

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14476, of North Capitol Associates, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.42 to permit a subdivision and new residential development and for a variance from the number of stories requirement (Sub-section 3201.1) for a proposed subdivision and new construction of five apartment buildings totaling 160 units in a R-5-A District at premises 200 Michigan Avenue, N.E., (Square 3499, Lot 2).

HEARING DATE: July 23, 1986
DECISION DATE: July 23, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The Board approved, for cause shown, an expedited public hearing date on this application.
2. The site is part of a 24 acre tract of land 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 200 Michigan Avenue, N.E. The site is located in an R-5-A District.
3. The Board of Zoning Adjustment initially approved a site plan for residential development on the entire approximately 24 acre site in Order No. 12805, dated January 29, 1979. 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. However, only Phases 1 and 2 on a 9.15-acre portion of the total site have been constructed by the original applicants, Donohoe Construction Company, at the corner of North Capitol Street and Michigan Avenue immediately to the west of the subject site.
4. The land area, approximately 8.4 acres included in Phases 5 and 6 was acquired by Horning Associates. By BZA Order No. 14360, dated November 7, 1985, the Board approved a 192 unit development on a 7.38 acre portion of it with the balance, i.e., 1.02 acres, being zoned as C-1 by the Zoning Commission in 1985. This 8.4 acre portion is now identified as Trinity Phase One. The remaining 6.51 acre portion, phases 3 and 4, of the initial Park Place Concept is the subject of this application.

5. To the south of the site across Michigan Avenue is Trinity College and a residential neighborhood characterized by moderate density townhouses, garden type apartments and institutional uses including Trinity College, Catholic University, U.S. Soldiers Home and the National Shrine.

6. The site is an irregularly shaped, heavily wooded tract of undeveloped land with an approximately 589-foot frontage along Irving Street, N.E. The elevation of the land varies from 160 feet above Datum at the southernmost corner to 206 feet on the northern corner.

7. North Capitol Associates is the fee owner of the site and Horning Associates is the contract purchaser and developer.

8. Pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, the applicant is seeking a special exception under Paragraph 3105.42 to permit a subdivision and new residential development and for a variance from the number of stories allowed (Sub-section 3201.1) for a proposed subdivision and new construction of five apartment buildings totaling 160 units. The project will be known as Trinity Phase Two.

9. The units represent a mix of one, two, and three-bedroom units comprising a total of 323 bedrooms.

10. The residential development will have a floor area ratio of 0.8, with a ratio of 0.9 being the maximum allowable in an R-5-A District. The lot occupancy is 22.33 percent, which is well below the maximum permitted of 40 percent. Density on the site is 24.5 units per acre, which is comparable to the 24-acre Trinity parcel. The applicant will provide 141 parking spaces in addition to the 226 spaces now provided in connection with the previously approved project on the lot. Three hundred sixty-seven parking spaces will be provided on the consolidated site which comprises Phases I and II of the development project. Three hundred fifty-two parking spaces or one parking space per dwelling unit are required by Section 7202.1 of the Zoning Regulations.

11. The applicant has designated over 51 percent of the site as "green space", a large portion of which consists of a "save area" where existing mature trees will remain untouched. The large amount of green space on both Phase I and Phase II will create a park-like appearance on the consolidated site.

12. Vehicular access to all of the buildings is provided by means of a private driveway across the Phase I site from Michigan Avenue, N.E.

13. The Zoning Regulations provide that buildings in R-5-A Districts must not be higher than 40 feet and must not exceed three stories. All of the buildings are less than forty feet in height. All are four stories because of the change in grade on the subject property, and because of the retention of open space.

14. The Office of Planning in a memorandum dated July 18, 1986, and by testimony at the public hearing recommended that the subject application be approved. The Office of Planning noted that the subject application completes the second of two phases of development and supported the applicant's request for a variance because of the topographic features of the site. The report also stated that the project would provide a good living environment for the future residents of the project and would be compatible with the character of the surrounding neighborhood. The Board concurs with the reasoning and recommendation of the Office of Planning.

15. The Department of Public Works, (DPW) by memorandum, dated July 15, 1986, reported that it reviewed the subject application and accompanying material. The report addressed the transportation elements of the proposal and incorporated the report submitted by DPW in connection with BZA Application No. 14360, the application for Phase I. DPW considered the transportation impact of the proposed development on Phase II in its earlier report to the BZA. The earlier report stated that traffic circulation within the site was good and that traffic circulation immediately outside the site was adequate. The DPW recommended approval of the application conditioned upon the applicant's compliance with conditions numbered 6, 7, and 8 in the Conclusions of Law and Opinion of BZA Order No. 14360. The Board concurs with the findings and recommendations of the DPW.

16. The Department of Housing and Community Development, by memorandum, dated July 7, 1986, indicated that the project and the provision of housing are consistent with the housing policies and the Comprehensive Plan of the District of Columbia. The memorandum also notes that the proposed development will complete another phase of residential housing in the Catholic University area and that the public and private facilities in the area will provide amenities to serve the new dwellings. The Department of Housing and Community Development does not object to the granting of the subject application.

17. The District of Columbia Public Schools did not present testimony at the public hearing or submit a written response.

18. Advisory Neighborhood Commission 4D submitted no report on the application.

19. There was no opposition to the application at the public hearing or of record.

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 that the proposal meet the requirements of Paragraph 3105.42 and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property.

The Board further concludes that the applicant is seeking an area variance from Sub-section 3201.1, the granting of which 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 or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.

Paragraph 3105.42 states that in R-5-A Districts all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board in accordance with the standards and requirements of Section 3307 and the following:

3105.421 The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project;

3105.422 The Board shall refer the application to the District of Columbia Department of Transportation and the District of Columbia Department of Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects;

3105.423 The Board shall refer the application to the District of Columbia Office of Planning and Development for comment and recommendation on the site plan, arrangement of buildings and structures, provisions of light, air, parking, recreation, landscaping and grading as they relate to the future residents of the project and the surrounding neighborhood; and

3105.424 In addition to other filing requirements, the developer shall submit to the Board with the application, four site plans and two sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements.

The Board concludes that the applicant has met the burden of proof. The District of Columbia Board of Education did not comment on the application. The Department of Public Works and the Department of Housing and Community Development reported that they were not opposed to the application. The Office of Planning recommended approval of the application stating that the development will be compatible with the surrounding neighborhood and that the arrangement of buildings on the site is sympathetic of the topographic features of the site.

The Board further concludes that the relief requested is in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. Sub-section 3201.1 limits the number of stories of buildings in the R-5-A to three stories. The applicant proposes to construct buildings four stories in height. The Board concludes that the topography of the site with its steep slopes constitutes an exceptional condition resulting in a practical difficulty upon the owner. The Board notes that the buildings do not exceed the height limit of 40 feet for the District and that the applicant's attempts to preserve open space on the site constrains the buildings' design.

The Board further concludes that granting the proposed relief will not cause substantial detriment to the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction shall be in accordance with plans marked as Exhibit No. 26 of the record.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: AUG 25 1986

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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