

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 382
CASE NO. 82-6C
September 13, 1982

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on August 23, 1982. At that hearing session, the Zoning Commission considered an application from Joseph F. Horning and the Norris Dodson Realty Company for consolidated review and approval of a Planned Unit Development (PUD) and related amendment to the Zoning Map of the District of Columbia, pursuant to Sections 7501 and 9101 of the Zoning Regulations of the District of Columbia. The hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application requests consolidated review and approval of a PUD and related change of zoning from R-4 to R-5-A for Lots 32 and 5 through 10 in Square 4049. The applicants propose to construct a residential apartment development and request the Zoning Commission to waive the minimum area requirements of the Zoning Regulations to permit the development as proposed.
2. The subject site is located on the west side of Corcoran Street between Mt. Olivet Road and Gallaudet Street, N.E., is vacant unimproved land, and comprises approximately two acres. The site is covered with heavy shrubbery and natural growth, and slopes generally to the north and to the east. The high point is located in the vicinity of the southwest corner of the site.
3. The property measures approximately 400 feet along Corcoran Street on the east side; approximately 200 feet along the northern side, which is approximately fifty feet from and parallel to Gallaudet Street; approximately 466 feet along the western side; approximately 130 feet along a portion of the southern side bordering some existing housing; and approximately ninety-five feet along a portion of the southern side bordering Mt. Olivet Road.

10. On July 12, 1982 at a regular monthly meeting, the Zoning Commission authorized the scheduling of a public hearing for the application. Prior to the scheduling of a hearing, the applicants by motion, requested the Commission to waive various sections of the Rules of Practice and Procedure to permit acceptance of the untimely filed application and prehearing submission, and modifications to the notice requirements to permit an expedited hearing. As justification for the request, the applicants cited the declining availability of Section 8 subsidized housing funds, and the requirement that a building permit be obtained by October 1, 1982, to insure that the Section 8 funds would be available for this request. The Chairman ruled to grant such waivers as were necessary to allow consideration of the application on an expedited basis.
11. The applicants have proposed to develop the site with two apartment structures to be known as the Ivy City Apartments having three stories and basement and containing a total of sixty-four two-bedroom dwelling units, four of which are for handicapped persons. There will be a total of seventy on-site parking spaces. The two apartment structures and the parking spaces are oriented towards the center of the site to provide the maximum degree of privacy.
12. The proposed development will contain a gross floor area of 59,648 square feet, resulting in an FAR of 0.68. The development will occupy 14,912 square feet or about 17.15 percent of the site. The portion of the site not covered by buildings and surface parking will be landscaped and provided with trees and shrubbery. There will also be a tot-lot provided at the western edge of the site.
13. Vehicular access to the proposed apartment development leading directly to the parking area would be provided from Mt. Olivet Road. The parking area would be accessible to the two apartment structures through pedestrian bridges which would connect at the first floor level of the apartments. The land area would be graded in a manner such that the basement units would be open and mostly above ground. In this manner, an environment of ample open air and light would be available to the residents of the basement level also.
14. The applicants proposed to construct the entire project and anticipate federal assistance under the Section 8 housing program. The applicants have stated that they have been informed in their discussions with the Director of the District of Columbia Department of Housing and Community Development that of all the applicants for the Section 8 housing projects that are

presently contemplated in the city, this project is of top priority and that this project has been specifically selected to be a part of the Minority Set-Aside Program. Extraordinary treatment of the application, by way of the expedited hearing and the waiving of the minimum area requirement, is justified because of the declining availability of Section 8 funds, the need to receive zoning approval in order to secure the commitment of those funds, and the need for new housing in the Ivy City area.

15. One of the applicants, the Norris Dodson Realty Co., has a contract to sell its interest to the property to the Corcoran Street Associates (the Horning Brothers and George Thompson), developers of the project.
16. The Office of Planning and Development (OPD), by memorandum dated August 13, 1982 and by testimony presented at the public hearing, supported approval of the application subject to some proposed development guidelines, conditions, and standards. The OPD believed that the proposal will provide additional housing in an area of the city where many structures show deterioration and where a large percentage of the existing housing stock was built before 1939. The OPD reports that the housing needs of the city are well-documented and are reflected in the Goals and Policies Act of 1978, an adopted element of the Comprehensive Plan. The OPD further believes that the application has exceptional merit and is in the best interests of the city, and recommended that the three-acre minimum area requirement be waived. The Commission concurs with the findings and recommendation of the OPD.
17. The D.C. Department of Housing and Community Development, by letter received July 12, 1982, supported the proposal because it responds to a critical need for revitalization in the Ivy City area of the District of Columbia and it will provide low-moderated income housing via the Section 8 program. The Commission so finds.
18. The D.C. Public Schools, by letter dated August 13, 1982, reported that this project will have no adverse affect upon facilities and operations of the D.C. Public Schools. The Commission so finds.
19. The D.C. Department of Recreation, by memorandum dated August 6, 1982, reported that the project will have no adverse impacts to any recreation resources. The project plans propose adequate amounts of recreation facilities and open space for a development of this size. The Commission so finds.

20. The D.C. Fire Department, by letter received August 20, 1982 by counsel to the applicants, confirmed approval on the condition that the fire hydrant shown on site utility plan SU-1, as revised on August 20, 1982, be constructed in accordance with said plan and the provisions of D.C. Law 2-90, the "Fire Lane and Fire Hydrant Act." The Commission will require the applicant to conform to the plan as submitted.
21. The D.C. Department of Environmental Services (DES), by memorandum dated August 6, 1982 and by testimony presented at the public hearing, recommended the use of storm water management measures as a part of the development. The sewers in the vicinity of the proposed project area combined sanitary and storm sewers and have been a part of a city-wide problem regarding storm water run-off. The concern over storm water run-off will be addressed by approval of revised plans that meet the requirements of the DES.
22. The D.C. Department of Transportation (DCDOT), by memorandum dated August 23, 1982 and by testimony presented at the public hearing, recommended that the applicants extend an on-site pedestrian walk to Mt. Olivet Road. The DCDOT advised that vehicular ingress and egress to the site from Mt. Olivet Road would either be limited to right-turn-in and right-turn-out, only or could be unrestricted. The proposed vehicular access area to the project site is in the public space and not on private property. The Commission concurs with the findings and recommendation of the DCDOT. The detailed design of the driveway intersection with Mt. Olivet Road can be left to resolution between the applicants and the DCDOT.
23. Advisory Neighborhood Commission - 5B, by letter dated June 29, 1982, supported the proposal.
24. The Corcoran Street Block Club, by letter dated June 30, 1982, indicated that it does not object to the application.
25. The Ivy City Human Development Corporation, by letter dated May 20, 1982, expressed its satisfaction with the proposal to construct the proposed sixty-four units.
26. The Ivy City Community Council, by letter dated May 20, 1982, supports the proposal to construct the proposed housing units.
27. The H Street Project Area Committee, by letter dated May 20, 1982 and by testimony presented at the public hearing, supported the proposal and recommended that a traffic light be installed on Mt. Olivet Road at the

entrance to the project site to ensure safety for school children and motorists.

28. There were no opponents to the application.
29. The Commission has the authority to waive the three-acre minimum area requirement, pursuant to Paragraph 7501.22 of the Zoning Regulations, if the planned unit development is of exceptional merit and is in the best interests of the city or the country. The applicants testified that the requirement should be waived because the project furthers the goals and policies of the Comprehensive Plan, there is an urgent need for Section 8 rental units, there will be minority participation, the presently permitted density will not increase, Federal assistance is currently available under the Section 8 program but is not likely to be available in the future, three acres of land is not able to be assembled, and the site is presently vacant and unproductive. The Commission further notes that both the OPD and the DHCD indicated that the three-acre minimum area requirement should be waived in this case.
30. The proposed action was referred to the National Capital Planning Commission under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC reported that the proposed action by the Zoning Commission to approve the application subject to development conditions, would not adversely affect the Federal Establishment and other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. While the proposed Planned Unit Development does not meet the three-acre minimum area requirement of Sub-section 7501.2 of the Zoning Regulations, the project is in the best interests of the District of Columbia and the application can be specifically approved by the Zoning Commission, pursuant to Section 7501.22.
2. The Planned Unit Development process is an appropriate means of controlling development of the subject site.
3. Approval of this consolidated PUD application is appropriate, because the application is generally consistent with the present character of the area and because it would encourage stability of the area.
4. The Commission takes notes of the position of Advisory Neighborhood Commission 5B, and in its decision has

accorded to the ANC the "great weight" to which it is entitled.

5. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
6. The proposed application can be approved with conditions which would insure that the development would not have an adverse effect on the surrounding community.
7. The development is consistent with the District of Columbia Goals and Policies Act of 1978, which is the first local element of the Comprehensive Plan for the National Capital under the Self-Government and Governmental Reorganization Act of 1974 (Home Rule Charter).
8. The Commission can approve apartment house use of the property and the applicant is not required to obtain approval for such use from the Board of Zoning Adjustment.

DECISION

In consideration of the Findings of Fact and the Conclusions of Law herein, the Commission hereby waives the normal minimum area requirement and Orders approval of the consolidated Planned Unit Development for Lots 32 and 5 through 10 in Square 4049 and approval of a change in zone from R-4 to R-5-A for Lots 32 and 5 through 10 in Square 4049, both subject to the following guidelines, conditions and standards:

1. The Planned Unit Development shall be developed in accordance with the plans submitted to the Zoning Commission, prepared by Collins and Kronstadt, marked as Exhibit No. 54 of the record, except as such plans may be modified to conform to the guidelines, conditions and standards of this Order.
2. The site shall be developed with two apartment structures containing a total of sixty-four apartments as shown in the approved plan. Not less than four apartments shall be for the handicapped.
3. The floor area ratio of the proposed development shall not exceed 0.68.
4. The percentage of lot occupancy shall not exceed eighteen percent.

5. The maximum building height shall not exceed forty-four feet measured from the finished grade to the ridge of the roof.
6. The minimum distance between the nearest existing rowhouse on Corcoran Street and the adjacent new apartment building shall be twenty-one feet.
7. Vehicular access to the site shall be from Mt. Olivet Road as shown on the plans marked as Exhibit No. 54. The design of the intersection of the driveway from the site and Mt. Olivet Road shall be subject to the final approval of the D.C. Department of Transportation, and may include improvements designed to limit turning movements into or out- of the site.
8. Sidewalk improvements shall be provided on Mt. Olivet Road, N.E. as part of the proposed development in accordance with the specifications of the D.C. Department Transportation.
9. The applicant shall bear the cost of all improvements in public space deemed necessary by the Department of Transportation to accommodate the proposed development.
10. There shall be seventy parking spaces provided on the site, of which four spaces shall be reserved and clearly marked for the handicapped.
11. Landscaping shall be provided on the site as specified in the plan marked as Sheet No. L-1 of Exhibit No. 54, as revised to delete the magnolia tree and laurel bushes proposed along the east wall of the northern building, and to include, in lieu thereof, five white pine trees.
12. The sidewalk on the site shall be as shown on Sheet No. 5 of Exhibit No. 54, along the east side of the parking area and shall connect to Mt. Olivet Road. After a reasonable length of time following construction and occupancy of the project, the management of the project may determine to construct a sidewalk between the two buildings leading out to Corcoran Street including a gate in the fence, provided that it does not reduce the capacity of the storm water management system.
13. A play area having an area of not less than 900 square feet shall be provided in the northwest portion of the site as indicated on the plans marked as Sheet No. L-1 of Exhibit No. 54.
14. The change in zoning from R-4 to R-5-A shall be effective upon recordation of a covenant as required by Sub-section 7501.8 of the Zoning Regulations.

15. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with this Order, or amendments thereof, of the Zoning Commission. When the covenant is recorded, the applicant shall file a certified copy of that covenant with the Office of the Zoning Secretariat.
16. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within three years of the effective date of this Order.

Vote of the Zoning Commission taken at the public hearing on August 23, 1982 as proposed action: 5-0 (George M. White, Lindsley Williams, John G. Parsons, Maybelle T. Bennett, and Walter B. Lewis, to approve with conditions.

Vote of the Zoning Commission taken at the public meeting on September 13, 1982 as final action: 5-0 (Lindsley Williams, Maybelle T. Bennett, John G. Parsons, and Walter B. Lewis, to adopt as amended, and George M. White, to adopt by absentee vote).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective on SEP 24 1982. The amendment to the Zoning Map shall not be effective until the covenant required by Article 75 of the Zoning Regulations is recorded in the land records of the District of Columbia.



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat