaid application on July 24, 1979, and the official closing is presently proceeding before the Transportation Committee of the D.C. City Council.

8. Pursuant to Paragraph 3105.42 of the Zoning Regulations the application was referred to the Office of Planning and Development, Department of Transportation, Department of Housing and Community Development and the Board of Education for their comments and recommendations.

9. The Department of Housing and Community Development, by memorandum dated August 24, 1979, reported that the treatment of the proposed fourteen units appeared very awkward and undesirable. The DHCD had no objection to the granting of the application, but stated that it would support action that would improve the site plan. The Board so finds.

10. The Superintendent of Schools, by memorandum dated August 30, 1979, reported that it had no objection to the application. It stated that there will be no impact upon school facilities in the area caused by the proposed construction. The Board so finds.

11. The Department of Transportation, dated October 16, 1979, reported that the DOT had testified at the public hearing on this application before the Zoning Commission. It identified circulation, parking and service problems inherent in the proposed development and suggested steps toward these resolution. The DOT reported as follows:

"Throughout this process, the applicant has worked with the Department to correct the site plan deficiencies. Several site plan concepts have evolved. The latest is the subject of BZA Application No. 13056, filed on August 1, 1979, and amended through a letter dated October 1, 1979 from Whayne Quin to Steven Sher. Thirteen revised plans accompanied the letter and copies were furnished on October 2, 1979 for our review. The site plan details are shown on "Revised Area Plan B," Sheet 2, dated August 31, 1979, and "Revised Site Plan," Sheet 3, with revision date September 9, 1979. Comments on these plans follow.

The following actions are necessary before the development can be implemented:

1. Closing of the 9 foot alley along the west side of the development.
2. Closing of Harvin Road.
3. The 10 foot alley along the east side of the development must remain open from the south side of Lingan Road to a point 73.2 feet south of the south line of Lingan Road to provide access to lot 845. Closing of the alley from that point southward to the end of the alley, while not essential to the success of the development, is not objectional from a traffic standpoint.
4. Establishment of a building restriction line on the south side of Lingan Road.

There are two commitments that need to be made by the applicant before the development design is considered workable from a transportation standpoint. They are:

1. Dedication or establishment by the applicant of a perpetual easement for highway purposes, four feet wide along the north side of Lingan Road between MacArthur Boulevard and a point opposite the west line of the east alley. This will provide a 16 foot wide travel-way for Lingan Road in this area to provide a marginal two-way facility for vehicles.
2. Establishment by the applicant of an eight foot wide easement area for highway purposes along the south side of Lingan Road from the west property line of the site to the west line of the east alley. This will provide a 20 foot two-way travel-way.

The DOT recommended that the granting of the application by the Board be conditioned upon the execution of these dedications and/or easements. It further noted that the additional volume of traffic generated by this development will have a negligible effect on the level of traffic service on MacArthur Boulevard. Off-street parking will be provided at the rate of one space per dwelling unit. This is marginally acceptable. Because two-way traffic operation must be maintained on Lingan Road, no on-street parking will be permitted.

and automobiles in excess of one per dwelling unit and automobiles of guests must be parked elsewhere. Parking is available on MacArthur Boulevard." The Board concurs.

12. The applicants have amended their plans to reduce the number of dwelling units from fourteen to thirteen in response to a request from the District of Columbia Department of Housing and Community Development to provide increased open area on the site.

13. The subject site is located adjacent to MacArthur Boulevard and is adjacent to U.S. Parkland on both its western and southern frontages, which provides a great amount of open space. MacArthur Boulevard provides numerous C-1 shopping areas and the subject site herein is abutted on its eastern frontage by such an area.

14. Adequate fire protection is provided by the fire station located at the corner of MacArthur Boulevard and Reservoir Road.

15. A representative of the D.C. Fire Department testified at the public hearing that the department would have no objection to the project subject to the following CONDITIONS:

- a. That the alley abutting the subject site on its eastern frontage, be widened by private easement to a width of twelve feet from the existing ten feet and that the public alley be paved with an all weather impervious surface.
- b. That the fences at the southern end of the site be set back a minimum of three feet from the lot line.
- c. That gates having a minimum of four feet in width be provided for the units located on the western frontage of the subject site and that the occupants of the project not be permitted to lock said gates.
- d. That a twenty foot fire lane be provided in the parking area of the site as per the plan submitted at the public hearing.

16. The applicant agreed at the hearing to comply with all conditions set forth by the representative of the Fire Department.

17. The subject site falls within the Second Police District with headquarters located at 3320 Idaho Avenue, N.W.

18. At the recommendation of the Department of Transportation, as aforementioned, the applicant has proposed to widen Lingan Road from twelve feet to twenty feet on its frontage, abutting the subject site through the creation of an eight foot public easement for highway purposes, and the eastern portion of Lingan Road will be widened from twelve feet to sixteen feet. Applicants acquired a four foot strip abutting the eastern portion of the street for which a public easement for highway purposes will be recorded.

19. There was testimony that anticipated traffic generation from the proposed development can be adequately accommodated by the capacity of existing public streets. Traffic circulation of the private roadway system in the project will create no adverse traffic impact in the community.

20. The total land area is approximately 25,000 square feet with an average lot area per unit of approximately 1,900 square feet.

21. Open space exceeds the minimum requirements and the lot occupancy is approximately thirty percent of the site.

22. The rear yard required is twenty feet in the R-5-A District and the applicants in this case provide such a rear yard.

23. The parking required is one space per unit and the applicants comply with this requirement. Such spaces will be located in front of the building with close and direct access to Lingan Road. Additional on-street parking is available in the immediate area.

24. Access to the property will be from Lingan Road and parking areas will be private and ultimately owned by a condominium association or homeowner's association.

25. The landscape treatment of the site calls for substantial additional plantings, including evergreen plantings, both at the front and rear of the buildings.

26. The architect for the applicants testified, and the Board finds the proposed project complies with the provisions of Sub-section 3307.2 in that

- a. No rear or service entrance abuts a street, front yard or front court.
- b. Any exterior stairway constructed above the level of the joists of the main floor will be located entirely within the building area;

- c. Vehicular access to all buildings is provided by means of a private parking area, the underlying fee of the roadway of which will eventually be held by a condominium or homeowners' association.
- d. The proposed use of the property for single family dwelling units is compatible in this subject area containing mixed residential uses including the Foxhall Mews R-5-A development to the north, a C-1 commercial district abutting the subject site to the east, and a D.C. transit right-of-way to the south.

27. The architect of the applicant testified and the Board finds that because of the lack of appropriate ingress or egress facilities through existing or proposed alleys or streets, it is not practical to locate parking spaces in accordance with subsection 7205.1 of the zoning regulations.

28. The location of the proposed parking will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and maps, in that to the north of the subject site across Lingan Road is the parking area for the Foxhall Mews; east of the subject site, is a C-1 commercial district which is improved such that the loading and parking areas for the structures thereon are in closer proximity to the parking area for the subject site than to the residential units; south of the subject site is an unimproved tract owned by D.C. Transit; and west of the site is R-1-B property improved with a single dwelling.

29. ANC 3B made no recommendation on this application.

30. There was no opposition to this application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the applicants have met all of the requirements of Paragraph 3105.42 and Sub-section 3307.2 of the Zoning Regulations for 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. The applicant has agreed to all conditions requested by the Fire Department. The plans provide new housing in the District of Columbia in a manner 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 open space. The site plans meet the specific and individual criteria set forth in Paragraph 3105.42 and Section 3307.1. 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.

The Board is of the further opinion that the applicants have met all of the requirements of Paragraph 7205.3 of the Zoning Regulations for a special exception under Sub-section 8207.2, in that it is not practicable to locate parking spaces on the site in accordance with Sub-section 7205.1 because of the lack of appropriate ingress or egress facilities through existing or proposed alleys or streets. Additionally, the Board finds that the proposal for parking in front of and within the court at the subject site will be in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect the use of the neighboring property in accordance with the Zoning Regulations and Maps. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The alley abutting the subject site on its eastern frontage shall be widened by private easement to a width of twelve feet from the existing ten feet. The public alley shall be paved with an all-weather impervious surface.
2. The fences at the southern end of the site shall be set back a minimum of three feet from the lot line.
3. Gates having a minimum width of four feet shall be provided for the units located on the western frontage of the subject site. The occupants of the project shall not be permitted to lock said gates nor to obstruct access to all those properties along the western frontage.
4. A twenty foot fire lane shall be provided in the parking area of the site as per the plan submitted at the public hearing, marked as Exhibit 26.
5. The property shall be developed in accordance with the plans marked as Exhibit 26 of the record.

VOTE: 3-0 (Walter B. Lewis, Charles R. Norris, and William F. McIntosh to GRANT; Chloethiel Woodard Smith not voting not having heard the case; Leonard L. McCants not present, not voting).

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

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

FINAL DATE OF ORDER: 4 FEB 1980

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 LICENSES, VESTIGATIONS, AND INSPECTIONS.