

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 536
Case No. 86-33C
(PUD @ 4601-07 Conn. Ave., N.W.)
July 13, 1987

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on April 30, 1987. At that hearing the Zoning Commission considered an application from Lawrence E. Horning and Joseph F. Horning, Jr. for consolidated review and approval of a Planned Unit Development (PUD), pursuant to Title 11 DCMR, Zoning, Section 2400. The public hearing was conducted in accordance with the provisions of 11 DCMR, Section 3022, of the Zoning Regulations.

FINDINGS OF FACT

1. The application, which was filed on December 19, 1986, requested consolidated review and approval of a Planned Unit Development for lots 804 and 805 in Square 2038 @ 4601 and 4607 Connecticut Avenue, N.W.
2. The applicants propose to consolidate an existing eight-story apartment building, containing 186 dwelling units, with a newly constructed nine-story apartment building of approximately 185-200 dwelling units.
3. The PUD site is located on the east side of Connecticut Avenue, N.W. and is bounded by Connecticut Avenue to the west, Brandywine Street to the south, a 20-foot wide public alley to the east and Chesapeake Street to the north. The site consists of two lots; lot 804 (on which the existing building is located) comprising 51,807 square feet, and lot 805 comprising 34,791 square feet of vacant land. The total PUD site comprises 1.98 acres of land.
4. The subject site is located within an R-5-C Zone District. The applicants did not request a change of zoning.
5. The R-5-C District permits as a matter-of-right the construction of medium-high density development of general residential uses, including single-family

dwellings, flats, apartment buildings, and uses accessory to the apartments, to a height of ninety feet, with a maximum floor area ratio (FAR) of 3.5 and a maximum lot occupancy of seventy-five percent.

6. 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. The Commission may also approve variances and uses that are permitted as special exception by the BZA.
7.
 - a. When the application was filed, the minimum area requirement for a PUD in a R-5-C zone district was three (3) acres. Pursuant to 11 DCMR 2401.1 and 2401.2 in effect through April 30, 1987, if the Zoning Commission with the concurrence of the Office of Planning and after the public hearing, finds that an application for a PUD is of exceptional merit and in the best interests of the city or the country, then the Commission may approve that PUD even though the application does not meet the minimum area requirement.
 - b. On May 1, 1987, new regulations for minimum area requirements went into effect. Pursuant to the new 11 DCMR 2401.1, the minimum area requirement for a PUD in a R-5-C zone district is 15,000 square feet.
8. The zoning pattern in the area surrounding the PUD site is entirely residential in character, R-5-C, with medium-high density residential development on the lots fronting on the east and west side of Connecticut Avenue, N.W. and with lower density R-1-A and R-1-B neighborhoods of single-family homes on the streets crossing and extending farther east and west of Connecticut Avenue, respectively. The R-5-C Connecticut Avenue corridor, along which the subject site lies midway, runs from Albemarle Street to Fessenden Street and is dominated by multi-family apartment, condominium and/or cooperative buildings of a comparable height and density to the proposed PUD development. Similar buildings are situated on lots immediately to the west, north and south of the subject site. The land to the east of the subject site and across the public alley is owned by the Federal Government and is currently used as a public park and playground operated and managed by the District of Columbia Department of Recreation.
9. The District of Columbia Generalized Land Use Element

Z.C. ORDER NO. 536
CASE NO. 86-33C
PAGE 3

of the Comprehensive Plan for the National Capital designates the Connecticut Avenue corridor, including the subject site, as appropriate for "high density residential" development.

10. The applicants propose to construct a nine-story, 175-200 unit apartment building on lot 805 and combine its operation with the existing 186-unit building with a below-grade connector containing a corridor allowing the existing loading dock on lot 804 to serve both buildings, underground parking, a meeting room, fitness center, medical clinic space, facilities for tenant storage and other amenities to be shared in common by residents of the two buildings. The combined PUD building will contain 346,392 square feet of gross floor area with a total FAR of 4.0, will rise to a maximum height of ninety feet and will occupy approximately forty-six percent of the total land area of lots 804 and 805. The project will include space for a medical clinic, meeting room, fitness center, whirlpool and sauna and an underground parking garage. The applicants have also requested variances from the rear yard requirements to site the proposed new building on the lot line abutting the public alley, from the side yard requirements to permit the 2½ foot projection of architectural bays of the new building into the side yard, and from the penthouse regulations to allow one wall of the penthouse structure to be located fourteen feet from an exterior wall rather than sixteen and one-half feet as required by the Zoning Regulations.
11. The principal vehicular access to the subject site will be from the public alley approached from either Brandywine or Chesapeake Street. The entry driveway into the underground parking area is located at the southern end of the public alley nearest Brandywine Street. Further north lies the ramp to the existing loading docks and a proposed mid-level below-grade parking area. Nearer to Chesapeake Street along the public alley, the applicants have sited the entry to an enlarged surface parking lot for 26 automobiles. The applicants will construct a pedestrian sidewalk along Brandywine Street (where none now exists) and provide for pedestrian access to the PUD project from sidewalks on Brandywine Street, Chesapeake Street and Connecticut Avenue.
12. The applicants propose to locate up to 8,000 square feet of medical clinic space on the lower level of the new building as a matter-of-right use in an R-5-C zoning district. The applicants propose further to limit the nature of the uses of the medical clinic to

those that are compatible with the neighborhood and not likely to be high volume or high traffic generators.

13. The applicants have indicated a present ability to locate 146 parking spaces on the subject site: 26 surface parking spaces, 99 in the underground parking garage and 21 in the mid-level parking area adjacent to the loading ramp behind the existing building. Eleven (11) of those parking spaces in the surface parking area will be dedicated for use by tenants of the existing building, representing the number of legal parking spaces currently provided for the existing building which predates the parking requirements of the Zoning Regulations. The applicants have requested permission to locate up to 210 parking spaces on the subject site by adding a second underground parking level, provided that subsurface conditions permit such additional construction.
14. The central courtyard and the space between the two buildings will be landscaped with shrubs, gardens and walkways to provide a visual and recreational amenity for PUD residents. The remainder of the subject site will be landscaped with new plantings of trees and shrubs around its perimeter and also screening the surface parking area from the single family homes directly north across Chesapeake Street.
15. The applicants contend that the PUD project is supportive of the housing goals of the District of Comprehensive Plan Act of 1984 which address the need to stimulate the production of new housing, particularly new rental apartment development. Local planning, embodied in the Draft Ward 3 Plan adopted June 16, 1987, specifically encourages the production of more rental housing in Ward 3 as opposed to more condominium or cooperative development.
16. The applicants contend that the PUD project will also be consistent with the District of Columbia Comprehensive Plan Act of 1984 in promoting the achievement of city-wide goals in land use, urban design, recreation and open space, economic development, environmental quality and energy conservation. The proposed PUD will allow the subject site to be developed rationally for rental housing with the preservation of a maximum of greenspace. The use, bulk and scope of the PUD project will be consistent with neighboring uses and will not adversely impact existing single-family residential development.
17. The applicants' expert traffic consultant contends that the proposal will have minimal impact on the street system by use of off-street parking on the site.

18. The applicants requested certain flexibility in their final PUD design and plans as follows:
 - a. Provide up to 210 parking spaces depending upon the feasibility of adding a second level of underground parking given the subsurface conditions on the subject site;
 - b. Adjust the number of residential units from 175 to 200 and the location and design of interior components, including the medical clinic, fitness center, tenant storage facilities and other common tenant amenities, provided that such relocations are in compliance with the standards set by the Zoning Commission;
 - c. Locate above-grade residential units on the lower level of the new building along Brandywine Street side;
 - d. Provide a 50% compact car ratio for parking spaces in all parking areas in order to maximize the parking capacity of the PUD project;
 - e. Adjust the design of the rooftop and penthouse structures and the main entryway on Connecticut Avenue of the new building to allow for harmonious architectural embellishment of the new structure;
 - f. Use of a variety of masonry materials to achieve the architectural affect depicted on the architectural plans filed with the Zoning Commission; and
 - g. Adjust the rooftop recreation area after the completion of final design of the rooftop and penthouse structures.
19. The applicants contend the following benefits otherwise not guaranteed through a matter-of-right development, including:
 - a. underground and surface parking for 146-210 cars;
 - b. secure link between buildings;
 - c. controlled access to medical clinic and tenant amenities from both buildings;
 - d. an underground level allowing greater floor area allocated to benefits at the disposal of tenants from both buildings: a first class fitness center

and community room (both with skylights), ample tenant storage space, and a medical clinic;

- e. due to the availability of underground parking, the space above ground between buildings becomes a positive aesthetic feature, which will link the existing building with the new by a classically inspired system of landscaped paths and courts; and
 - f. incidental to the below grade construction will be the opportunity to rebuild a presently non-conforming loading dock to a safer and complying degree of slope.
20. The District of Columbia Office of Planning (OP), by memorandum dated April 20, 1987 and by testimony presented at the public hearing, recommended approval of the PUD application with certain conditions as set forth in its memorandum. As a threshold matter, OP testified that the PUD project contained sufficient merit in its provisions of badly needed rental housing and superior architecture to justify waiver of the minimum area requirements. OP noted at the public hearing that the Zoning Commission had recently adopted amendments to the Zoning Regulations, effective May 1, 1987, which have the effect of reducing the minimum requirement for a PUD in an R-5-C Zoning District to 15,000 square feet. Under these new standards the subject site would not require such a waiver.
21. OP endorsed the subject site as a suitable location for the development of rental housing and concluded "that the PUD process is appropriate for this project". The proposed design of the new building "reflects the existing pattern of development in this segment of Connecticut Avenue and ... relates well with the existing building on the site". The OP memorandum noted that parking was a sensitive issue in the immediate neighborhood and encouraged the applicants' willingness to increase the number of parking spaces on the subject site from 120, as originally proposed, to a more acceptable level of 146.
22. The District of Columbia Department of Public Works (DPW), by memorandum dated April 20, 1987 and by testimony at the public hearing, concluded that site generated traffic can be adequately handled by the existing street system and public transit network. DPW noted that the 146 parking spaces proposed by the applicants "will be sufficient to meet the demands of the proposed building" (both residential and medical clinic uses) with some additional capacity which DPW

recommended should be dedicated to the use of the tenants of the existing building.

23. With respect to the parking spaces allocated in the underground parking garage for medical clinic use, DPW recommended that 20 parking spaces be set aside between the hours of 9:00 a.m. and 6:00 p.m. for the exclusive use of the medical clinic, that the parking spaces allocated to such use be grouped in one location proximate to the medical clinic and that the parking spaces be posted with signs indicating the limitation of use during medical clinic hours.
24. The DPW memorandum contained certain design specifications for various turning radii and driveway widths on the site plan which had been agreed to by the applicants as a result of several meetings with DPW and, which are now incorporated in the revised plans filed with the Zoning Commission at the public hearing.
25. The District of Columbia Department of Recreation (DOR), by memoranda dated March 24, 1987 and April 17, 1987, expressed concern about the diversion of traffic into the public alley which forms the western boundary of the public park and playground DOR operates adjacent to the subject site. DOR's April 17, 1987 memorandum noted that the applicants have agreed to erect, at their own cost, "an attractive fence along the alley in the park to minimize the possibility of children straying from the park into the alley".
26. In the opinion of DOR, the fence, together with the reduction in size of the medical clinic use to 8,000 square feet and the consequent reduction of traffic volume in the public alley, mitigates a potential hazard.
27. Advisory Neighborhood Commission (ANC) - 3F submitted a letter filed with the Zoning Commission on April 21, 1987 reporting the adoption of a resolution by the ANC not to oppose the PUD project on the condition that the applicants agree to the following additional modifications:
 - a. the PUD project shall continue as rental housing for at least ten years;
 - b. the space devoted to medical clinic use shall not exceed 8,000 square feet;
 - c. the medical clinic space will contain licensed physicians' offices, examination rooms and reception areas and no part of the clinic space will be

- used for walk-in clinic or emergency services or for drug and alcohol treatment or rehabilitation;
- d. no more than 27 parking spaces will be set aside for medical clinic use;
 - e. total parking spaces for the PUD project will not be less than 146; and
 - f. the applicants will work with the appropriate governmental agencies to reduce the community's concerns about the safety of children using the playground by having the alley entrance to the playground closed, by installing a fence along the east side of the alley and by putting in and maintaining plantings along the fence.
28. The Chesapeake Tenants Association representing the tenants of the existing building, by letter dated April 22, 1987 and testimony at the public hearing, indicated its support for the PUD project having reached agreement with the applicants on several issues affecting the tenants of the existing building.
29. Thomas Page, Cornelius J. Dwyer, Patricia Warden and Stanley Steinman, an ANC-3F Commissioner, testified individually in opposition to various aspects of the proposed PUD project. Among their concerns were the existence of adequate natural screening of the surface parking area from the single-family homes on Chesapeake Street, the absence of sufficient greenspace compared to other multifamily buildings on Connecticut Avenue, the comparative scale of the new building and the impact on the adjacent public park.
30. The Zoning Commission is in accord with the recommendations of the OP and finds that the PUD project has sufficient merit to be granted a waiver from the minimum area requirements.
31. The Zoning Commission expressed two concerns at the public hearing regarding the use of the public alley as the principal means of vehicular access to the subject site: first, whether or not a separate agreement with DPW was necessary to permit the applicants to maintain a clear alley access during periods of snow and secondly, whether vehicles exiting the underground parking garage had a sufficient line of sight to detect oncoming traffic from both directions in the alley. By supplemental post-hearing memorandum, dated June 2, 1987, DPW indicated that after meeting with the applicants' representatives and reviewing current site plans, no special agreement is necessary to allow the

applicants to assume responsibility for snow clearance in the public alley and no further change is required in the design of the vehicle exit from the underground parking garage. DPW did recommend that the placement of convex mirrors on either side of the garage entry would assist vehicles leaving the garage to have an unobstructed view of alley traffic. DPW did, however, recommend that a 25-foot turning radius be provided for the alley entrance at Chesapeake Street. The applicant agreed.

32. The Zoning Commission also expressed concern regarding the nature of the plant species incorporated into the landscaping plans, as well as the alternative species proposed if the designated species were not commercially available. By supplemental post-hearing submission, the applicants provided the Zoning Commission with letters dated April 28, 1987 and May 1, 1987 from Mortensen, Lewis, & Sculy, Inc., the landscape architects for the PUD project, responding to the Commission's concerns regarding plant species, plant maintenance and courtyard lighting.
33. The Commission finds that the applicants have adequately addressed the concerns of the DPW, Department of Recreation, ANC-3F, and others in a manner that is reasonable and appropriate.
34. As to the request by the applicants for further design flexibility, the Commission finds that the applicants' request is reasonably related to the objective of ensuring a superior architectural product for the subject site and grants design flexibility as to certain matters raised by the applicants and the Commission at the public hearing.
35. The Commission finds that the major issue, on which this case turns, is whether the applicants have satisfied the criteria of Chapter 24, Title 11, DCMR, Zoning, for consideration as a PUD. With respect to that issue the Commission finds the following:
 - a. The Commission finds that the subject PUD, if approved, would not circumvent the intent and purpose of the Zoning Regulations;
 - b. The Commission finds that the proposed PUD is not inconsistent with the Comprehensive Plan Elements for the National Capital; and
 - c. The Commission finds that the applicants have met the intent and purpose of the PUD process; and consolidated approval including related conditions, guidelines and standards.

36. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated July 2, 1987, indicated that the application would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to the provision of additional rental housing on the subject site, the preservation of a maximum of greenspace and the protection of the neighborhood.
2. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of a well-planned residential development which will offer an attractive architectural design with more efficient and economical land utilization than otherwise achievable under matter-of-right development.
3. The development of this PUD project is compatible with city-wide housing and urban design goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. Approval of this PUD application is not inconsistent with the Comprehensive Plan of the National Capital and with the purposes of the Zoning Act.
5. The proposed PUD application and the requested variances 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.
6. The Commission has accorded to the Advisory Neighborhood Commission 3F the "great weight" to which it is entitled.
7. The approval of this PUD application will 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.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL of this application for consolidated review of a Planned Unit Development for lots 804 and 805 in Square 2038, located at 4601 and 4607 Connecticut Avenue, N.W. The approval of this PUD application is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development (PUD) shall be developed in accordance with the architectural plans prepared by David M. Schwarz Architectural Services, P.C., marked as Exhibits No. 42 and 46B of the record, as modified by the guidelines, conditions and standards of the order.
2. The requested rear yard, side yard and penthouse structure variances are hereby granted.
3. The property shall be used for residential purposes and certain non-residential uses which are allowed as a matter-of-right in an R-5-C Zone District, including a medical clinic, community meeting room, fitness center, whirlpool, and suana.
4. The floor area ratio (FAR) for the PUD project shall not exceed 4.0.
5. The height of the new building erected on lot 805 in Square 2038 shall not exceed ninety feet, excluding architectural embellishments and the penthouse.
6. The lot occupancy shall not exceed forty-six percent (46%).
7. The PUD shall provide two levels for underground parking, but not less than one level. If subsurface soil conditions do not permit two levels of underground parking, then the applicants shall file a letter with the Zoning Commission for approval to construct only one level of underground parking. The total number of parking spaces, surface and below-grade, shall not be less than 146 nor exceed 210. Parking shall serve uses on the PUD site only, and not other uses in the area.
8. A minimum of 146 off-street parking spaces shall be provided, of which at least 20 spaces shall be exclusively dedicated to serve the medical clinic during its hours of operation. In addition, a minimum of 11 parking spaces in the surface parking lot at the rear of the existing building on lot 804 shall be dedicated for the exclusive use of the residents of that building.

9. The final design of the underground parking level shall include a minimum of six (6) handicapped parking spaces as shown on the plans marked as Exhibit No. 46B of the record.
10. The applicants may adjust the ratio of standard and compact automobile parking spaces provided for in subsection 2115.2 of the DCMR Title 11, so that a maximum of fifty percent (50%) of the parking spaces provided for the PUD project may be designated for compact automobiles.
11. Landscaping and lighting shall be provided and maintained as indicated in the Landscaping and Grading Plan (Drawing No. 7) submitted as Exhibit No. 46B of the record, and as further supplemented by the April 28, 1987 and May 1, 1987 letters of Mortensen, Lewis & Scully, Inc. regarding primary and alternative plant species, screening, and necessary landscape maintenance. There shall not be direct rays of lights beaming into residential units from the placement of path lights. The sky lights shall be 42 inches above grade, have domed covers, and be enclosed by a railing.
12. The medical clinic use to be located within the new building shall not exceed 8,000 square feet in area and shall not be for a walk-in clinic, an emergency services facility, or a drug and/or alcohol treatment or rehabilitation facility. If the project is constructed with only one level of underground parking, then the medical clinic use shall operate between the hours of 9:00 A.M. to 6:00 P.M.
13. The apartment units in the new building on lot 805 shall be used as rental housing accommodations for at least ten (10) years from the date of issuance of the Certificate of Occupancy for the new building.
14. Subsequent to negotiations with and approval of the D.C. Department of Recreation, the applicants shall at their own expense perform the following:
 - a. design, erect and maintain a fence along the east side of the public alley adjacent to the site; and
 - b. locate the fence so that it will extend from Chesapeake Street to Brandywine Street on the public parkland to ensure safety of park patrons.
15. Subsequent to negotiations with and approval of the D.C. Department of Public Works, the applicants shall at their own expense construct a sidewalk along the north side of Brandywine Street from Connecticut Avenue to the public alley.

16. The fitness center shall be available for use by residents of the existing and proposed buildings and shall not be open to the public.
17. The applicants shall obtain in writing approval of Department of Public Works for an alley plan. The applicants shall design such plan to provide a 25-foot radius curb at the Chesapeake Street entrance to the alley and a 20-foot wide public alley at the northeastern corner of the PUD site.
18. The applicants shall provide convex mirrors at each side of the garage entrance and set back the emergency exit door to allow for greater visibility.
19. The applicants shall remove snow from the public alley as and when necessary to ensure free and unimpeded access to the garage, loading ramp, and surface parking area for residents and through-traffic.
20. The applicants are granted the following flexibility in addition to the flexibility permitted, pursuant to 11 DCMR, Section 2403:
 - a. Adjust the size, location and number of apartment units in the new building on lot 805, including the siting of apartment units on the lower level of the Brandywine Street side of the building, provided that the number of apartment units shall not be less than 176 or greater than 200;
 - b. Adjust the location and configuration of the accessory residential uses in the lower level area of the new building, provided that such relocations are in compliance with the standards set by the Zoning Commission;
 - c. Adjust the final design of the roof-top and penthouse structures and the main entryway of the new building on Connecticut Avenue to allow for the most harmonious embellishment of the new building;
 - d. Construct and use a roof-top recreation area at the option of the applicants; and
 - e. The new building shall be of brick with stone accents, terra cotta ornaments, cornice and window trim, compatible with the architectural ambiance of the area. There shall be no use of glazed brick.
21. If the applicants erect a roof-top antenna structure, it shall conform to the Zoning Regulations in effect at

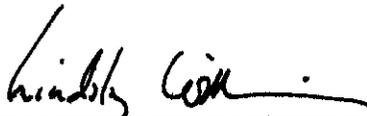
the time of installation.

22. No building permit shall be issued for this Planned Unit Development until the applicants have 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 Regulation Division of the Department of Consumer and Regulatory Affairs. The covenant shall bind the owner and successors in title and interest to construct on and use the property in accordance with this order and any amendments to this order.
23. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division/DCRA until the applicants have filed a certified copy of the covenant with the records of the Zoning Commission.
24. 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 11 DCMR subsection 2407.1 Construction shall start within three years of the effective date of this order.

Vote of the Zoning Commission taken at the June 8, 1987 public meeting: 4-0 (Commissioners Mathews, Bennett, Williams to approve and White to approve by absentee vote - Commissioner Parsons, not voting not having participated in the case).

This order was adopted by the Zoning Commission at the public meeting on July 13, 1987 by a vote of 4-0 (Commissioners Mathews, Bennett, White and Williams, to adopt as amended - Commissioner Parsons, not voting not having participated in the case).

In accordance with 11 DCMR Section 3028, this order is final and effective upon publication in the D.C. Register, that is on 28 AUG 1987.



LINDSLEY WILLIAMS
Chairman
Zoning Commission



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat