

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 414

CASE NO. 83-2P

NOVEMBER 21, 1983

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on July 25th, August 1 and August 8, 1983. At those hearing sessions, the Zoning Commission considered an application from K and L Joint Venture (Charlotte Levine and Elizabeth Kisber) for preliminary review and approval of a Planned Unit Development (PUD) pursuant to Section 7501 of the Zoning Regulations of the District of Columbia. The hearing was conducted in accordance with Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application, as filed on January 31, 1983, requests preliminary review and approval of a PUD for Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9 in Square 1357 located between Clark Place and Potomac Avenue near the 4600 block of Q Street, N.W. The applicant originally proposed to construct a single-family residential development consisting of six detached and ten semi-detached dwelling units. No change of zoning is requested.
2. Square 1357 is bounded by Clark Place on the north and east, Q Street on the west and Potomac Avenue on the south. The square also includes lots 12 and 13 which are not included in this application.
3. The subject site is improved with three small bungalow-type detached dwellings and comprises 48,920 square feet or 1.12 acres.
4. The existing R-1-B zoning on the site permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5000 square feet, a minimum lot width of fifty feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet.
5. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines and standards which may

exceed or be lesser than the matter-of-right standards identified above.

6. The PUD site is relatively secluded. It abuts a portion of Potomac Avenue which dead ends at the east end of the site. Between the site and Canal Road is the old trolley right of way (The Glen Echo Trolley Line) acquired by the District of Columbia for construction of a crosstown water main. To the south below the level of Potomac Avenue is Canal Road, the C & O Canal and the river shoreline which is under the control of the National Park Service.
7. The center of the site is relatively level. Its northern and eastern edges slope down toward Clark Place at an angle up to approximately thirty degrees. Clark Place drops in a deep cut down to Canal Road. The Georgetown Day School is located to the north and east of the site across Clark Place. The site is approximately twenty-five feet lower than the elevation of MacArthur Boulevard.
8. The site is located in the midst of residential, institutional, commercial and public parkland uses between MacArthur Boulevard on the north, Georgetown Reservoir on the west, Canal Road on the south and Foxhall Road on the east. Institutional uses in the area include the Georgetown Day School, the Hanna Harrison Institute of the YWCA and the Psychiatric Institute. Residential uses consist primarily of single family detached and semi-detached houses.
9. The immediate neighborhood is zoned R-1-B. It contains row, detached, and semi-detached homes on non-conforming lots. To the north across Clark Place are five small brick detached homes on non-conforming lots and one small detached brick home facing Q Street. To the west of the site are two detached homes. Continuing across Q Street are eight semi-detached houses on non-conforming lots.
10. Outside the immediate neighborhood, the zoning pattern includes C-1, R-5-A, R-3 and R-1-B zone districts. To the east of Foxhall Road, about three blocks from the site, is a neighborhood of rowhouses, Foxhall Village, zoned R-3 and R-1-B. The R-1-B portion also contains several semi-detached homes. Along MacArthur Boulevard from Reservoir Road to 47th Place is an area zoned R-5-A. This area contains several apartments and townhouses; it is one block from the site. Within two blocks of the project site, there are two C-1 commercial areas. At the intersection of MacArthur Blvd. and Foxhall Road is a commercial cluster which contains a new condominium office building and several shops. The

other small C-1 area at the corner of Elliott Place and MacArthur Boulevard contains a single office building.

11. The subject site does not meet the minimum area requirement of three acres for a PUD in the R-1-B District. Therefore, the applicant is requesting a waiver from the PUD minimum area requirements.
12. The applicant previously submitted an application on September 14, 1983, to rezone the site to R-2. The application included a site plan for sixteen houses and an offer to covenant with private citizens in the area to restrict development of the site in accordance with the site plan.
13. In Zoning Commission Case No. 82-9, the Zoning Commission denied a hearing on the application noting that the special nature of the site merited development in a "sensitive, controlled manner" and that "the application as filed could result in inappropriate development of the site."
14. The PUD application filed January 31, 1983, proposed a single family residential development consisting of six detached and ten semi-detached units. No rezoning was requested. The houses in the PUD plan ranged in height from thirty to thirty-five feet with an overall FAR of 0.4. The proposed lot occupancy was twenty-six percent with twenty-two parking spaces to be provided.
15. At the July 25, 1983 public hearing, the applicant submitted and presented a slightly revised plan, increasing the total number of parking spaces in the project from twenty-two to thirty-two spaces, effectively reducing the number of curb cuts on Clark Place from four driveway cuts to three and increasing the number of curb cuts on Potomac Avenue from one driveway cut to five. The applicant also proposed a turnaround space on the project site for fire and emergency vehicles to be located on the east driveway near the end of Potomac Avenue.
16. The applicant's architect/planner testified that PUD development of the site is necessary to ensure appropriate development of the sensitive site. The view of the site on the Palisades promontory from the Virginia side of the Potomac River necessitates the preservation of mature trees and other vegetation on the site. The site also demands special treatment so that its development is not incompatible with the established character of the surrounding neighborhood. Under matter-of-right development, the applicant's architect testified that there would be no controls over development of the site and that it is likely that very large, expensive houses which would be incompatible

with, and would "wall out" the neighborhood, would be developed.

17. The applicant's architect/planner also concluded that the PUD is consistent with the existing neighborhood housing pattern and that existing community facilities and services are adequate to meet the needs of the proposed PUD. The driveways and parking spaces will be constructed with semi-impervious paver blocks to reduce site run-off and enhance water availability to the trees on the site.
18. The applicant's economic consultant testified that matter-of-right development with nine houses would not be economically feasible.
19. The applicant's traffic expert testified that traffic generated by the PUD would have an insignificant impact on traffic in the area.
20. The applicant's arborist testified that the trees on the site can be protected from damage during construction by several proven methods, including hydraulic soil injection of high nitrogen fertilizers, reduction of top growth, pruning of cut roots, aeration of soil and direct trunk injection of concentrated fertilizers.
21. The applicant's engineer testified that the project will impose no adverse erosion or sedimentation conditions provided that proper sediment control methods are used and that the existing storm drainage system in the area is adequate to handle stormwater runoff after the site is developed.
22. The D.C. Office of Planning (OP), by memoranda received March 11, 1983, and July 15, 1983, and by testimony presented at the public hearing recommended approval of the PUD subject to a limitation of the number of units to twelve and the submission of a revised site plan which would include the architectural, landscaping and other detailed plans required for the second stage of a PUD. At the time the Office of Planning reports were written, the proposal of sixteen townhouses was still before the Commission.
23. The D.C. Department of Transportation (DCDOT), by memorandum dated June 28, 1983, reported that the levels of service at the primary points of access to the dwellings and neighborhood streets surrounding the site will not be affected measurably by the proposed development. The D.C. DOT encouraged the applicant's proposal to provide a turnaround space on the project site in a driveway located off Potomac Avenue.

24. The D.C. Fire Department, by memorandum dated June 30, 1983, reported that the Fire Department would not object to the case if the following conditions were met:
 - A. The provision of a turnaround with a minimum of a sixty-foot radius at the dead-end of Potomac Avenue, N.W., or cut Potomac Avenue through Clark Place, N.W.
 - B. The provision of a twenty foot wide unobstructed roadway for Potomac Avenue, N.W.
 - C. The provision of a fire hydrant on Potomac Avenue, N.W.
25. The District of Columbia Department of Environmental Services reported that it had no objections to the application.
26. The D.C. Department of Housing and Community Development, by memorandum dated July 12, 1983, reported that, "the applicants and their architect have shown great sensitivity to the site, and in proposing cluster housing, make proper utilization of the PUD process. From the standpoint of the consistency with the objectives and programs of this Department, the program is also acceptable."
27. The Bureau of Design, Engineering and Research, by memorandum dated August 4, 1983, reported that the proposed landscaping for this project, "is an approved use of public space, subject to review by the various underground utility companies."
28. In response to the concerns of OP, ANC 3B, and the residents of the surrounding neighborhood who testified in opposition to the PUD, on August 26, 1983, the applicant submitted to the Zoning Commission a revised site plan/landscape plan for fourteen houses, including six detached and eight semi-detached units. The revised site plan/landscape plan allows for increased tree preservation on the site, a slightly modified fire and emergency vehicle turnaround, set backs from Potomac Avenue, and a reduction in total parking spaces from thirty-two spaces to twenty-six spaces. The applicant also submitted a "Comprehensive Tree Maintenance Plan" detailing tree condition, treatment and protection techniques for all of the trees on the site.
29. On September 19, 1983, the Zoning Commission authorized the reopening of the record and invited the applicant to submit a revised site plan and supportive material to limit development of the PUD site to a maximum of

twelve dwelling units and to preserve the maximum number of existing trees on the site by not disturbing the ground within the "dripline" of those trees.

30. The applicant submitted two alternative site plans dated September 30, 1983, each depicting a twelve unit development scheme.
31. The first site plan retained the basic design scheme of the revised fourteen unit site plan which was submitted August 26, 1983. The second site plan presented a cluster scheme.
32. Advisory Neighborhood Commission 3B, by written reports dated March 11, 1983, and July 18, 1983, and by letter dated October 7, 1983, reported that it did not support, "Original Design Scheme" or "Cluster Site Plan," the twelve unit alternative schemes submitted by the applicant to the Zoning Commission September 30, 1983, for the following reasons:
 - a. Inadequate tree preservation
 - b. Excessive density
 - c. Adverse impact on traffic safety and flow
 - d. Traffic noise and pollution
 - e. Detrimental impact of the view on the Virginia side of the Potomac River
 - f. The erosion of the "country lane" ambience of Potomac Avenue
 - g. Insufficient amenities
 - h. Downgrading of the value of matter-of-right zoning in the area
33. A group of area residents were represented by Robert Stumburg, Esq., of the Anne Blaine Harrison Institute for Public Law, as parties in opposition. Testimony was presented through several persons as follows:
 - a. Dr. Kirk Rankin, area resident, noted the R-1-B zoning of the neighborhood and commented on the inappropriateness of "crowded duplex housing" in such an area. He further testified with regard to the traffic and parking problems on Clark Place which he felt would be exacerbated by the PUD.
 - b. Therese A. Folly, area resident, commented on the history of the R-1-B zoning in the neighborhood

and the wishes of neighborhood residents to retain the "small town atmosphere" of the area. She expressed concern about traffic problems on Clark Place and Q Streets and water run-off problems on Q Street.

- c. John Houser, registered forester, testified as to the physical condition of the trees on the subject site. Mr. Houser further testified that traffic activity from construction crews and cement trucks during construction would pose a severe threat to the trees on-site and many of the trees would be injured by soil compaction.
 - d. William Cochran, architect, gave testimony regarding the density and siting of the proposed project. He further testified that the PUD would lead to over-development on this site and was without exceptional merit.
 - e. Michael Sullivan, hydrologist, testified that the PUD would cause a very significant increase in stormwater run-off from the site and that existing storm drains and drainage pathways are not capable of handling this post-development run-off.
 - f. Waltrand Heilscher, area resident, gave testimony regarding the anticipated traffic and parking problems, density and the lack of play areas.
34. There were several persons in opposition to the application, who voiced their opposition by letter or by testimony at the public hearing. They were:
- a. Ward 3 City Councilmember Polly Schackleton;
 - b. The Palisades Citizens Association;
 - c. City Councilmember-At-Large John Ray;
 - d. The Wisconsin Avenue Corridor Committee.
35. The applicant by testimony presented by its experts at the public hearing and evidence submitted into the record, indicated that the PUD is of exceptional merit and in the best interests of the city and country. The exceptional benefits of the PUD include:
- a. The preservation of trees on the site.
 - b. The applicants willingness to provide a scenic easement over the site to the National Park Service and to work with D.C. DOT to improve Potomac Avenue.

- c. The compatibility of the proposed development with the surrounding neighborhood.
 - d. Landscaping to be provided on adjacent public space and District of Columbia property.
 - e. A donation to be made to the homeowners association for maintenance of the off-site landscaping.
 - f. The protection of the view of the site on the Palisades promontory.
 - g. The provision of marketable housing for District of Columbia residents.
36. As to the concerns of the Office of Planning concerning a limitation of the number of units to twelve and the submission of a revised site plan, the applicant has complied with both suggestions from OP.
37. As to the suggestion submitted by the DCDOT concerning a turnaround space in a driveway located off of Potomac Avenue, the revised site plan has a through driveway entering from and exiting on Clark Place, eliminating the need for a turnaround.
38. The concerns of the DCFD regarding a turnaround with a minimum sixty foot radius at the west end of Potomac Avenue, N.W., the provision of a twenty foot wide unobstructed roadway for Potomac Avenue, N.W., and the provision of a fire hydrant on Potomac Avenue, N.W., are not relevant to the applicant's revised site plan.
39. As to the concern of the Bureau of Design, Engineering and Research, the Commission notes that underground utility companies will conduct necessary reviews.
40. The Commission has given serious consideration to the issues raised by ANC 3B and finds that:
- a. The PUD provides for techniques to retain and preserve a majority of the existing healthy trees on the site.
 - b. The PUD is consistent with the density of existing houses in the neighborhood.
 - c. The PUD would not have a significant adverse impact on traffic in the area. The existing transportation network in the area can easily accommodate the traffic that will be generated by the five additional units over matter-of-right

development without appreciably adding to the current traffic flow.

- d. The PUD will not have any adverse environmental impact on the project site or the surrounding area. Since the PUD will not have a significant effect on traffic flow, no appreciable increase in traffic noise will occur as a result of the PUD.
 - e. The PUD provides for the retention of a majority of the existing healthy trees on the site and setbacks from Potomac Avenue, providing a natural and unobtrusive view of the site from the Virginia side of the river. Under matter-of-right development, the trees could be removed.
 - f. The "country lane ambiance" of Potomac Avenue will be enhanced with the PUD due to the retention of the mature trees located on the Potomac Avenue frontage of the site, and the Commission's Order to the applicant to explore the closing or elimination of the paved surface of Potomac Avenue.
 - g. The PUD plan provides a number of benefits and amenities. The PUD offers well-planned housing that is compatible with the scale and design of existing housing in the neighborhood. A majority of the existing healthy trees on the site will be preserved and additional landscaping to the adjacent public space and D.C. real property will be provided.
 - h. Development of the site under existing zoning would not be economically feasible, nor would it be compatible with the neighborhood.
41. As to the concerns of the parties in opposition relative to the issues of density, increased traffic, parking problems, tree preservation, increased storm-water run-off and the lack of play areas, the Commission notes that the aforementioned density, traffic, parking and tree preservation issues have been adequately addressed. As to the issues of increased stormwater run-off, the Commission will condition approval of the first stage application on the submission of the appropriate drainage plans with the second stage application.
42. As to the concerns of the persons in opposition, the Commission notes the aforementioned discussion of the issues of increased density, tree preservation, increased traffic, etc., which have been adequately addressed by the applicant's architect, traffic consultant, arborist and engineer.

43. 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 Country. The applicant testified and submitted information why the applicant should be granted the waiver; the opposition argued against. The Office of Planning indicated that if the applicant complied with its recommendations, which the applicant did, then the minimum area requirement should be waived in this case.

CONCLUSIONS OF LAW

1. The Commission finds that this site merits sensitive treatment. The Planned Unit Development process is an appropriate means of controlling development of the subject site because control of the site plan is essential to ensure compatibility with the neighborhood and protection of the federal interest in the view of the site on the Palisades promontory.
2. While the proposed Planned Unit Development does not meet the three acre minimum requirements of Sub-section 7501.2 of the Zoning Regulations, the project is in the best interest of the District of Columbia and the application can specifically be approved by the Zoning Commission, pursuant to Paragraph 7501.22.
3. The development of this PUD carries out the purposes of Article 75 to encourage the development of well-planned developments with more attractive and efficient overall planning and design not achievable under matter-of-right development.
4. The development of this PUD will provide public space improvements, tree preservation and desirable open space and other amenities not available under matter-of-right development.
5. The development of this PUD is compatible with city-wide and neighborhood goals, plans and programs and is sensitive to environmental protection and energy conservation.
6. Approval of this consolidated Planned Unit Development application is appropriate, because the application is generally consistent with the present character of the area.
7. The PUD will provide additional marketable housing which is needed in the District of Columbia.

8. The Commission takes note of the position of Advisory Neighborhood Commission 3B and in its decision has accorded to the ANC the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby ORDERS approval of the first stage application for a Planned Unit Development for Lots 1-9 in Square 1357. The Zoning Commission also hereby waives the three acre minimum area requirement, in accordance with the provisions of Sub-paragraph 7501.23(c). The approval is subject to the following guidelines, conditions and standards:

1. The project shall be developed under the R-1-B District. No change in zoning shall be provided for this planned unit development.
2. The final design of the project shall be based upon the revised site plan marked as Exhibit No. 102A of the record, as modified by the guidelines, conditions and standards of this order.
3. The maximum number of dwelling units shall be twelve. Each building shall be a single family dwelling.
4. The project shall not exceed a floor area ratio of 0.4.
5. The overall lot occupancy for the project shall not exceed twenty-six per cent.
6. No building shall exceed thirty-five feet in height as measured from the adjacent finished grade on the Potomac Avenue side of the building to the highest point of the roof.
7. At least two off-street parking spaces shall be provided for each dwelling unit.
8. There shall be no vehicular access to the project from Potomac Avenue. There shall be no more than two curb cuts providing access to the site from Clark Place.
9. The two houses located at the end of Potomac Avenue, marked 17 and 18 on the plan marked as Exhibit No. 102A, shall be relocated toward Clark Place closer to the location of the existing house and further away from the adjacent trees to be preserved.

10. Utility services to the site shall be underground. The applicant shall explore whether the existing utility line along Potomac Avenue can also be relocated underground.
11. The applicant shall explore the potential closing and/or elimination of the paved surface of Potomac Avenue adjacent to the site, with that area to be devoted to intensive natural tree cover and landscaping to screen the view of the site from across the Potomac River. The applicant shall submit with the second stage application a statement and plans showing its efforts in this regard.
12. The applicant shall submit with the second stage application a detailed landscaping plan showing all existing and new landscaping, including a plan showing the existing trees on surrounding streets. The applicant shall also submit photographs of all existing trees on the site and on adjacent surrounding streets and public areas.
13. The applicant shall submit with the second stage application a construction staging and management plan and program showing how the existing trees which are to remain will be protected and preserved.
14. The applicant shall submit with the second stage application a detailed stormwater drainage plan which ensures proper drainage and sediment control on the site and adjoining public streets during construction and thereafter.
15. The plans shall include a fence located along the existing property line on Potomac Avenue to control access to and use of the public areas to the southwest. The fence may have no more than two gates, shall be black in color, shall be vinyl-clad chain link, wrought iron or other metal construction and shall be at least four feet high.
16. The applicant shall consult with the National Park Service concerning the granting of a scenic easement with respect to the project.
17. There shall be one application for second-stage approval including the entire project. That application may provide for the implementation and construction of the project in several phases. If phasing is proposed, the second-stage application shall delineate the nature and timing of each phase, and shall show the number of units and the number of parking spaces contained in each phase.
18. No site grading or other change in the existing character of the property, including removal of existing

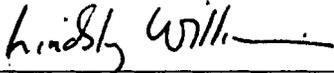
trees or vegetation, shall take place prior to approval of the detailed site and landscaping plans by the Zoning Commission in the second stage proceeding.

19. This approval is valid for a period of one year from the effective date of this order. Within that period, the applicant shall file a second-stage application if this first-stage approval is to remain in effect.

Vote of the Zoning Commission taken at the public meeting on October 17, 1983: 4-1 (Commissioners Walter B. Lewis, John G. Parsons, George M. White and Maybelle T. Bennett to approve the cluster plan alternative with conditions - Commissioner Lindsley Williams opposed).

This order was adopted by the Zoning Commission at its public meeting held on November 21, 1983, by a vote of 4-1 (Commissioners Walter B. Lewis, John G. Parsons and Maybelle T. Bennett to adopt, George M. White to adopt by absentee vote, Lindsley Williams opposed).

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 upon publication in the D.C. Register, specifically on DEC 16 1983.



LINDSLEY WILLIAMS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat