

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14360, of Trinity College, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 3105.42 and Sub-section 7205.4 allowing a subdivision and new residential development and permitting parking in front of a building and for a variance from the prohibition against allowing four story buildings in an R-5-A District (Sub-section 3201.1) for the proposed subdivision and new construction of six garden apartment buildings (192 units) at premises 80, 90, 100, 110, 120, 130, 140, 150, 160, 170, 180 and 190 Michigan Avenue, N.E., (Square 3499, Lot 802).

HEARING DATE: October 16, 1985

DECISION DATE: October 16, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The Board approved, for cause shown, an expedited public hearing date on this application.

2. The subject site is part of a 24 acre tract of land known as the Trinity site. It is bounded by North Capitol Street, Michigan Avenue and Irving Street and a fringe parking lot owned by the Government of the District of Columbia. The site has frontage only on Michigan Avenue and is known as premises 80-190 Michigan Avenue, N.E. The site is located in an R-5-A District.

3. Trinity College is the fee owner of the subject property. The land is under contract of sale to Horning Associates, hereinafter referred to as the applicant.

4. To the north is the vacant property that was designed for Phases 3 and 4 of the Park Place development approved in BZA Order No. 12805, dated January 29, 1979, and is now under the purchase option with Horning Associates who are also the developers for the present project. To the south, across Michigan Avenue is Trinity College and a residential neighborhood zoned R-3. The character of the surrounding area could be described as moderate density residential townhouses, garden type apartments and institutional uses i.e., Trinity College, Catholic University, U.S. Soldiers Home, and the National Shrine and a parking lot.

5. The applicant has submitted additional plans for the project with supplemental information dated October 2, 1985. These plans modify and supersede the original drawings

dated July, 1985, in that the driveway system, the location of apartment buildings and parking have been rearranged in part to accommodate anticipated future development of the 6.5 acre site immediately to the north of the present project which is also zoned R-5-A. The number of proposed dwelling units on the subject property, however, remains unaltered.

6. The subject site, approximately 7.38 acres, represents the major portion of a larger site, 8.4 acres, the balance of which 1.02 acres is proposed for a Zoning Map change from R-5-A to C-1 in Zoning Commission Case 85-12 scheduled for a public hearing on November 12, 1985. The applicant proposes to develop the 1.02 acre site with a commercial building containing retail and service facilities to serve this housing development and the surrounding community.

7. The Board of Zoning Adjustment approved a site plan for residential development on the entire 24 acre site in 1978 in BZA Case No. 12805. The total development plan, known as Park Place, was to contain 541 units in condominium townhouses and it was to be constructed in six phases. Only Phases 1 and 2 on the 9.15 acre portion of the total site are already constructed at the corner of North Capitol Street and Michigan Avenue, immediately to the west of the subject site. The remaining four phases were never started and consequently the BZA approval expired. The present application proposes development on that portion of the site that was initially contemplated in 1978 for Phases 5 and 6 of the Park Place development.

8. The subject property is unimproved land and is bordered on the west by Park Place, a condominium development of 108 townhouses, on the east by a fringe parking lot, and on the north by a 6.5 acre parcel of unimproved land. The subject property contains a varied topography with steep slopes rising from 156 feet above Datum at Michigan Avenue to 212 feet toward the north and northeast.

9. In the subject application, the applicant has requested that the Board approve plans which propose the construction of 192 rental apartment units in six four-story buildings, each containing 32 apartment units. The apartments represent a mix of one, two and three bedroom units comprising a total of 376 bedrooms.

10. The overall residential development would have a floor area ratio of 0.70 with a ratio of 0.90 being the maximum allowable in an R-5-A District. The percentage of lot occupancy is 17.5 percent, a well below the maximum permitted occupancy of 40 percent. Density on the site is 25.8 units per acre, which is comparable to the level of other residential development in Square 3499. The applicant

will provide 196 parking spaces for the 192 units, a figure exceeding the one parking space per dwelling unit required in R-5-A Districts.

11. The applicant has designated over 63 percent of the site as "green space" and a large portion of this area is a "save area" in which applicant intends to leave existing mature trees untouched. By retaining existing foliage and leaving largely undisturbed the natural topography of the site, the applicant's site plan creates a park-like appearance.

12. After the filing of the subject application, the applicant filed a set of revised site plans, Exhibit No. 35, modifying the initial application by eliminating one of the two driveways designed to serve the subject property. The remaining driveway at the western end of the site along Michigan Avenue was widened and divided by a median strip and forms the sole access to the site.

13. These revisions were necessitated by the coordinated development potential to be obtained in adding at some point in the future, the 6.5 acre to the north to the residential project. The applicant has recently entered into a contract with North Capitol Associates, the fee owner of the 6.5 acre site which is also zoned R-5-A. If this parcel of land is similarly developed for multifamily residential use in the future, the revised site plan takes into account the traffic circulation patterns for the consolidated site. The contract with North Capitol Associates, if consummated, also grants to the applicant a perpetual easement across the 6.5 acre parcel for the purpose of constructing and maintaining a roadway necessary to achieve the circulation pattern as proposed in the revised site plans. In addition, in the event that the contract is not consummated, the applicant has granted an easement across the subject property to ensure that the 6.5 acre parcel will not be landlocked from Michigan Avenue.

14. The applicant seeks a special exception under Sub-section 3307.2 to permit the 192 garden apartment units located in six separate buildings to be deemed a single building for the purpose of the Zoning Regulations.

15. No rear or service entrance abuts a street, front yard or front court.

16. No exterior stairway is constructed above the level of the joists of the main floor.

17. Vehicular access to all of the buildings and convenient parking are provided by means of a private driveway from Michigan Avenue.

18. The R-5-A District normally limits building heights to forty feet and three stories. All of the proposed

buildings are less than forty feet in height, however, because of the change in grade on the subject property, the buildings are four stories in height. A variance from the requirements of Sub-section 302.1 is thus required.

19. The parking spaces for the units are located on either side of the access driveway in front of the apartment buildings. The applicant therefore seeks a special exception under Sub-section 7205.4 to locate the parking spaces in other than the rear or side yards of the buildings. The spaces are located directly in front of the buildings convenient to the entrances.

20. The topography of the subject property, when combined with the desire to preserve the maximum amount of undisturbed areas, makes it impractical to locate the spaces in the side or rear yards and to limit the buildings to three stories.

21. The applicant's traffic expert witness submitted a traffic analysis to the record and testified as to its contents at the public hearing. It was his expert opinion that from a traffic and transportation planning standpoint, the proposed development is an appropriate use of the site. This proposed development would not create an adverse traffic impact on the adjacent street system or on the surrounding neighborhood. The existing street system contains an adequate residual capacity to accommodate the site traffic. The Board concurs.

22. The applicant was referred, pursuant to Paragraph 3015.42, to the Office of Planning, the Department of Public Works, the Department of Housing and Community Development and the District of Columbia Public Schools.

23. The Office of Planning, in a memorandum dated October 8, 1985, and by testimony at the public hearing, recommended that the application be conditionally approved. The OP noted that the applicant's site plan takes into account and respects the existing topography of the site and minimizes the need for excessive earth work. The OP supported the requested special exceptions and variance noting that the arrangement of buildings is suitable in the context of the present site and provides a good living environment to the future residents of the project. The OP reported that the subject site plan proposes the development of the site with garden type apartments which would be compatible in its opinion with the character of the surrounding neighborhood. The need for a variance arises from the practical difficulties in developing the site due to the difficult topography and other features of the site. The Office of Planning recommended that the application be approved subject to favorable findings of the Department of Public Works with respect to satisfactory arrangement of vehicular

and pedestrian circulation. The Board concurs in the reasoning and recommendation of the OP.

24. The Department of Public Works, by memorandum dated October 9, 1985, reported that as to the street system surrounding the subject site, east of North Capitol Street, Michigan Avenue is a six lane principal arterial with a 60 foot wide pavement. It has an average daily traffic volume of 24,400 vehicles between North Capitol and Franklin Streets and 14,400 vehicles from Franklin to Irving Streets where parking is prohibited in the curb lanes during peak traffic periods. North Capitol Street, south of Michigan Avenue, is a six lane principal arterial. North of Michigan Avenue, it is a six lane controlled access expressway. The posted speed limit on the expressway is 35 miles per hour. This facility carries an average daily volume of 33,700 vehicles in the vicinity of the site. Irving Street is a minor arterial operating with three lanes in each direction. This facility carries an average daily traffic volume of 26,200 vehicles in the vicinity of the site and Franklin Street is a 40 foot wide minor arterial with an average daily traffic volume of 8,000 vehicle near the site. It intersects the south side of Michigan Avenue and a T intersection and extends east to Rhode Island and South Dakota Avenue. In the vicinity of the site, Franklin Street is classified as a minor arterial operating with one traffic lane in each direction.

25. As to the transit system the DPW reported that the site is very well served by Metrobus routes along Michigan Avenue including the H1, H2, H3, D6, D8, 80 and 81. These routes link the site both to the Brookland Metrorail station which is 0.8 miles away and to other parts of the city.

26. The DPW reviewed the entire proposal comprising the subject 192 units and 160 units to be developed in the future on the 6.5 acre site north of the subject site and the commercial areas. The DPW evaluated the potential impact of all projects in terms of future trip generation levels, access and circulation and parking facilities to accommodate the site traffic. The DPW estimated that the residential project will generate approximately 121 inbound and 20 outbound trips during a typical evening peak hour. The commercial space will generate approximately 30 vehicle trips inbound and 25 outbound during the peak hour period. When these trips are added to the residential trips generation, there would be 151 vehicles inbound and 51 outbound, for a total of 196 vehicles, during the evening peak hour. Directional distributions were established for these trips and assigned to the street system. The DPW capacity analysis indicates that the intersection of Michigan Avenue and North Capitol Street would receive the greatest traffic impact from the proposed development. The result of this analysis indicates that this intersection

would operate at level of service D, which is acceptable for the operation of urban arterials.

27. The Department of Public Works further reported that the applicant proposes one access driveway from Michigan Avenue for the residential component of the project, as shown on the revised plan. The concept is good but due to the Michigan Avenue roadway curvature near Franklin Street, the stopping sight distance becomes a very critical factor in locating the driveway. Potential hazards between eastbound Michigan Avenue vehicles and left turning vehicles to and from the site can be minimized by relocating the driveways as far east as possible. The DPW recommended that the applicant be required to coordinate the design and final location of the driveway with the Department of DPW.

28. With respect to parking in the subject application, the applicant proposes to provide 226 parking spaces for the subject the residential development. This equals 1.17 spaces per dwelling unit, versus one space per unit required under the Zoning Regulations. This proposed parking supply is adequate to accommodate the development.

29. With respect to pedestrian movements, the Department recommended that the developer constructs a four foot concrete sidewalk adjacent to Michigan Avenue for the length of the site or approximately 300 feet.

30. As to the potential traffic generation by alternative development of the site, the DPW reported that the applicant, could develop the site to accommodate about 700 apartment units. Approximately 290 vehicle trips could be generated during the peak hours. This level of generation can be absorbed by the street system within level of service D or E. The Board concurs with the reasoning and recommendation of the DPW.

31. The Department of Housing and Community Development, by memorandum dated September 23, 1985, reported that the proposed development of six new garden apartment buildings containing 192 dwelling units and adjacent commercial area is a revision of an earlier proposal for the same site which was predominantly row house units. To be built on 8.4 acres of presently undeveloped land of some considerable slopes and dense tree coverage, the substitution of housing types is a response to difficult topography and is sensitive to current housing and environmental concerns. Despite the use of a more intensive dwelling type, overall density remains much the same as originally planned and accepted, since the development is a continuation of the earlier project known as Park Place. The proposed variances are a reflection of the difficult site conditions and do not diminish the

quality of the housing nor make them any less welcome as additions to the rental housing stock of the District. As such the proposed dwellings are consistent with the housing policies of the District of Columbia. The DHCD had no objection to the granting of the application. The Board concurs with the analysis of the DHCD.

32. The District of Columbia Public Schools, by memorandum dated September 19, 1985, reported that while the construction of 192 rental apartment units at Michigan Avenue and Franklin Streets, N.E. will have no adverse effects on the District of Columbia Public Schools, student enrollment generated by this housing could have significant impact on surrounding neighborhood schools. As a preliminary review, the Department had looked at enrollment trends of schools closest to the proposed site for signs of enrollment increases since the construction of Park Place. While it has not determined the actual number of students residing in Park Place for purpose of this review, enrollment has increased at the nearest elementary schools for each of the last three years. Given the available capacity in nearby schools the Public Schools had no opposition to the granting of the subject application. The Board concurs with the recommendation.

33. Advisory Neighborhood Commission 4D, by letter dated September 30, 1985, reported that when the subject application was discussed at its meeting of September 24, 1985, no opposition was expressed.

34. The Board is required by statute to give "great weight" to the issues and concerns of the ANC reduced to writing and upon which a resolution is predicated. Such is not the case herein

35. A resident of Park Place, a condominium immediately to the west of the subject property, testified in opposition to the application citing adverse traffic impacts, the incompatibility of rental apartment with the immediate neighborhood, and security problems posed for Park Place. The opponent was concerned that the initial plans for the entire site had proposed only home ownership and not rental properties. In her opinion renters created more traffic problems and that the proposed plan did not have enough security to deter transients from entering into Park Place and lingering. A further concern was that the proposal did not provide a play area and future tenants of the proposed development would attempt to use the recreational facilities at Park Place. The opponent questioned the credibility of the applicant's traffic analysis. She requested that the Board obtain a police record of the traffic and speed violations in the area.

36. While the Board appreciated the concerns of the opposition, the Board found that the opponent did not provide any independent probative evidence in support of her allegations. The Board was more persuaded by the expert testimony of the applicant's witnesses and the reports of the public agencies.

37. The Board finds that throughout the public hearing many suggestions were made as to ways in which the proposal could be enhanced. The Board suggests that the applicant give serious considerations to the suggestions. The suggestions are listed as follows:

- a. The applicant shall have the right to move the location of any apartment building by up to a distance of fifteen feet in any direction for the purpose of maximizing of existing foliage.
- b. The applicant shall have the right to provide decorative treatments for end-walls of the apartment building modules.
- c. The applicant shall have the right to add up to an additional fifteen parking spaces, and playground equipment and benches if no additional structures are required.
- d. The applicant shall have the right to provide a pedestrian pathway leading from the proposed commercial area to the northeastern apartment buildings.
- e. The applicant shall have the right to construct a fence enclosing part of all of the external perimeter of the subject property.

38. The Board directed the staff to draft an expedited Order on the application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the applicant is seeking two special exceptions and an area variance. In order to grant the special exceptions, the applicant must demonstrate that it has complied with the requirements of Paragraph 3105.42 and Sub-sections 7205.4 and 8207.2. The Board concludes that the applicant has complied, as set forth in the Findings of Fact.

Based on the Findings of Fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The

Board concludes that the topographical conditions of the property constitute such a condition and that the strict application of the regulations would cause a practical difficulty for the applicant.

The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps.

The Board further concludes that the special exceptions and area variance can be granted in harmony with the general purpose and intent of the Zoning Regulations and maps, and will not tend to affect adversely the use of neighboring property in accordance with said regulations and maps. The Board concludes that it has given to the ANC "the great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Construction shall be in accordance with the plans marked as revised plans Exhibit No. 35 of the record except that the plans may be modified to include all or some of the suggestions made in Findings No. 37.
2. Access shall be provided to areas known as Nos. 3 and 4 of approved plans (Exhibit No. 30 of the record) in BZA Order No. 12805, dated January 29, 1979.
3. With the exception of parking areas, the applicant shall not construct buildings on areas of the subject property having a grade exceeding twenty-five percent, or on where more than ten percent of the land having a grade exceeding twenty percent.
4. The number of units constructed by the applicant shall range from one seventy-five to 200, with a mix of one, two and three bedroom units as determined by the applicant; provided, however, that the number of handicapped units indicated in the revised site plans shall not be reduced.
5. The applicant shall designate at least three existing parking spaces as handicapped parking spaces in the parking area servicing the northeastern portion of the site.
6. The applicant shall provide a pedestrian walkway along the Michigan Avenue, N.E., length of the subject property.

7. The applicant shall, if required by the Department of Public Works, provide a traffic light to control vehicles entering or leaving the subject property and shall relocate the driveway entrance at Michigan Avenue, N.E. if, in the opinion of the Department of Public Works, the present driveway location would create an unsafe traffic condition.
8. The applicant shall comply with all requirements imposed by the Department of Public Works concerning the conservation of the environment during the construction period.
9. The applicant shall adequately screen all trash storage/collection facilities to be established on the subject property.

VOTE: 4-0 (Lindsley Williams, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

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

ATTESTED BY:


CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 07 NOV 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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