

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14251 of Florenza Baldi Pompa and Eugene F. Baldi, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3105.47 to use all floors and basement of the subject premises as a community based residence facility for 224 residents in an SP-2 District at premises 1225 13th Street, N.W., (Square 281, Lot 832).

HEARING DATE: February 20, 1985  
DECISION DATE: March 6, 1985

FINDINGS OF FACT:

1. The subject premises, known as 1225 13th Street, N.W., is located on the east side of 13th Street one structure removed from the intersection of 13th and N Streets, N.W. The site is located in an SP-2 District.
2. The site is improved with an eight story plus basement brick building known as the Commander Apartments, which currently contains 122 apartment units. The basement level of the structure includes twenty-five parking spaces accessible by way of a ramp off the public alley located to the rear of the structure. The southwest corner of the structure contains a public restaurant/lounge with a separate street entrance.
3. The area surrounding the subject structure consists primarily of high rise apartment buildings. Adjacent to the subject structure to the north is the Logan Park apartments. South of the subject structure on the northeast corner of 13th and M Streets is the Wade Apartments. Directly across the street from the subject structure is Sutton Plaza, a residential facility for the students of Howard University.
4. As partners in a partnership, the applicants are the owners of the subject premises known as 1225 13th Street, N.W. They have executed a contract to sell their partnership interests to a corporation controlled by Philip R. Miller, who proposes to establish a community residence facility, hereinafter referred to as a CRF, for a maximum of 224 persons at the premises.
5. The BZA may approve the proposed CRF as a special exception if the requirements of Paragraph 3105.47 of the

Zoning Regulations are met. That paragraph provides, in pertinent part, that:

- A. There shall be no other property containing a community based residential facility for five or more persons in the same square and no other property containing a community based residential facility for five or more persons within a radius of 500 feet from any portion of the subject property;
- B. There will be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees and visitors to the facility;
- C. The proposed facility shall meet all applicable code and licensing requirements;
- D. The facility will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area;
- E. The Board may approve more than one community based residential facility in a square or within 500 feet only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise or operations;
- F. The Board may approve a facility for more than twenty-five persons, not including resident supervisors and their family, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District of Columbia; and
- G. The Board shall submit the application to the Office of Planning for coordination, review, report and impact assessment along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Public Works, Human Services and Corrections.

6. The proposed plans include elimination of the residential units on the first floor in order to provide a central dining facility, CRF office space and activity and recreational areas, such as a reading room and television room. These changes would reduce the number of units from

the present 122 to 112. The facility would then include eighty-four efficiency units, seven junior one bedroom units, and twenty-one one bedroom units. In most units, a kitchen area with a sink, stove and refrigerator will remain.

7. The services to be provided to the residents will include complete meal service, laundry service, maid service, limited personal hygiene assistance, transportation, and recreational activities and facilities. A full-time social worker will be employed as required under the present licensing law. No nursing services will be provided. The typical resident is expected to be a fully ambulatory senior citizen who desire the level of services being provided in this residential environment. Each resident will furnish his or her own unit.

8. The maximum population for which the owner seeks approval is 224, or two persons per unit. Realistically, a peak building capacity of between 130 and 140 persons is anticipated.

9. Exterior renovations include the addition of a handicapped access ramp at the front of the building, a roof deck over the garage at the rear of the structure, and other cosmetic exterior work.

10. To provide the type of services proposed, the applicant anticipates a maximum staff of twenty-eight persons, including one full-time director, one activities director, one full-time social worker, one driver, two maintenance persons, five kitchen workers, fourteen house-keeping aides and three security guards. The applicant intends to retain current janitorial and building maintenance employees. Of the twenty-eight employees, the applicant expects no more than twenty-one employees to be present on a typical day.

11. At the present time, approximately sixty tenants reside within the subject structure. Many of the existing tenants are elderly. The applicant indicated that these tenants will be permitted to remain either as partial or full participants in the proposed CRF program. Partial participation would enable an individual to participate in recreational activities and to utilize reading and television rooms. It would preclude receipt of such services as meals, transportation, laundry and cleaning service. Apartment units housing partial participants will retain a full-scale kitchen.

12. Those existing tenants who elect partial participation will be consolidated on several floors of the building pursuant to licensing requirements. As each unit

is voluntarily vacated, the unit will be remodeled and become available for a full participant.

13. It is anticipated that residents will consist of retired blue collar or mid-level white collar workers formerly employed in the Washington metropolitan area. Sources of income for residents include Social Security benefits, pension benefits and family subsidies.

14. The applicant suggested that the tentative cost of full participation in the proposed CRF will be \$1,000 to \$1,200 per month.

15. There is a loading dock located on the south side of the structure with direct access to the alley. The dock can accommodate two vehicles. Two or three deliveries a day are anticipated. The deliveries will be primarily kitchen deliveries and will occur between 9:00 A.M. and 4:00 P.M.

16. There is a trash dumpster located on site. Because of kitchen utilization, it will be emptied at least three times a week. The contractor will be a private hauling firm.

17. There is an existing garage in the basement of the subject structure containing twenty-five parking spaces. The applicant argued that ten spaces are sufficient to satisfy the parking demand generated by the proposed CRF. The applicant sought Board approval to provide ten spaces, in order that the remaining basement area could be reserved for possible further expansion of CRF facilities.

18. The applicant based the need for ten parking spaces on the following facts and assumptions:

- A. CRF residents will not be permitted to have personal cars. To satisfy the resident's transportation needs, management intends to provide transportation services to CRF participants.
- B. The applicant anticipates that only four to five employees will drive to work. The remainder will utilize mass transportation or walk.
- C. The applicant's transportation expert expected that two to three visitor spaces will be sufficient.
- D. In the event of a parking shortfall, sufficient additional parking opportunities exist in nearby surface parking lots and along the streets.

19. The applicant's traffic expert testified that during a typical weekday there would be a need for four to

five employee parking spaces, two to three visitor parking spaces and one or two spaces for delivery vehicles. There are sufficient on-street parking spaces available in the area for the employees and visitors. There are two on-site parking spaces for delivery vehicles.

20. The expert further testified that the proposed CRF would generate only four to five trips during the morning and evening rush hours. These trips would have a negligible impact on the existing street traffic. Most of the employees are expected to arrive and leave the site during non-rush hours. Most of the employees will be using public transportation.

21. The traffic on 13th Street and its intersections with M and N Streets operates at level of service "B" with no apparent congestion during the peak hours. There are public bus lines operating on 13th Street and other adjacent streets providing very good service. A Metro station is only three to four blocks away. In the traffic expert's opinion, the proposed conversion of the building to a CRF will have no adverse impact on the neighborhood because of traffic.

22. For reasons enunciated in the report of the Office of Planning and the Department of Public Works, hereinafter discussed, the Board finds that the ten parking spaces proposed by the applicant and supported by the traffic witness are insufficient.

23. By letter dated February 4, 1985, the Deputy Zoning Administrator advised the applicant that there were no community based residential facilities currently in existence with five or more residents in the same square or within 500 feet of the proposed CRF.

24. The Office of Planning in its report hereinafter discussed reported that the licensing entity for the proposed CRF is the Service Facilities Regulation Administration (SFRA) of the Department of Consumer and Regulatory Affairs (DCRA). The Office of Planning referred the subject application to SFRA specifically to elicit comments concerning the above provisions. The Service Facilities Regulation Administration noted the applicant has yet to submit a formal application for a CRF license, but acknowledged preliminary discussions with the applicant.

25. The SFRA expressed two concerns relative to the applicant's proposal. The concerns focused upon the mixed occupancy related to the commingling of CRF participants and non-participants. The SFRA preferred separation of these two distinct groups. The applicant's proposal calls for such a separation.

26. The second issue of the SFRA related to the relative scarcity of large CRF's to ensure that the few which do exist serve a cross section of the elderly population. Staff of SFRA indicated that there were currently three large elderly CRF's in various stages of the licensing process. Two such facilities serve upper income elderly individuals while a third houses government subsidized elderly residents. In order to service a cross section of the elderly, SFRA preferred a facility which serves moderate income elderly residents at the subject location. The Office of Planning note that the resident profile submitted by the applicant points to a facility intended to serve the income level desired by SFRA.

27. At the public hearing, the contract purchaser testified that the building had been inspected from a life safety standpoint. The contract purchaser had also met with the health care licensing officials. There was further testimony that the needs of the subject proposal are consistent with the needs of the District of Columbia for a lesser level of care than nursing. The proposal will be compatible and the purchaser will meet all the licensing requirements.

28. The nature of the proposed was, a senior citizens residence, will not result in any adverse impact from noise in its operation.

29. The Office of Planning (OP), by report dated February 13, 1985, recommended approval of the application subject to the conditions that the total number of residents shall not exceed 224 and the applicant shall provide a minimum of eighteen parking spaces. The OP reported that significant to the application was the fact that the existing structure is a residential facility and will remain a residential facility if the Board approves the proposed CRF use. In this regard, the subject application is consistent with the intent and purpose of the Zoning Regulations. In addition, the continued, albeit slightly altered, residential use imposes no adverse impacts on neighborhood properties.

30. The OP was of the opinion that the subject application also complies with the recently adopted Land Use Element of the Comprehensive Plan. Residential policies contained in the Land Use Element seek to encourage the retention of residential uses in mixed use neighborhoods. The applicant's proposal also complies with the Human Services Element of the Comprehensive Plan. This element of the plan calls for the design and coordination of services and policies in health, housing, transportation, and recreation which render it possible for elderly citizens to remain independent in their own homes. The elderly congregate living environment proposed by the applicant satisfies this policy in that it provides residents with their own home plus services tailored to their special needs.

31. The OP further reported that it was concerned about parking. The OP noted that the Department of Public Works had reviewed and analyzed the subject application and concluded that between eighteen and twenty parking spaces would be required to satisfy the parking demand generated by the CRF. The OP concurred with DPW's conclusion.

32. The Board concurs with the reasoning and recommendation of the Office of Planning.

33. The Department of Public Works (DPW), by memorandum dated February 13, 1985, reported that 13th Street is a principal arterial with a paved width of seventy-two feet and an average daily traffic volume of 16,100 vehicles near the site. Two-hour parking is permitted on both sides of the street between 7:00 A.M. and 6:30 P.M. M Street is a collector street, with a paved width of thirty-two feet and an average daily traffic volume of 5,100 vehicles near the site. On the south side, parking is prohibited except on Sundays between 9:30 A.M. and 1:00 P.M. On the north side, residential permit parking restrictions apply. N Street is a local street with a paved width of thirty-two feet. Parking is unrestricted on N Street.

34. Seven Metrobus routes, the P7, P2, K4, 60, 50, 52, and 54 routes, run near the site. The McPherson Square station on Metrorail's Red Line is located four blocks from the site.

35. The DPW further reported that according to the applicant, none of the residents will own cars. Van service will be provided to transport the residents on shopping trips and to various recreational activities. The DPW concurred with the applicant that the traffic generated by the facility will not have a noticeable effect on the surrounding street system.

36. The DPW noted that the applicant estimated that a maximum of ten parking spaces would be needed on-site, to serve both employees and visitors. In the DPW's estimation, at least ten spaces should be provide to meet employee demand, and between eight and ten spaces should be provided for visitors. One space should also be provided for the van, producing a total requirement of between nineteen and twenty-one parking spaces. The two open spaces alongside the alley should be reserved for delivery vehicles only, and should be clearly marked to that effect.

37. In a subsequent memorandum dated February 22, 1985, the DPW advised the Board that it had reviewed a plan for an eighteen space layout that the Board had requested the applicant to submit as a post-hearing submission. The DPW reported that the spaces shown on this plan do not meet either existing or proposed zoning requirements for access

and dimensions. This is due to the physical constraints posed by the placement of columns in the basement. However, the access aisles are all at least sixteen feet wide, and the spaces themselves are at least eight feet wide. Therefore, the DPW advised that the proposed layout is workable. The DPW recommended that the spaces numbered 1 through 5 on the plan be clearly designated for use by compact cars only, to increase maneuvering space in this area of the garage.

38. The Board concurs with the findings and recommendation of the Department of Public Works.

39. The District of Columbia Office on Aging, by letter received on February 20, 1985, filed a qualified recommendation on the subject proposal. The Office reported that the proposed CRF would provide complete usage of an apartment building that is presently half vacant. The CRF would provide an additional housing option for the senior citizens of the District of Columbia. The package offered by the CRF to its residents seemed attractive and geared to meet the needs of the elderly. The current tenants and maintenance staff will not be displaced by the proposed operation of the CRF.

40. On the negative side, the Office reported that:
- A. The proposed monthly rental fee is too expensive and is not geared to the housing needs of the low income elderly.
  - B. It may be unrealistic to expect, as stated in the proposal, that the children of renters would consistently subsidize/supplement the income of parents to pay for monthly rents.
  - C. The proposed package includes too many limitations: stoves will not be allowed in the units, tenants will not be allowed to have cars, there will be a limit to the number of visitors for a resident at a given time, each resident must adhere to a set time and predetermined menus for meals served.
  - D. There are too many crime factors: the area is noted for drug problems, the coffee shop attached to the apartment building might attract undesirable people to the building, and a screening system for visitors such as a sign-in sheet should be used.
  - E. The rental package does not include medical services and renters may not be able to afford the additional costs of medical expenses.

- F. There is concern that no new fire safety measures such as a sprinkler system are proposed for inclusion.
- G. The analysis of the target group, those persons identified as able to afford rents, may be unrealistic.

41. The Board appreciates the issues considered by the Office on Aging. As to the negative aspects enumerated by the Office on Aging, the Board finds that these are not land use issues and the Board has no jurisdiction over those issues. The Board is of the opinion these are primarily operational issues and there are other forums, such as the licensing requirements, where those issues should more appropriately be addressed.

42. The District of Columbia Metropolitan Police Department (MPD), by memorandum dated February 1, 1985, reported that the subject site is located within Scout Car Beat 103. Scout Car Beat 103 encompasses the area from Rhode Island Avenue to N Street and 13th Street to 7th Street. A review of calls for service at the residence over the past eighteen months revealed that the police responded to the facility thirteen times for offenses such as burglaries, larcenies, robberies, etc. This activity was minimal when compared to offenses occurring in the surrounding four block area.

43. The MPD further reported that the senior citizen building need not result in isolation of the elderly. Assigning elderly residents to one building, preferably a high rise, can reduce their chance of being victimized by crime. High rise buildings tend to have lower crime rates when they are occupied completely by senior citizens. Children are likely to increase the hazards of high rise living by being careless with intercoms and emergency exits, thus giving strangers easy excess to the building. Surveys by the Federal Government show that senior citizens are the victims of crime less frequently than younger people, perhaps because older people go out less often and are naturally more cautious than the young. The risks are, however, greater for senior citizens living in urban areas and seniors are especially vulnerable to certain crimes, purse snatchings, mugging, con games and frauds. Police community relations crime prevention activities aid in diminishing the senior citizens' chances of becoming a victim of crime through various crime prevention programs.

44. The MPD reported that development of the site as proposed is not expected to generate a substantial increase in police services beyond that already cited as a means of providing additional security precautions for the safety and comfort of the senior citizens. The facility is not expected

to impact adversely upon any current or planned operations by the MPD, more specifically, the Third District.

45. The Board concurs with the report of the MPD.

46. Advisory Neighborhood Commission 2C, by report dated February 13, 1985, reported that the ANC was of the opinion that the facility would be a benefit to the community and the District of Columbia by providing a special residential environment for many senior citizens as well as new jobs for the community. The ANC was further of the opinion that the project would not have any adverse impact on the neighborhood in terms of traffic, noise or operations and that the proposed project would not create any parking problem in the neighborhood. The Board concurs with the recommendation of the ANC.

47. There was no opposition to the application at the public hearing or of record. There were some concern expressed by residents now occupying the site as to the manner they would be received in the proposal.

48. There were many letter of support from tenants now occupying the site and by owners of property within the immediate area.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires compliance with the requirements of Paragraph 3105.47 and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and that it will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met its burden of proof. The applicant has addressed the issues of noise, traffic, number of residents, visitors or other objectionable conditions. The Board concludes that the use is located so as not to become objectionable to neighboring property.

The Board further concludes that the application 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 Board further concludes that it has accorded to Advisory Neighborhood Commission 2C the "great weight" to which it is entitled. ACCORDINGLY, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

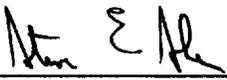
1. The number of residents shall not exceed 224.

2. The applicant shall provide eighteen parking spaces on-site as shown on the plan marked as Exhibit No. 29 of the record.
3. Spaces Number 1 through 5 on Exhibit No. 29 shall be reserved and clearly marked for compact car use.

VOTE: 3-0 (William F. McIntosh and Carrie L. Thornhill to grant, Charles R. Norris to grant by proxy; Patricia N. Mathews and John G. Parsons not voting, not having heard the case).

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

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

15 JUL 1985

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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