

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14102, of Park Skyland, Inc., as amended, pursuant to Subsection 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.42 and Subsection 3301.1 allowing a subdivision and new residential development comprising forty-five dwellings and variances from the prohibition against allowing an open parking space to be located within ten feet of a single family dwelling (Paragraph 7205.21), from the prohibition against allowing an open parking space to be located in the front yard of a dwelling (Paragraph 7205.12), and from the side yard requirements (Subsections 3305.1 and 3305.4) in an R-5-A District at premises 2400-2500 23rd Street, S.E., 2300-2359 Skyland Terrace, S.E. and 2400-2500 Skyland Place, S.E., (Square 5740, Lots 273-276, 286-294, 845 and 847).

HEARING DATE: March 14, 1984

DECISION DATES: April 4, 1984, January 9, 1985 and February 4, 1987

DISPOSITION: The application was **GRANTED** with **CONDITIONS** by a vote of 5-0 (Charles R. Norris, Maybelle Taylor Bennett, William F. McIntosh, Douglas J. Patton and Carrie L. Thornhill to grant). On January 9, 1985, the Board **GRANTED** a **MODIFICATION OF PLANS** by a vote of 4-0 (William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Douglas J. Patton to grant by proxy; Maybelle Taylor Bennett not present, not voting). On February 4, 1987, the Board **GRANTED** a **MODIFICATION** to the **ORDER** by a vote of 3-0 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Paula L. Jewell not voting, not having heard the case; Maybelle Taylor Bennett not present, not voting).

FINAL DATE OF ORDERS: July 24, 1984, February 20, 1985 and April 1, 1987

MODIFICATION ORDER

The subject application was originally granted by an order of the Board dated July 24, 1984 subject to the condition that construction be in accordance with the plans marked as Exhibit No. 38A of the record. By order dated February 20, 1985, the Board approved a request for modification of plans to permit phased development of the project to be carried out in six phases over a two-year period in accordance with Exhibit Nos. 47 and 47A of the record. By order dated April 1, 1987, the Board approved a modification to the order vacating the restriction of a two-year staging plan.

PUBLIC MEETING AGENDA
OCTOBER 4, 1995
PAGE NO. 2

By letter dated June 30, 1995, D.C. Habitat for Humanity ("D.C. Habitat") requested a waiver of Subsection 3335.3 of the Board's Supplemental Rules of Practice and Procedure which provides for six months within which an applicant must file a request for modification of plans. D.C. Habitat for Humanity indicated that it purchased the subject property in August 1994. The original developer constructed nine of the 45 townhouses approved in the project. The new owner, D.C. Habitat, wishes to proceed with construction of the remaining units. The Board granted the waiver request and considered the modification of plans.

D.C. Habitat proposes the following modifications:

1. eliminate two lots from the project,
2. reconfigure the concrete retaining wall into a series of landscaped terraces,
3. increase the width of two townhouse units on lots 329 and 326 by two feet, and
4. relocate the townhouse units on lots 298-305 closer to 23rd Street.

The current design calls for a concrete retaining wall on the western edge of the property at lots 306 and 307, adjacent to U.S. Park Service land. The purpose of the wall was to allow townhouses to be built on the steep topography of these two lots. To achieve this, the wall is designed to be from 20 to 23 feet in height. D.C. Habitat proposes that the concrete retaining wall be eliminated, along with the two townhouses that were to be built on lots 306 and 307. This would have several positive benefits to the site plan. It would decrease the density of the townhouses from 36 to 34 and allow the use of landscaped terraces using pressure treated timbers. The applicant believes this would give a better appearance within the community, but it would also provide a preferable transition between the community and the park land. In order to eliminate the concrete wall behind the townhouses on lots 298-305, D.C. Habitat is proposing that those units be moved forward toward 23rd Street. This would permit the landscaped terrace to continue behind these homes. The homes would still have the same area of level rear yard and in addition would have an attractive view from the rear. Moving these homes forward would not affect providing the required off-street parking. Increasing the width of the two townhouse units on lots 329 and 326 by two feet would permit the applicant to provide a better interior space design and make these two townhomes comparable in size to the others in the community. Both of these units would maintain conforming side yards.

PUBLIC MEETING AGENDA
OCTOBER 4, 1995
PAGE NO. 3

The modified plans contain the same landscape treatment as previously approved by the Board and maintain the integrity of the originally approved plans.

By letter dated July 13, 1995, the Board received a letter in opposition from Richard Cox, a party to the original application. Mr. Cox opposed the modification of plans on the grounds that: 1) the homes will be inferior; 2) D.C. Habitat does not want to bare the expense of constructing the 20 to 30-foot stone wall, and; 3) 36 or 34 homes would have a negative impact on the community by overcrowding.

On September 6, 1995 in considering the modification of plans, the Board requested additional information from the applicant that included the following:

1. Details of landscaping, wall treatment and materials;
2. Appearance or samples of materials through photographs, etc.;
3. Revise site plan to include existing topography and conditions of 20 to 30 feet of contiguous park land;
4. Coordination with the National Park Service;
5. Series of site sections through the affected lots (distinguishing previously approved conditions and proposed changes);
6. Any material changes to the original order of the Board.

By letter dated September 15, 1995, the applicant submitted additional information in response to the Board's request.

By letter dated October 2, 1995, Mr. Richard M. Cox responded to the applicant's submission by opposing the request on the basis that: 1) the Board's original approval of the retaining wall was correct; 2) the proposed railroad ties are not a permanent solution for soil control and should not be considered as an adequate barrier in connection with building homes on a landfill site; 3) the applicant is not following the Board's approval to construct three-bedroom, 2 1/2 bathroom townhouses with brick and concrete facades and "step backs" included between houses so that they would not have the same frontal appearance, and; 4) four persons per household and the total number of units proposed will generate a number of children who will not have recreation facilities on the site.

PUBLIC MEETING AGENDA
OCTOBER 4, 1995
PAGE NO. 4

No other party responded to the request for modification of plans.

Upon consideration of the motion, the opposition thereto, the record in the case and its final order, the Board concludes that the proposed modifications are minor in nature and do not alter the overall project as approved by the Board. No additional zoning relief is required. The material facts relied upon by the Board in approving the application are still relevant.

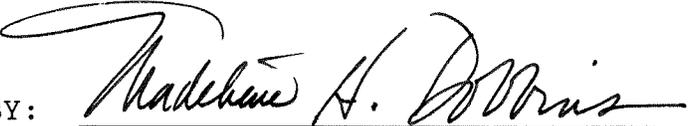
The Board concludes that there is no basis to the opposition's claim that the homes will be inferior. The remaining homes must meet building and other code requirements as did the first nine homes. The changes to the retaining wall are acceptable and preferable as a functional solution to the steep grades and offers aesthetic improvement to the project. The evidence does not support the opposition's claims that there will be overcrowding in the community, a lack of recreation space for children or that the applicant will not follow the approved plans. The project has been reduced by two homes. Each home has open space sufficient for outdoor play and the project with the existing community abuts public park land. A permit for construction will not be issued unless the plans filed for the building permit are consistent with the plans approved by this Board.

Accordingly, it is ORDERED that the request for modification of plans is hereby APPROVED.

DECISION DATE: October 4, 1995

VOTE: 4-0 (Angel F. Clarens, Susan Morgan Hinton, Laura M. Richards and Craig Ellis to waive the Rules and approve the modification of plans; Maybelle Taylor Bennett not present, not voting, having recused herself).

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

ATTESTED BY: 
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: JUL 1 1996

PUBLIC MEETING AGENDA
OCTOBER 4, 1995
PAGE NO. 5

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord14102/RCL/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 14102

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 1 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Carol A. Casperson, Director
D.C. Habitat for Humunity
P.O. Box 30884
Washington, D.C. 20030-0884

Richard M. Cox
2404 24th Street, S.E.
Washington, D.C. 20020-3400

Samie L. Marsh
2406 24th Street, S.E.
Washington, D.C. 20020

Oliver Johnson, Chairperson
Advisory Neighborhood Commission 6C
2100-D Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20020

A handwritten signature in cursive script, reading "Madeliene H. Dobbins".

MADELIENE H. DOBBINS
Director

DATE: JUL 1 1996