

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 427

Case No. 83-13C

May 14, 1984

(Village at McLean Gardens)

On August 30, 1983, the District of Columbia Zoning Commission received an application from the CB Associates Limited Partnership/VMG Associates to construct a residential and commercial development. The application requested consolidated review and approval of a Planned Unit Development (PUD) for lots 1, 2, and 3 in Square 1819 and for lots 1, 2, 5, 6, and 7 in Square 1821 at Idaho and Wisconsin Avenues, and 38th, Newark, and Rodman Streets, N.W. The application also requested a related change of zoning from R-5-A to R-5-B and C-2-B or, in the alternative, from R-5-A to C-2-B in Square 1819, and from R-5-A to R-5-B and C-2-A or, in the alternative, from R-5-A to R-5-B and C-2-B in Square 1821.

Pursuant to notice, the Zoning Commission conducted public hearings on the application on November 28 and December 5, 1983. At those hearing sessions, extensive testimony was presented by the applicant, government agencies, Advisory Neighborhood Commission 3C, and residents of the PUD site area. The McLean Gardens Condominium Association was granted party status.

On February 13, 1984, by Order No. 421, the Zoning Commission approved the consolidated PUD and map amendment from R-5-A to R-5-B and C-2-B for Square 1819 and from R-5-A to R-5-B and C-2-A for Square 1821, subject to development conditions, guidelines, and standards. Included in the development conditions is condition no. 10 which reads, "No more than fifty percent of the gross floor area devoted to office use may be used for medical or dental offices."

On April 9, 1984 at its regular monthly meeting, the Zoning Commission considered a motion for reconsideration of condition no. 10 of Z.C. Order No. 421 that was filed by counsel on behalf of the applicant on March 13, 1984.

The Commission determined to reopen the record and conduct a further public hearing on limited issues associated with the

reconsideration of condition no. 10. Those issues were as follows:

1. The computation of the number of parking spaces being provided for office use under the approved PUD; and
2. The number of additional parking spaces the applicant can and/or will provide if more than fifty percent of the floor area allocated to office use is devoted to medical and/or dental office uses.

At that same meeting, the Commission waived its Rules of Practice and Procedure to consider a motion for reconsideration of Z.C. Order No. 421 from ANC-3C regarding the Commission's findings and accordance of "great weight" for the ANC report dated November 23, 1983. The Commission determined that it would consider written responses, only, from the other parties to the ANC motion for reconsideration.

On may 14, 1984, the Commission conducted a further public hearing on the limited issues and heard testimony from the applicant, the ANC-3C, and the McLean Gardens Condominium Association.

1. The applicant, by prehearing submission received May 4, 1984 and by testimony presented at the public hearing, requested greater flexibility in being able to market the space devoted to office use. The applicant desired the option to lease fifty to one hundred percent of the space devoted to office use for medical or dental offices without having to provide more on-site parking spaces. The applicant indicated that construction of additional parking spaces for additional medical and dental offices would be too costly and unfeasible.
2. The applicant, through its traffic engineer, testified that under the Zoning Regulations 104 parking spaces would be required if one hundred percent of the space devoted to office use was used for medical and dental offices. Since the project provided for eighty-four parking space, the additional twenty could be acheived by using on-street parking spaces, or by using a portion of the assigned on-site residential parking spaces between 8:30 A.M. and 5:00 P.M.
3. Advisory Neighborhood Commission 3C, by letter dated May 3, 1984 and by testimony presented at the public hearing, indicated the following concerns:
 - a. Additional medical and dental office uses would generate greater negative affect on the immediate area than would be if Z.C. Order No. 421 were left unchanged;

- b. The applicant's proposal to use a portion of the assigned on-site residential parking spaces disregards the Commission's decision to establish the assigned spaces, and exacerbates both the nighttime and the daytime parking situation;
 - c. The ANC is mindful of community sentiment that opposes the applicant's motion for the lack of a basis to request more medical and dental office uses; and
 - d. The ANC believes that the Commission acted reasonably and properly in setting forth condition no. 10.
4. The McLean Gardens Condominium Association, by letter dated April 20, 1984 and by testimony presented at the public hearing, advised that it believed the Commission acted properly in its final order. The Association believed that, if one hundred percent of the office space was used for medical and dental office uses, there would be a danger of overlap between nighttime and daytime parking. Since many medical and dental offices begin operating before 8:30 A.M. and conclude operating after 5:00 P.M., there would be additional traffic problems.

The Commission determined that medical and dental office uses generate more traffic and parking impact than do general office uses. For that reason, the original limitation was imposed. The Commission believes it made prudent and balanced decisions in Z.C. Order No. 421, particularly in the area of parking requirements.

The Commission concurs with the position of the ANC and the Condominium Association and believes that the request for flexibility by the applicant would have a negative impact on a neighborhood that has some existing parking problems. The Commission believes that the applicant should not be held responsible for correcting those existing problems nor should the applicant exacerbate those problems. The Commission finds that the use of on-street parking spaces and assigned residential spaces to meet parking requirements for medical and dental office uses is unacceptable and inappropriate, and exacerbates the existing parking problem in the area.

Advisory Neighborhood Commission 3C, by motion for reconsideration dated April 6, 1984, indicated that Z.C. Order No. 421 failed to articulate, in part, the correct basis for which the Commission accorded "great weight" to the ANC. The motion indicates that Z.C. Order No. 421 was lacking in not identifying the ANC's conditional support for

the application regarding negotiations between the applicant and the Association, and parking and landscaping concerns.

The McLean Gardens Condominium Association, by letter dated April 23, 1984, indicated that Z.C. Order No. 421 may not have accurately recorded the position of the ANC.

On May 14, 1984 at the regular monthly meeting of the Zoning Commission, the Zoning Secretariat informed the Commission that Z.C. Order No. 421 accurately reflects the written position and all substantive issues and concerns of ANC-3C. The Zoning Secretariat indicated that Z.C. Order No. 421 is legally sufficient. The Commission concurs.

The Commission finds that it has not misrepresented nor failed to address any significant written and substantive issues and concern of the ANC in Z.C. Order No. 421.

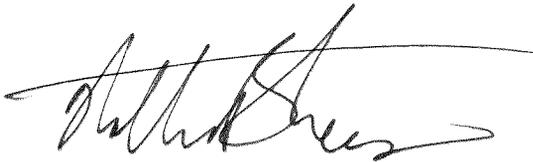
Based on the foregoing reasons, the Zoning Commission therefore orders that:

1. The applicant's motion for reconsideration of Condition No. 10 be DENIED.

Vote of the Commission taken at its public meeting on May 14, 1984: 3-0 (Lindsley Williams, John G. Parsons, and Maybelle T. Bennett, to deny - George M. White, not voting not having participated in the case and Walter B. Lewis, not present not voting); and

2. ANC-3C's motion for reconsideration regarding the Zoning Commission's findings and accordance of "great weight" be DENIED.

Vote of the Commission taken at its public meeting on May 14, 1984: 3-0 (Lindsley Williams, John G. Parsons, and Maybelle T. Bennett, to deny - George M. White, not voting not having participated in the case and Walter B. Lewis, not present not voting).



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat