

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 431-A
Case No. 93-15M/83-17C
(PUD Modification @ BYU/Resources Center)
June 13, 1994

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on April 7, 1994. At that hearing session, the Zoning Commission considered the application of the Stout & Teague Company, submitted on behalf of Brigham Young University. The application requested modification to a previously approved planned unit development (PUD), pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on November 22, 1993, requested modification to Z. C. Order Nos. 431 and 442 (Case No. 83-17C), a previously approved planned unit development (PUD), which comprises a major portion of the area bounded by 16th, 17th, O, and P Streets, N.W.
2. By Z.C. Order No. 431 dated August 16, 1984, the Zoning Commission approved a mixed-use PUD project consisting of residential and office uses known as the Resources Conservation Center. The entire PUD project had a maximum floor area ratio (FAR) of 4.1, a maximum lot occupancy of 75 percent, a minimum of 275 on-site parking spaces, a maximum height of 77 feet for the two office buildings, a maximum height of 75 feet for one residential building with 100-125 dwelling units, and a maximum height of 40 feet for the second residential building with 12 dwelling units.
3. By Z.C. Order No. 442 dated September 10, 1984, the Zoning Commission approved the applicant's motion for reconsideration of certain conditions of approval in Z.C. Order No. 431. The lot occupancy was reduced to a maximum of 59 percent, 80 of the on-site parking spaces were reserved for residential users and 195 for office users, and the roof structure and air handling equipment locations were modified.

4. The Resources Conservation Center PUD project consists of four buildings; two residential and two SP-type office buildings. Two phases of the PUD project were completed in 1988. The third phase is the subject of the instant application.
5. Phase I included the renovation of an existing office building at 1616 P Street, N.W. and the construction of a new 7-story office building. Phase II included the construction of a new 130-unit condominium apartment building. Phase III would have involved the construction of a 12-unit apartment building.
6. The instant application requests the Zoning Commission to modify the requirement to construct a 12-unit apartment building and, in lieu thereof, require the applicant to construct four 3-story townhouses. The four townhouses will be for single-family occupancy and will have the address of 1622-28 P Street, N.W.
7. The PUD modification site (Lot 166 in Square 181) is a vacant lot, measures approximately 4,615 square feet, and is split-zoned SP-1 and R-5-E (formerly known as R-5-D).
8. The SP-1 District permits matter of right moderate/medium density development including all kinds of residential uses, with limited offices for nonprofit organizations, trade associations and professionals permitted as a special exception requiring approval of the Board of Zoning Adjustment (BZA) to a maximum FAR of 4.0 for residential and 2.5 for other permitted uses, and a maximum lot occupancy of 80 percent for residential uses.
9. The R-5-E District permits matter of right, general residential uses of high density development, including single-family dwellings, flats, and apartments to a maximum height of 90 feet, a maximum FAR of 6.0 for apartment houses and 5.0 for other structures, and a maximum lot occupancy of 75 percent.
10. The subject square lies within the Dupont Circle Overlay District (DCOD). The DCOD is an overlay district that is mapped in combination with other zoned districts. This district is intended to affect the nature and character of new development in the Dupont Circle area to ensure that it is consistent with the scale, height, bulk, density, historic preservation, residential, open space, streetscape, and traffic and transportation objectives for the area.

11. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a second-stage PUD. The Commission may also impose development conditions, guidelines, and standards that may exceed or be less than the matter of right standards identified above for height, FAR, lot occupancy, parking, and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as a special exception and would otherwise require approval by the BZA.
12. The applicant indicated that the proposed modifications will decrease the total approved FAR for the Resources PUD as a whole from 4.10 to 4.06. The modification would increase the number of parking spaces provide on the subject site from zero (as is currently provided in the approved PUD) to four, thereby increasing the entire PUD's number of parking spaces from 275 to 279.
13. The applicant, through testimony presented at the public hearing, stated that the proposed townhouses were consistent with the intended use of the subject site as provided in the original PUD. The Resources PUD provided for a townhouse-style apartment building on this site. The applicant further stated that the citizen groups at the time the Resources PUD was being considered had expressed a desire for a townhouse scale project on the subject site.
14. The applicant stated that the small-scale apartment building envisioned by the PUD was not economically feasible. The applicant maintained that the townhouses will allow the PUD to meet the District's goal for residential use on this site, as well as contribute to the stability of the neighborhood through increased opportunities for home ownership. He expressed an option for converting the rear family rooms into a second habitable space, if the Commission were desirous of doing so.
15. The applicant's architect, through testimony presented at the public hearing, stated that the architectural design for the townhouses is compatible with the architecture of existing townhouses in the Dupont Circle area. The architect also indicated that the design was to be compatible with the adjacent Richmond condominium building, which is also part of the Resources PUD.
16. The District of Columbia Office of Planning (OP), by memorandum dated March 25, 1994 and by testimony presented at the public hearing, recommended that the application be approved. OP stated the following:

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"The proposed PUD modification in this case is prompted by previous and current market conditions that have created difficulties in securing development of the site as previously approved by the Zoning Commission. The site has remained vacant for over nine years since the original PUD was approved. The proposed residential development would complete the PUD project and would provide additional housing opportunities in the city."

17. The District of Columbia Department of Public Works (DPW), by memorandum dated March 29, 1994, objected to the PUD proposal because of the following:
 - a. That there are too many proposed curb cuts and too many driveways (i.e., 4) along a 75-foot portion of the south side of the 1600 block of P Street;
 - b. That the requested flexibility to convert the built-in garage to habitable space for a second dwelling unit would encourage vehicular parking in public space; and
 - c. That the length of the driveways is 13' - 3", which is significantly less than the required 16' - 0", and would interfere with pedestrian traffic on the sidewalk.
18. The District of Columbia Department of Fire and Emergency Medical Services (FEMS), by memorandum dated March 3, 1994 did not object to the PUD proposal, provided that the following conditions are met:
 - a. That an automatic sprinkler system be installed;
 - b. That an existing fire lane that was constructed during Phase I or II be widened; and
 - c. That an existing fire lane gate that was installed during Phase I or II provide a 20 foot clearance in an open position, and that the securing mechanism of the gate meet certain specifications.
19. Advisory Neighborhood Commission - 2B did not timely submit its issues and concerns to the Zoning Commission.
20. The Richmond Condominium Unit Owners Association (The Richmond), party in the proceedings, by letter dated March 24, 1994 and by testimony presented at the public hearing, conditionally supported the PUD proposal. The Richmond expressed concerns about the following:

- a. That the applicant and The Richmond reach an agreement about security, lighting, landscaping, and financial support for the existing swimming pool;
 - b. That said parties reach an agreement about the design, material and type of fence that joins the property of both owners; and
 - c. That the Zoning Commission condition its approval of this application requiring the applicant to pay a pro-rata share for the cost of all common elements, of the swimming pool, pursuant to the D.C. Condominium Act.
21. Letters in support of the PUD proposal were received from the National Wildlife Federation dated February 18, 1994, and the Dupont Circle Citizens Association dated March 14, 1994.
22. No letters were received nor were there any persons testifying in opposition to the PUD proposal.
23. In rebuttal to the concerns of DPW, FEMS, and The Richmond, the applicant indicated the following:
- a. That 2 of the 4 driveways within a 75 foot portion of P Street included a private driveway, a public alley, and the 2 curb cuts required for on-site parking at the PUD modification site;
 - b. That the applicant prefers single-family occupancy, in lieu of flats for the PUD modification site and that the garages were never intended to be converted to habitable space;
 - c. That the length of each driveway is approximately 15' - 10", as oppose to 13' - 3";
 - d. That the applicant will comply with all fire safety requirements when it is processed for building permits; and
 - e. That the applicant will continue to negotiate with The Richmond to reach an agreement that resolves all concerns about the swimming pool.
24. The Zoning Commission concurs with the recommendation and position of the applicant and OP, and finds that the PUD modification is appropriate.

25. The Zoning Commission finds that the concerns of DPW, FEMS, and The Richmond have been adequately addressed. The Commission notes that concerns of FEMS about the fire lane and gate are concerns that are not within the jurisdiction of the instant PUD application, but instead should have been addressed during the building permit process for the construction of Phases I or II.
26. The Zoning Commission believes that the approval of this modification to the PUD is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act.
27. The proposed action of the Zoning Commission to grant approval for this modification was referred to the National Capital Planning Commission (NCPD) under the terms of the District of Columbia Self-Government and Government Reorganization Act. The NCPD, by report dated May 23, 1994, indicated that the proposed modifications are not inconsistent with the Comprehensive Plan for the National Capital and would not adversely affect the Federal Establishment or other Federal interests in the National Capital.
28. The Zoning Commission finds that the applicant has satisfied the intent and purpose of Chapter 24 of DCMR, Title 11, Zoning.

CONCLUSIONS OF LAW

1. The planned unit development (PUD) process is an appropriate means of controlling development of the subject site because control of the use and site plan is essential to ensure compatibility with the neighborhood.
2. The modification of this PUD carries out the purpose of Chapter 24 of the Zoning regulations, which is to encourage the development of well-planned residential, institutional and mixed-use development which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter of right development.
3. The modification of this PUD is compatible with the city-wide goals, plans, and programs and will not change the overall nature or character of the original PUD.
4. Approval of this PUD modification is not inconsistent with the Comprehensive Plan for the National Capital, as amended.

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5. Approval of this PUD modification is consistent with the purposes of the Zoning Act.
6. The PUD modification can be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.
7. Approval of this PUD modification will promote 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.
8. The Zoning Commission could not give "great weight" consideration to the report of ANC-2B, because the ANC did not timely submit its issues and concerns.
9. This application is subject to compliance with D.C. law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the findings of fact and conclusions of law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of this modification to Z.C. Order Nos. 431 and 442 for Lot 166 in Square 181, located at 1622 P Street, N.W. This PUD approval is subject to the following guidelines, conditions and standards:

1. The modification to the planned unit development (PUD) shall be developed in accordance with the architectural drawings prepared by Dudley Cannada, architect, and marked as Exhibit No. 24B, as modified by the guidelines, conditions, and standards.
2. The subject site, as modified, shall be developed with four (4) one-family rowhouses, as shown on Exhibit No. 24B.
3. The applicant shall provide all owners/tenants the following information, in a conspicuous manner, through the sales contracts, conveyance documents, and/or lease agreement:
 - a. That the dwelling units shall be used for single-family residential use only;
 - b. That the garage shall not be converted and must be used for on-site motor vehicle parking;
 - c. That no parked vehicles in the driveway shall overlap the public sidewalk nor interfere with the movement of

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pedestrian traffic thereon; and

- d. That any deviation from the conditions contained herein must be approved by the Zoning Commission.
4. The applicant shall have flexibility regarding the design of the rear fence, security measures, and access to the pool area.
5. Pursuant to the intent of 11 DCMR 2407.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs (DCRA) for the PUD modification until the applicant has recorded a "Notice of Modification" of Z.C. Order Nos. 431 and 442 with the land records of the District of Columbia. That Notice of Modification shall include a true copy of Z.C. Order Nos. 431 and 442 that the Director of the Office of Zoning has certified. The recordation of the Notice of Modification shall bind the applicant and successors in title to construct on and use this site in accordance with this order and any amendments thereof.
6. After recordation of the Notice of Modification, the applicant shall promptly file a certified copy of that Notice of Modification with the Office of Zoning for the records of the Zoning Commission.
7. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the applicant has satisfied Condition Nos. 5 and 6 of this order.
8. The PUD modification 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 subsections 11 DCMR 2407.2 and 2407.3 of the Zoning Regulations. Construction shall start within three years of the effective date of this order.
9. Pursuant to D.C. Code Section 1-2531 (1987), Section 267 of the D.C. Law 2-38, Human Rights Act of 1977, the applicant is required to comply with the provisions of D.C. law 2-38, as amended, codified as D.C. Code, title 1, Chapter 25 (1987), and this order is conditioned upon full compliance with these provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public hearing on April 7, 1994: 4-0 (John G. Parsons, William B. Johnson, William L. Ensign, and Maybelle Taylor Bennett, to approve with conditions - Jerrily Kress, not present, not voting).

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This order was adopted by the Zoning Commission at its regular monthly meeting on June 13, 1994 by a vote of 4-0: (John G. Parsons, William B. Johnson, and Maybelle Taylor Bennett, to adopt as amended and William L. Ensign, to adopt by absentee vote - Jerrilly R. Kress, not present not voting).

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register; that is on 11 - 8 1994 .



MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

MADELIENE H. ROBINSON
Director
Office of Zoning

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