GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14102, of Park Skyland, Inc., as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.42 and Sub-section 3307.1 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 (Sub-sections 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 DATE: April 4, 1984

FINDINGS OF FACT:

1. The subject site is located near the intersection of Good Hope and Naylor Roads, Alabama Avenue and 25th Street, S.E. Fort Stanton Park is located to the west. The site is known as premises 2400-2500 23rd Street, S.E. 2300-2359 Skyland Terrace, S.E. and 2400-2500 Skyland Place, S.E. The site is in an R-5-A District.

2. The site comprises approximately 4.5 acres. The site contains sixteen existing units and another large vacant section that are not part of this application. The part of the site subject to this application is unimproved. The proposed development is situated on a filled dirt plateau sloping downhill on three sides. The site is also vacant of trees.

3. The applicant proposes to construct forty-five row dwellings. The development involves the construction of a U shaped dedicated street typically fronted on by two story row dwellings with front yard parking pads. The applicant has proposed the placement of several dwellings in the center of the site which require relief from certain area requirements.

4. The neighborhood consists of a variety of housing types which reflect its predominant R-5-A zoning. Garden

apartments, row, semi-detached, and detached dwellings characterize the area. Landmarks which are familiar to the area are the Sears Department Store in the C-3-A District on Alabama Avenue, E.L. Stanton Elementary School on Alabama Avenue and the newly constructed Skyland Health Care Facility at 25th and Wagner Streets.

5. The application was amended at the public hearing. The applicant now proposes to construct forty-five row houses, not forty-six as advertised. The applicant no longer requires relief from the prohibition against allowing a parking space to be located within a side yard with said space being less than three feet from the side lot line. The applicant no longer requires relief from the rear yard requirements. The applicant no longer needs relief from the side yard requirements, except as to one unit known as 2500 Skyland Place.

6. The subject property has been the subject of previous BZA actions. BZA Order No. 11086, dated December 15, 1972, granted Park Skyland, Inc., permission to erect forty-seven rowhouses in accordance with Paragraph 3105.42 at 24th and Wagner Streets and Skyland Place, S.E. The applicant did not obtain a building permit within the six month time period following the BZA approval, causing that Order to expire. BZA Order No. 11554, dated March 4, 1974 granted the reinstatement of previous BZA Order No. 11086. The Board subsequently modified that decision by Order dated November 18, 1974, which order contained specific conditions modifying the applicant's site plan.

7. Again, the applicant did not obtain building permits within the specified six month period and the approval expired. The applicant seeks approval for a new development in the application. This is not a request for reinstatement of the prior approval.

8. The application was referred to the Office of Planning under Paragraph 3105.423 of the Zoning Regulations for comment and recommendation on the site plan, arrangement of buildings and structures, provision of light, air, parking, recreation, landscaping and grading as they relate to the future residents of the project and the surrounding neighborhood.

9. The Office of Planning, in its memorandum dated March 7, 1984, recommended the conditional approval of the special exception to allow new residential development and approval of the variances to allow required parking in the front of and within ten feet of dwelling. The Office of Planning recommended denial of the originally requested variances from the rear and side yard requirements, and from the prohibition against parking in the side yard within three feet of a side lot line.

10. As to the site plan and arrangement of buildings and structures, the Office of Planning reported that the applicant's site plan consists primarily of a clustering of row dwellings having frontages following the U-shaped configuration of Skyland Terrace and Skyland Place, except for the vacant frontage along the northwest portion of the site proposed for future development. The buildings are arranged in clusters of four to nine dwellings each. The dwellings have staggered front walls which break up what could have been a monotonous repetition of similarly constructed homes. The proposed units are designed with brick front and side facades and aluminum siding on the rear facades. The fenestration consists of double hung windows with flanking shutters, porch light, and traditional door and door trim detailing for an overall colonial appearance. The roof will be constructed of asphalt shingles.

11. The units will consists of two stories and a basement and will either have three or two bedrooms and two baths, with an additional half bath optional. The units are eighteen feet in width. The lot sizes proposed for the project vary but the minimum lot area is 1,800 square feet. The largest lot is 3,726 square feet in area. Where grades permit, walk-out basement entrances are proposed.

12. As to grading, the Office of Planning reported that the development is situated on a filled dirt plateau sloping downhill on three sides. Except for the dwellings located in the center of the project, the rear yards of each unit slope downhill at varying degrees. The applicant's plans show that grading has in most cases been treated to allow a level rear yard for at least ten feet from the rear wall of the units. This requires the construction of retaining walls in some cases.

13. At 2500 Skyland Place, the unit's rear yard slopes substantially at the rear wall, making rear yard utilization near the dwelling difficult. The Office of Planning recommended that the plans show a grading pattern which would facilitate the future occupant's reasonable utilization of the rear yards for this unit.

14. As to light and air, the Office of Planning was of the opinion that the access to light and air by the future occupants of the proposed units will not be restricted. The plans must conform with interior light and air access requirements of the Building Code. As to exterior conditions, the Office of Planning was of the opinion that the location adjacent to the treed Fort Stanton Park will enhance the atmosphere conditions for the future residents of this project.

15. As to recreation and landscaping, the Office of Planning found that the proposed development is located

adjacent to Fort Stanton public park. This Federal park land abuts the site on its southwest and western property lines. The park offers to the future residents of the site its scenic beauty as well as its passive and active recreational facilities including hiker-biker trail, swimming pool, tennis and basketball courts, and picnic grounds. The Stanton Elementary School and its playing field are also available to the site's future residents and are located within 1,000 feet across 25th Street to the east. Except for the provision of required rear yards, the applicant is not providing any other amenity on the site for recreation.

16. The applicant has submitted the required landscape plan as part of this application. The plan shows the location of five different tree types throughout the site. The plan indicates the placement of thirty-one 2.5 inch to 3.0 inch trunk diameter Bradford Pear trees, nine six to eight foot tall American Redbuds, nineteen six to eight foot tall Amur Cork trees, fourteen six to eight foot tall Australian Pines and sixteen six to eight foot tall White Pines. The plan does not show any foundation plantings such as low growing evergreen shrubs along the front and side elevations.

17. The Office of Planning noted that, given the sloping grades on the site, appropriate landscape treatment would be desirable to soften the placement of retaining walls. The provision for front yard parking in the Office of Planning's opinion also dictated the need for an appropriate landscape treatment. The Office of Planning suggested that an increased number of specified trees be placed in the private space of the front yards of the dwellings to help break up the string of driveways proposed.

18. As to the variances from the parking space location requirements, the Office of Planning reported that the applicant's plan shows the location of driveways designed for required off-street parking in the front yard of most of the units proposed. These parking spaces are in many cases located within ten feet of the dwelling. The Zoning Regulations prohibit the location of open parking spaces in the front yard of a one family dwelling.

19. The applicant advised the Office of Planning that the absence of rear alley access to the proposed lots and the degree of set back location in the building restriction line are unusual and unavoidable conditions of the property, and the cause of a practical difficulty in complying with the off-street parking provisions. The U shaped street which serves the proposed units is a dedicated right-of-way and dictates the depths of the lots proposed. The Office of Planning noted that the front yard parking arrangement proposed is characteristic of other row dwellings built in the neighborhood over the last ten years. Those dwellings

proposed to be located on the perimeter of the site cannot be set further back from the street any great distance without encountering sloping conditions and giving up usable level rear yard spaces. The applicant also noted that in row developments, parking in the front yard can not be avoided as row construction precludes side yard parking.

20. The Office of Planning reported that it did not disagree with the applicant's decision to build rowhouses at this location given the variety of dwelling types in the neighborhood. The Office of Planning agreed with the applicant that the depth of the lots, building restriction line, sloping grades and fixed street location all contribute to practical placement of the parking spaces in front. The Office of Planning did not object to the variance request.

21. As to the variances from the rear and side yard requirements, the Office of Planning noted that the original site plan proposed six dwellings to be located within the center cluster of houses. The houses required variances from the rear yard requirements. The Zoning Regulations require a minimum rear yard depth of twenty feet. No rear yards were proposed in these cases, which necessitated a variance of 100 percent. Within the same cluster, two dwellings required variances from the side yard requirements. One dwelling at 2500 Skyland Place outside the center cluster also required a side yard variance.

22. The Office of Planning was of the opinion that the variances are needed given the applicant's desire to provide the proposed number of buildings in the arrangement proposed. The area of the lot on which these dwellings are located is relatively level and rectangular in shape. The Office of Planning was of the opinion that this area could be developed with the same size unit as proposed in accordance with the Zoning Regulations but potentially required the elimination of one or more of these units. The arrangement of some of the buildings in this cluster in the Office of Planning's view did not allow for the individual privacy of the units occupants. Outdoor recreation also suffered in this regard. The Office of Planning did not find a basis to support a finding of practical difficulty related to the land, and as the aforementioned variances were viewed as detrimental to the public good, it recommended that the application in this respect be denied.

23. In summary, the Office of Planning recommended as follows:

A. Denial of the variances from the rear and side yard requirements.

B. Approval of the variances from the off-street parking requirements.

C. Approval of the special exception to construct new single family row dwellings, as conditioned below:

1. The plans shall show the location of an evergreen hedge 3.5 feet in height planted between the end of the driveway nearest the dwelling. The hedge shall extend for the length of the driveway's width.

2. The plans shall show the location of concrete wheel stops permanently affixed on the driveway at a distance back from the hedge row to protect the hedge row from an automobile bumper.

3. Amend the landscape plan to show the location of six additional American Redbud or Amur Cork trees to be placed one in every other dwelling's front or side yard having street frontage.

4. The front and side facade of the units shall be constructed of brick.

5. Where retaining walls are utilized, including but not limited to rear 2417, 2413, 2415 23rd Street, side and rear of 2500 Skyland Place they shall be constructed of masonry.

6. The grading plan for 2500 Skyland Place shall be redrawn to allow for a level rear yard for at least the width of the dwelling and for twenty feet from the rear wall.

7. The center cluster of buildings be arranged differently to comply with the yard and other area requirements of the Zoning Regulations.

The Board notes that the Office of Planning report was completed prior to the amendment of the applicant's plans and that certain variances are no longer being requested. As addressed below, the Board left the record open for the applicant to submit plans addressing the concerns of the Office of Planning.

23. The Department of Transportation, by memorandum dated March 2, 1984, reported that the applicant has provided three thirty-five foot wide street dedications, through a previous action (SO 73-282), which streets are named Skyland Terrace, 23rd Street, and Skyland Place, S.E. These streets will provide a two-way circular street system

through the property beginning at the northern opening to the property at 24th Street, S.E. and Skyland Terrace and ending at the southern opening to the property, where the existing Skyland Place and the new extended Skyland Place will connect.

24. Twenty-fourth Street is a two-way local street with minimal daily traffic and a thirty-four foot wide pavement. Parking is permitted on both sides of the street. Wagner Street is a two-way local street with minimal daily traffic and a thirty-seven foot wide pavement. Parking is permitted on both sides of the street. Skyland Place is a two-way local street with minimal daily traffic and a thirty-four foot wide pavement. Parking is allowed on both sides of the street. Other area streets include Good Hope Road, which is a four-lane minor arterial with an average daily traffic volume of 18,600 vehicles in the vicinity of the site, and 25th Street, which is a two-lane minor arterial with an average daily traffic volume of 8,100 vehicles near the site.

25. As to the transit system, the site is served within a three to four block distance by four Metrobus routes, including the B4, V5, 91 and 92 routes.

26. As to parking, the applicant originally proposed to provide one parking space per dwelling unit. The DOT reported that this amount of parking is inadequate for the proposed number of dwelling units. Although the applicant is providing the minimum amount of parking spaces required by the Zoning Regulations, this level of parking does not take into account additional parking needs for visitors and two-car families. If additional parking is not provided, the surrounding street system will be adversely affected due to parking spillover from the development. A minimum ratio of 1.25 parking spaces per dwelling unit was recommended by the DOT. The Board concurs in the DOT reasoning and recommendation.

27. The Department of Housing and Community Development (DHCD), by memorandum dated February 6, 1984, reported that DHCD had reviewed the proposal, which is within two blocks or less of Stanton Elementary School, Fort Stanton Park, and a shopping center at Alabama Avenue and Good Hope Road. There are no plans for major public activity in the neighborhood which would be adversely affected by the granting of the application for townhouses called for in this development. Accordingly, the Department had no objection to favorable action by the BZA on the application. The Board concurs with the DHCD recommendation.

28. The District of Columbia Public Schools, by memorandum dated February 9, 1984, reported that it had reviewed the proposal and found that due to the relative

location of this project, it is served by the administrative Regions A and D. The schools which would serve this project are Stanton Elementary School, Winston Elementary School, Garfield Elementary School, Kramer Junior High School, Johnson Junior High School, Anacostia High School and Ballou High School. The Public Schools reported that this project will have no adverse effect upon the facilities and operations of the D.C. Public Schools. The Board concurs.

29. Advisory Neighborhood Commission 6C, by letter dated March 5, 1984, reported that the applicant explained its plans for building townhouses on vacant property adjacent to the homes of the residents of Park Skyland. The concerns of the residents were high density and overcrowding, due to no alleys and having to park on the street with the hazard of fire engines not being able to get to the property in case of fire. Also, houses built on filled land would add more property damage to homes where flooding, drainage and sewer problems already prevail. The Board finds that the drainage issue is not properly before the Board since it is not a zoning issue. The applicant in further processing the proposed development will have to meet the requirements of other D.C. Departments including the Environmental Services component of the Department of Public Works.

30. There was opposition to the application by two owners of property in the immediate neighborhood, on the grounds that the proposed number of units was too intensive for the site, the existing parking problem would be exacerbated and the storm sewers are inadequate to prevent soil erosion and flooding.

31. In response to the Board's inquiries of the Department of Public Works, the Board was advised on March 16, 1984, that water and sewer are, or will be, available for service to the subject site. The Department reported that these facilities should be adequate for normal building service.

32. The record was left open at the end of the public hearing for the applicant to submit its modified plans reflecting approval by the Zoning Administrator as to the relief now needed, the plans' conformity with conditions listed in the Office of Planning report, and evidence of the on-street parking plan in the immediate neighborhood.

33. In response, the applicant replied that it had testified at the public hearing that it had reviewed the recommendations made by the Office of Planning in its Memorandum dated March 7, 1984, and that the applicant was agreeable to all of the recommendations suggested. The applicant submitted revised plans for the proposed development incorporating all of the recommended changes.

34. Specifically, the plans were revised as follows:

A. The center cluster of houses was rearranged so that all of the proposed units comply with the rear and side yard requirements, enhance the individual privacy of the unit occupants and provide the maximum amount of outdoor yard recreation space. The revised plans were reviewed by the Zoning Administrator on March 20, 1984, and he confirmed that the units comply with the rear and side yard requirements. Accordingly, the requested rear and side yard variances for these units have been withdrawn. The application was amended at the public hearing to withdraw this area of relief for the center cluster of units. Since the rearrangement of these units results in the loss of one unit, the application was also amended at the public hearing to reflect forty-five, not forty-six dwellings.

B. The landscape plan shows the location of an evergreen hedge planted between the end of the driveway nearest the dwelling and extending the full length of the driveway's width. Additionally, the landscape plan has been amended to show the location of six additional American Redbud or Amur Cork trees to be placed one in every other dwelling's front or side yard having street frontage.

C. The plans show the location of concrete wheel stops permanently affixed on the driveway at a distance back from the hedge row to protect the hedge row from an automobile bumber.

D. The grading plan for 2500 Skyland Place allows for a level rear yard for at least the width of the dwelling and for twenty feet from the rear wall. This is the one unit that still requires a side yard variance. The Office of Planning in its report and by testimony presented at the public hearing supported the requested variance because of the unusual slope conditions of the property at this location and the fact that the lot abuts parkland which ensures the provision of adequate light and air.

E. As requested by the Office of Planning, the applicant agreed to construct the front and side facades of the units of brick and further agreed that where retaining walls are utilized they shall be constructed of masonry.

34. As to the parking plan, the applicant reviewed the proposed site plan to determine the number of on-street parking spaces that would be allowed under the proposed development. The applicant reported that as discussed in the Department of Transportation report and as the witnesses discussed at the public hearing, parking is presently permitted on both sides of the existing streets in the neighborhood. Since these streets are the same width as the dedicated streets in the proposed development, it is assumed that parking will be permitted on both sides of both Skyland Place and Skyland Terrace. At the public hearing, the applicant was conservative in its estimate and assumed parking on only one side of the street. In light of the fact that parking is presently permitted on both sides of the street, the accurate parking calculations are based on the assumption that parking will continue to be permitted on both sides of the street in the neighborhood. The DOT in its report gave no indication to the contrary.

35. With this assumption, a total of sixteen on-street parking spaces would be allowed under the proposed development. All spaces are at least five feet from a driveway entrance and are clearly marked on the submitted parking plan. These sixteen parking spaces are in addition to the forty-five parking spaces already provided off-street. The total amount of available parking is thus sixty-one parking spaces for a ratio 1.35 spaces per unit. This ratio is in excess of the 1.25 recommended by DOT and greatly exceeds the .74 vehicles per unit ratio obtained from the 1980 Census figures for the subject area.

36. Additionally, as shown on the submitted parking plan, the proposed driveways for the units in fact allow the temporary parking of a second car. The driveway length of nineteen feet coupled with a building restriction line of ten feet and sidewalk area width of fifteen feet easily permits the parking of two cars without any obstruction into the street area. This method of parking is employed throughout the neighborhood, as shown on the photographs filed in the record of the case.

37. As reported by the Department of Transportation, the traffic generated by the proposed development will not adversely impact the street system. The site is bounded on its periphery by three local streets including 24th Street on the east which provides direct access, Wagner Street on the north and Skyland Place. As noted by the Department of Transportation, all of these streets have minimal daily traffic and can easily support the proposed development.

38. The Board is required by statute to give "great weight" to the issues and concerns of the ANC reduced to writing in the form of a resolution. The Board notes that the ANC made no recommendation but recited its issues and

concerns. The Board finds that these issues and concerns have already been addressed in the Board's findings. The applicant's proposal is within the permitted density. The DOT finds no adverse parking and traffic impact since its conditions have been met by the applicant. The flooding, drainage and sewer problems have been alerted to the proper D.C. Government department.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and area variances. The granting of a special exception requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3105.42 and Sub-section 3307.1 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The granting of area variances requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape, topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicant has met its burden of proof. As to the special exception relief, the plans on record and the testimony presented at the public hearing demonstrate compliance with the specific requirements of Paragraph 3105.42 and Sub-section 3307.1. The Superintendent of Schools, by letter dated February 9, 1984, stated that the project will have no adverse effect upon the facilities and operations of D.C. Public Schools. The Department of Housing and Community Development, by memorandum dated February 8, 1984, stated that it has no objection to favorable action by the Board on the application. By memorandum dated March 2, 1984, the Department of Transportation stated that the traffic generated by the proposed development would not adversely impact the street system in the area and recommended a parking ratio of 1.25 parking spaces per dwelling unit which ratio, using on-street parking, the applicant is exceeding. The Office of Planning, by memorandum dated March 7, 1984, and by testimony presented at the public hearing, recommended approval of the special exception application subject to certain conditions to which the applicant has agreed. Finally, the Department of Environmental Services reviewed the plans and indicated that water and sewer are available to service the site.

As to the requested variance relief, the depth of the lots, the sloping grades and the dedicated street location combine to make it practically difficult for the applicant to provide the required parking in full compliance with the Zoning Regulations. The absence of access to the rear of the proposed lots and the degree of set-back location in the building restriction line are additional unusual and unavoidable conditions of the property which create the practical difficulties. The Board notes that the requested variances to permit parking in the dwelling would permit the applicant to proceed forward with a development that is totally in keeping with existing development in the area.

With the revised plans the requested side and rear yard variances are no longer necessary with the exception of a side yard variance for 2500 Skyland Place. The width of this lot coupled with the steep grades at this location make it practically difficult for the applicant to comply with the side yard requirement. If the applicant were to build to the lot line as he is permitted, the side wall of the unit would become a retaining wall and would create a cliff situation in light of the steep grades at this location. Further, the adjacent Fort Stanton Park ensures that this unit will have adequate light and air, the purpose to be served by the side yard regulations.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application as Amended, is GRANTED SUBJECT to the CONDITION that construction be in accordance with the plans marked as Exhibit No. 38A of the record.

VOTE: 5-0 (Charles R. Norris, Maybelle T. Bennett, William F. McIntosh, Douglas J. Patton and Carrie L. Thornhill 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: JUL 24 1984

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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