

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16275 of Manna, Inc. and Marshall Heights Community Development Organization, Inc., pursuant to 11 DCMR 3108.1, for a special exception under Subsection 353.1 for construction of (22) single-family dwellings in an R-5-A District at premises 4800-4846 Texas Avenue, S.E. [Lots 801, 805, 807, 809, 811, 813, 815, 817, 819 822, 825, 828, 832, 834, 836, 838, 840, 842, 844, 846 and 848 (per subdivision) in Square 5405.]

HEARING DATE: January 7, 1998
DECISION DATE: January 21, 1998

ORDER

PROCEDURAL HISTORY:

The applicant filed this application with the Board of Zoning Adjustment (the "Board") on May 22, 1997. A hearing was scheduled for November 5, 1997.

By written correspondence dated October 22, 1997, the applicant requested that the Board grant a postponement of the scheduled hearing. The applicant sought a postponement to allow the applicant sufficient time to address concerns about the proposed project raised by Advisory Neighborhood Commission (ANC) 7A at a meeting with the applicant on October 21, 1997. Applicant's request was unopposed.

On November 5, 1997, the Board granted applicant's request. The Board postponed the hearing until January 7, 1998.

SUMMARY OF EVIDENCE:

1. The applicant proposes to develop a vacant 1.7 acre parcel of land located at the intersection of East Capitol Street and Texas Avenue, S.E. The subject site is triangular, vacant, and historically undeveloped. It is slightly rolling and currently overgrown with trees, bushes and brush. The site has a small berm running along East Capitol Street. It slopes from a high portion on the western portion of the site to Texas Avenue with a varying gradient of six to eight inches. The site is currently known as 4800-4846 Texas Avenue, S.E.

2. The subject site is abutted by only one other property located immediately to the west, the Fort Chaplin Apartments. All neighboring properties are low rise residential buildings or small-scale commercial buildings. A few commercial buildings in the area are vacant.

Numerous semi-detached and detached homes are located nearby in R-2 Districts. All neighboring buildings are low density, low rise residential or commercial buildings. The Board finds that the applicant's project is of similar size, scale, density and intensity of use as neighboring residential buildings.

3. The applicant intends to build 22 single-family, for-sale townhouses at market prices divided into four clusters. One cluster will have four units; two will have five units each; and the largest will have eight units. The construction schedule anticipates a 24-30 month project build out, and is intended to commence in March or April, 1998.

4. Each townhouse would be two stories in height, consist of three bedrooms and 1 1/2 bathrooms, and have a total, per unit finished area of 1,360 square feet. Each unit would have an unfinished basement, and would be designed to accommodate optional amenities. Because the applicant intends to provide 40 parking spaces, each housing unit would be entitled to almost two parking spaces. There would be four different front building elevations for the units and diverse exterior color schemes. Six units would have brick facades.

5. Following the settlement on more than 70 percent the units, the applicant would transfer control of the Homeowners' Association to the new owners. The Homeowner's Association would be responsible for regulating on-site common areas, parking, recreation areas, design, assessment of common area fees and other site-specific functions.

6. The applicant's proposed project is located in an R-5-A District. Under the R-5 District regulations at § 353.1, this application was reviewed by the Board in accordance with (1) the standards and requirements set out in § 410 (relating to exceptions in R-5 Districts from residential district regulations for height, area and density), (2) the conditions established in § 3108, and (3) the remaining subsections of § 353, namely §§ 353.2-353.5.

7. To qualify for a special exception under § 410, the applicant must show the following:

- A. All buildings in the group of buildings shall be erected simultaneously.
- B. All front entrances of the group shall abut a street, front yard, or front court.
- C. No rear or service entrance shall abut a street, front yard, or front court unless below the main floor.
- D. No exterior stairway shall be constructed above the level of the joists of the main floor unless located entirely within the building area.
- E. No subdivision of the property shall be authorized until the Board has determined that the following requirements are met:
 - (1) There shall be adequate free access to the street from each separate dwelling, group of dwellings, or buildings resulting from the subdivision;

- (2) Adequate access for fire protection and other purposes shall be provided by easement, fee, alley or street; and
 - (3) There shall be adequate yards, courts, light, and air for each dwelling, group of dwellings, or group of buildings resulting from the subdivision.
- F. The height of an individual building in a group of buildings may be measured as follows:
 - (1) Any building that does not have another building between it and a public street shall be considered to front on the street, and the building height shall be measured from the curb at the center of the front of the building; and
 - (2) Any building that has another building between it and a public street shall have its height measured from the proposed finished grade at the center of the front of the building and the front shall be that side of the building providing access to the majority of dwelling units within the building.
- G. The front entrances of not more than four one-family dwellings, nor more than four dwelling units per floor, shall face any street that abuts the lot.
- H. All front entrances of the group shall abut a street, front yard, or front court; Provided, that a front entrance may abut a side yard if all one-family dwellings or dwelling units to which the entrance is appurtenant are located no nearer a street upon which the lot abuts than the rear of any part of the group having a front entrance abutting a street, front yard or front court.
- I. No rear or service entrance shall abut a street, front yard, or front court, unless located below the main floor.
- J. No exterior stairway shall be constructed above the level of the joists of the main floor unless located entirely within the building area of the group.
- K. In the R-5-A and R-4 districts, if approved by the Board of Zoning Adjustment, a group of one-family dwellings, flats, or apartment houses, or a combination of these buildings, with division walls from the ground up or from the lowest floor up, may be erected and be deemed a single building for the purposes of this title, when the group does not comply with the provisions of §§ 410.1 through 410.11, subject to the following conditions:

- (a) The provisions of §§ 410.4 and 410.5 shall be complied with; and
 - (b) The erection of the group of buildings shall not affect adversely the present character or future development of the neighborhood.
- L. Vehicular access to all or part of the group shall be provided when the Board deems the access is necessary in the interest of public convenience and safety.
- M. The erection of the group of buildings shall not affect adversely the present character of future development of the neighborhood.

8. Under § 3108.1, the Board is authorized to grant special exceptions, where, in the judgment of the Board, those special exceptions will be in harmony with the general purposes and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

9. In addition to the uncontested evidence presented in Paragraphs 1 - 5 above, the applicant presented, and the Board hereby credits and finds as fact, the following witness testimony and other uncontested evidence in support of the application:

a. George Rothman, President of Manna, testified that for the past 15 years, Manna has developed, built and/or renovated over 500 housing units in the District of Columbia (the "District"). There is a serious problem of middle class flight from the District to the suburbs, especially to Prince George's County. Chaplin Woods is planned as a small self-contained community of 22 townhouses, to be sold at market prices, and to offer competitive housing opportunities to those middle class families who would otherwise locate in suburban locations. The number and characteristics of the units to be built at Chaplin Woods comply with matter-of-right zoning requirements for the R-5-A District. The joint venture with Marshall Heights Community Development Organization, Inc. (MHCDO) is designed to provide design, quality of life, location, tax and other economic benefits to the District, and help revitalize residential life and economic development in Ward 7.

b. Lloyd Smith, President of MHCDO, testified that MHCDO has spent 18 years in providing opportunities to, and enhancing the quality of life of, Ward 7 residents. MHCDO and Manna, Inc., have worked together on a number of projects in the District to improve the quality of life for all residents. Since 1986, MHCDO has developed a number of residential housing units, both single- and multi-family, in Ward 7. The Chaplin Woods project is intended to stop the erosion of the District's tax base, as well as the exodus from Ward 7 of middle class families unable to find housing comparable in price and quality to suburban counterparts, especially in Prince George's County. Chaplin Woods will be one of MHCDO's "Signature Projects".

c. Michael Crescenzo, Vice President of MHCDO, testified that MHCDO's residential development experience in projects similar to that proposed for Chaplin Woods has been substantial and successful. No federal or District project financing is contemplated; the joint venture team has worked closely with private financing sources for both project development and home purchase assistance to assure efficient and timely development. The joint venture's primary development objective is to assure that housing unit prices, amenities and quality are comparable to and competitive with those in Prince George's county in order to forestall further middle class flight from Ward 7. MHCDO and Manna, Inc., will work closely with all new purchasers of housing in Chaplin Woods to create, draft and record fair rules and regulations for the Homeowners Association. Priority consideration will be given to hiring small and/or minority sub-contractors and Ward 7 residents in the construction process.

d. Joseph Marsh of Manna, Manager of Project Design and Construction, and Carl Huff, project site designer and planner, testified that the site design fits perfectly within the low density, low rise, residential character of the surrounding neighborhood, and especially with the Fort Chaplin apartment complex immediately bordering the site on the west. The project demonstrates sound planning, carefully integrates community design elements with the natural features of the site, and does not create any adverse impacts on the surrounding neighborhood, including, traffic, parking, environmental or use. Subdivision design provides an efficient use of open space and sufficient density to stimulate a sense of community. Internal parking and circulation are conducive to efficient and safe site ingress and egress. Finally, the project design meets all matter-of-right requirements for the R-5-A District, and fully complies with the standards in § 410.

e. Carl Skooglund of Manna, Project Architect, testified that the project design complies fully with all zoning requirements, and is intended to preserve a natural and open residential character, to completely fit with the architectural styles and residential densities of neighboring properties, and to resolve any possible adverse neighborhood impacts, including traffic and parking. The facing of the front of the units into the interior of the site contributes to a resident's sense of community with immediate neighbors and common security. Housing design is traditional; units will have a range of different front elevations; there will be a number of different color packages; there is a choice of floor plans and optional amenities; and only a few of the units will be identical to each other. Comparable roof lines and roof pitches, centered gables, two story building heights, the use of earth-toned housing colors with white windows, and amenities like louvered windows and shutters are designed to blend into the landscape of the site, to provide a visually integrated community and to complement the existing low rise, clustered development in the surrounding neighborhood.

10. The applicant also introduced as relevant precedent a prior Board Order, dated March 5, 1980, in Application No. 13142. This order approved special exception and area variance

relief at the applicant's site for a residential project with 24 row houses and four semi-detached units, with an additional option to construct a one-bedroom apartment for each of the 28 units (for a total potential unit count of 56. The applicant noted that, while the site design for this earlier, denser project is similar to the applicant's proposal, the applicant's project has only 22 total units, is considerably less dense, and meets all R-5-A zoning requirements. The applicant maintained that, in light of the Board's approval of the predecessor project, the applicant's project deserved similar special exception relief.

11. The applicant also introduced the following evidence in support of its application:

- a. a memorandum of approval of the project to Madeliene Dobbins from Kenneth Laden, Acting Administrator, D.C. Department of Public Works, dated December 9, 1997, finding that the applicant's project provides adequate on-site parking and will not result in additional parking or traffic demand on neighborhood streets;
- b. a letter to Madeliene Dobbins from the Chief Executive Officer of the D.C. Public Schools dated August 19, 1997, approving the project;
- c. a letter to the Board from Kevin P. Chavous, D.C. Councilmember from Ward 7, dated December 18, 1997, urging quick and complete Board approval of the project;
- d. a letter to the Board from the Fort Dupont Civic Association, dated October 22, 1997, in full support of the project; and
- e. a letter to the Board from the Benning Ridge Civic Association, dated October 22, 1997, in full support of the project.

12. The Office of Planning submitted a written report, dated December 30, 1997, recommending approval of the applicant's project on the condition that the applicant provide additional planting material to be located between proposed evergreens that are 2 1/2 inches in caliper, and that applicant provide brick facades on at least 25 percent of the project units. The applicant has agreed to comply with these two conditions.

13. By correspondence to the Board dated December 29, 1997, and through testimony presented at the hearing, ANC 7A expressed the following issues and concerns that, if rectified by the Board to the ANC's satisfaction, would result in ANC support of the special exception application:

- A. Minimum of two entrances in and out of the proposed property.
- B. Post "No Left Turn" sign at exit onto Texas Avenue.
- C. Assurance that emergency vehicles have ability to enter and depart property in a safe and timely manner.
- D. There shall be trash and garbage pick-up by a private contractor.

- E. Laying a sidewalk adjacent to property along Texas Avenue from "A" Street, S.E., to East Capitol Street, S.E.
- F. Property was inadequately posted with public notice.
- G. Provide on-site activity area (playground).
- H. Provide a reasonable amount of mature trees around property.
- I. Twenty-two single-family housing units seem excessive.
- J. Provide adequate, additional parking.

Following questioning by the Board, ANC 7A stated the following three conditions for its approval of the application:

1. Post "No Left Turn" sign at exit onto Texas Avenue.
2. Lay a sidewalk adjacent to property along Texas Avenue from "A" Street, S.E., to East Capitol Street, S.E.
3. Provide on-site activity area (playground).

14. Ms. Constance Thompson, a resident of Ward 7 and former ANC Commissioner for the single member district where the project is located, testified that the applicant had sufficiently addressed her concern that the site have two entrances onto Texas Avenue, but that she shared the three major concerns of ANC 7A stated in Paragraph 13.

15. By correspondence to the Board dated December 29, 1997, and through testimony presented at the hearing by Michael Crescenzo and George Rothman, the applicant provided the following evidence in response to the issues and concerns of ANC 7A, and in support of its contention that the applicant substantially revised its original site plan to resolve each of the ANC's concerns within the applicant's reasonable control but not otherwise within District agency jurisdiction:

- A. The applicant revised its original site plan to provide two entrance/exit ways for the project.
- B. Neither the Department of Public Works (DPW), nor any other reviewing District agency, has required any "No Left Turn" sign for the project from either entrance/exit way. The additional access way was specifically provided by the applicant to obviate the need for such signage. Nonetheless, the applicant will apply for and comply with any street signage requirements of DPW or other transportation agency.

C. Any "emergency vehicle" would have safe and timely site entrance/exit capacity.

D. A private contractor would be used for trash collection according to terms agreed to by the Home- owners Association.

E. The applicant has agreed, without any legal obligation and at its own considerable expense, to apply for a public space permit to construct a sidewalk from its northernmost entrance/exit way on its site to the existing sidewalk to the corner of Texas Avenue and East Capitol Street, S.E.

F. The property was adequately posted with notice in compliance with all legal requirements.

G. The applicant has designated on its site plan a recreational area that the applicant would construct and make available to the Homeowners Association for use as a recreational area within a reasonable time after at least 70 percent of the proposed housing units have been settled.

H. There are more than a reasonable amount of mature trees on public space and on site that will border and buffer the project.

I. Twenty-two single-family housing units are well within the R-5-A matter-of-right limits. They are also considerably fewer in number and density than those approved by the BZA in Application No. 13142 (March 5, 1980).

J. As the Office of Planning report indicates, the applicant exceeds the minimum R-5-A parking requirements by at least 50 percent. DPW also found adequate on and off-street parking provision by the applicant.

16. There was no other testimony or evidence presented in opposition to the application at the hearing.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds that the applicant has fully addressed the concerns of ANC 7A in its response to the ANC concerns. The Board also finds that its order will contain conditions reasonably addressing the three (3) major ANC concerns.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to construct 22 single-family townhouses in an R-5-A District.

The site of the application is located within the geographical boundaries of Advisory Neighborhood Commissions (ANCs) 7A and 7D, which are automatically parties to the application.

ANC 7A filed a written statement of issues and concerns, and testified at the Board hearing regarding its concerns.

The ANC's primary concerns related to the applicant's construction of an additional entrance/exit way onto Texas Avenue for the project, provision of an adequate sidewalk along Texas Avenue to its intersection with East Capitol Street, S.E., provision of a "No Left Turn" sign at the exits from the project, provision of sufficient on site parking and timely construction of recreational space for new residents.

The applicant presented evidence that its project meets all R-5-A zoning requirements. The applicant also presented evidence that it had revised its site plan in response to ANC 7A concerns. The applicant presented evidence that it had added an additional entrance/exit way for the site, that it had set aside sufficient space for a recreational area, that its on-site parking met and exceeded zoning requirements, and that it would provide, at its own considerable expense, a sidewalk from its northernmost entrance to the corner of Texas Avenue and East Capitol Street, S.E. The applicant also testified that it would apply to DPW for the ANC's requested "No Left Turn" traffic signage.

Finally, the applicant presented evidence that the proposed project's design, quality and scale will be in harmony with the residential character of the surrounding neighborhood.

The Board provided timely notice of the public hearing on this application, by publication in the D.C. Register, and by mail to ANCs 7A and 7D, and to owners of property within 200 feet of the site.

As directed by 11 DCMR § 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to be granted a special exception pursuant to 11 DCMR §§ 3108.1, 353.1 & 410. Except for the applicant and ANC 7A, no person or entity appeared as a party either in support of or in opposition at the hearing, or otherwise requested to participate as a party in the proceeding.

The Board has found that the applicant has satisfactorily addressed the concerns of ANC 7A, and that the applicant has demonstrated by substantial evidence in the record that the project meets all R-5-A District requirements in §§ 353 and 410. Accordingly, a decision by the Board to grant this application, subject to certain conditions, would not be adverse to ANC 7A.

Based upon the record before the Board, and giving great weight to the recommendations of the ANC, the Board concludes that the applicant has met its burden of proof by substantial evidence, pursuant to 11 DCMR § 3108.1, and that the requested special exception relief will be 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 the Zoning Regulations and Zoning Maps. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Additional planting material (at least three 24-inch high evergreen bushes) shall be located between the proposed evergreens that are 2 ½ inches in caliper.

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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 TWO YEARS 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.

ORD16275/JN/amb

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16275

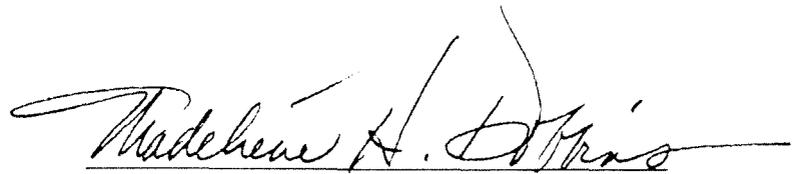
As Director of the Board of Zoning Adjustment, I hereby certify and attest that on FEB 20 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. DOBBINS
Director

DATE: FEB 20 1998