

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 623
Case No. 87-4P
(PUD & Map @ Capitol Point)
July 6, 1989

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on March 17 and 24, April 7 and 14, May 12, and June 16, 1988; and March 6 and 9, 1989, to consider the application, as revised, of Riverside Associates. The application requested preliminary (first-stage) review and approval of a Planned Unit Development (PUD) and related map amendment pursuant to Chapter 24 and Section 102, respectively, of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The hearings were conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The original application was a map amendment and was filed on February 13, 1987. It requested a change of zoning from unzoned to W-3 for the site. On April 20, 1987, the applicant revised the application to request preliminary PUD review and approval and a change of zoning from unzoned to CR.
 2. The PUD site is Square 602, and comprises 348,480 square feet in land area. The site is bounded by 2nd, Canal, S, and Q Streets, S.W., and is unimproved.
 3. Square 602 is in an area of the city known as Buzzard Point (also referred to as Capitol Point), is located adjacent to the eastern boundary of Fort McNair, and includes former Squares 602 and 604, U.S. Reservation No. 242, and closed portions of Potomac Avenue, and Canal, S, and Q Streets, S.W.
 4. Applicant proposes to construct a mixed-use development including office, retail and service, and residential uses.
 5. On July 13, 1987, at its regular monthly meeting, the Zoning Commission authorized the scheduling of a public hearing on the case, and determined that, in the
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alternative, it would consider W-2, W-3, R-5-C, C-2-B and C-2-C rezoning options. A notice of public hearing was published in the D.C. Register on October 23, 1987 (34 DCR 6693).

6. On November 30, 1987, at a special meeting, the Zoning Commission considered a letter dated November 25, 1987 from the law firm of Linowes & Blocher, on behalf of the applicant, and letters dated November 20 and 23, 1987 from the law firm of Wilkes, Artis, Hedrick and Lane on behalf of the Buzzard Point Planning Association (BPPA). The letters were about the status of the proposed Anacostia Waterfront Planning Study and the issue whether the scheduled public hearing should be postponed until after completion of the study. After discussion, the Commission rescheduled the public hearing for March 1988. A second notice of public hearing was published in the D.C. Register on February 5, 1988 (35 DCR 756).
 7. The District of Columbia Generalized Land Use Element of the Comprehensive Plan for the National Capital includes the PUD site in the public and institutional land use category.
 8. The Capitol Point area is approximately seventy (70) acres in land area, and is generally bounded by the Washington Channel on the west, the Anacostia River on the south and east, and P Street on the north.
 9. The Capitol Point area is zoned C-M-2 and M, and is characterized by industrial uses such as warehouses, PEPCO power plant and equipment storage, and Steuart Petroleum. Two office buildings, the Transpoint Building and Buzzard's Point Building, have been recently constructed in the area. For the most part, Capitol Point, including the PUD site, is under-developed or vacant, and represents a valuable land resource for future development in the city.
 10. Residential uses, which comprise less than 1% of the land uses in the Capitol Point area, include approximately eleven duplex houses located along Q Street, S.W., several of which are in need of rehabilitation and appear to be uninhabited. The single institutional facility on Capitol Point is the Southwest Community House, which provides meeting space for community functions. Fort McNair is immediately west of and contiguous to the PUD site. Fort McNair, among other things, includes the National War College Building, a designated historic landmark.
 11. At the public hearing, pursuant to 11 DCMR 3013.5, the
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applicant proposed some modifications to the project, from what was advertised in the notice of public hearing. The revised proposal was to construct on the site a mixed-use development including approximately 1,394,000 square feet of gross floor area devoted to office, retail, and service commercial uses, and approximately 1,045,000 square feet of gross floor area devoted to residential uses, including 900 apartment units. The revised project would have had: a height of 130 feet on the 2nd Street and Potomac Avenue frontages, and a minimum height of forty-nine (49) feet at the west frontage adjacent to the Ft. McNair wall; an FAR of 7.0 (4.0 FAR for commercial uses and 3.0 FAR for residential use); an overall lot occupancy of 78.8 percent; underground parking to accommodate 1896 cars; and 128,000 square feet of open space (72,340 square feet at grade and 56,060 square feet above grade for residential users). The applicant then withdrew the earlier proposal.

12. The PUD design addresses the need to create a suitable environment for housing at the edge of a deteriorated industrial area, the site's relationship to the historic campus of Ft. McNair, and the need to integrate housing and commercial components into an harmonious assembly of physical forms and urban spaces. The placement of the housing component adjacent to the Fort provides visual relief by setting the mass of the building back in several tiers. The juxtaposition of the commercial element fronting along 2nd Street and the apartments away from the public right-of-way shields the residential units from the current deteriorated conditions in the site area and will allow residents to enjoy the open space of the Fort and views of the Waterfront. The placement of the commercial space along the eastern portion of the site is consistent with anticipated neighboring land uses and provides convenient access to the existing road network. The PUD process allows the applicant to achieve a sculptured form rather than a somewhat lower blocklike building.
13. The Comprehensive Plan designates Capitol Point as a "Development Opportunity Area" and a "Housing Opportunity Area".
14. The development will further the District's land use, economic development, housing, environmental protection, transportation and urban design elements of the Comprehensive Plan. It will promote improvement in recreation and open space, air and water quality, noise control, solid waste disposal and energy conservation.

15. Project benefits and amenities associated with the PUD application include housing, the initiation of redevelopment of the area, substantial tax revenues to the city, participation in a neighborhood improvement program, landscape improvement to the triangular public space to the east of the PUD site, minority business opportunity and first-source employment commitments, and creation of a pedestrian connection between the PUD site and the Waterfront. The applicant proposes to participate in a shuttle bus program to run between the site and the Navy Yard Metrorail station. The configuration of the proposed building will help to improve the physical character of the District.
16. The existing designation of the PUD site on the Comprehensive Plan Generalized Land Use Maps is obsolete. It depicts the site as being within a public and institutional land use category based on its former ownership by the Federal government. The mixed use category designation immediately east of the site is appropriate for the development. This designation calls for high-density residential and medium-density commercial development in the Capitol Point area. The applicant's proposal conforms to this mixed-use designation.
17. The applicant plans to develop the PUD project in phases over five to ten years. The commercial portion will be constructed in four stages and the residential portion in two or more stages.
18. The PUD project will result in the efficient and economic utilization of the site, attractive urban design, provisions of desired public space, and adequately assures the protection of the public health, safety, welfare, and convenience of District residents.
19. The economic and employment benefits for the District of Columbia will help the District improve its economic position in the Washington Metropolitan area. It is anticipated that 150 construction jobs will be created during the project development. Approximately 2,000 office, retail and service industry jobs are anticipated upon completion of the development. Annual property, sales and personal income tax revenues of 1.6 million dollars annually by the 5th year are anticipated. These revenues are expected to grow to more than 3.8 million dollars annually when the project is completed.
20. The PUD project would not adversely affect the street system in the area, key intersections would still operate at acceptable levels of service, and the proposed parking spaces were more than adequate.

21. The District of Columbia Office of Planning (OP), by memorandum dated March 7, 1988, and by testimony presented at the public hearing, did not oppose the project, but requested that the record be left open for OP to comment after the completion of the Anacostia Waterfront Planning Study.
22. The District of Columbia Department of Public Works (DPW), by memorandum dated March 7, 1988, and by testimony presented at the public hearing, indicated that the parking supply may be adequate, if the concept of shared-parking is applied, and that it would report on the water and sewer adequacy at a later time, for it needed more information. DPW believed that, except for the residential component, the trip rates proposed by the applicant's traffic consultant were substantially lower than those of DPW.
23. The District of Columbia Department of Housing and Community Development, by memorandum dated December 23, 1987, reported that it looked favorably toward the development of a mixed-use project at the site, but needed more information, including a market analysis, before it could endorse the project.
24. The District of Columbia Department of Recreation (DOR), by memorandum dated October 20, 1987, indicated that a more detailed and comprehensive review would be made during the second-stage PUD process. DOR, however, believes that adequate recreation and park needs have been proposed, based on floor area allocation for proposed uses.
25. Advisory Neighborhood Commission 2D, by letter dated December 9, 1987, recommended that the originally set hearings be delayed and that the record be left open until after the Anacostia Waterfront Study was completed.
26. Subsequently, ANC-2D, by letter dated March 17, 1988, opposed the application for the following reasons:
 - a. piece-meal development should be avoided and the PUD site be considered in the context of a larger development plan for the area;
 - b. the project is too massive, too tall, and too dense; and
 - c. the project will add more commuter traffic and exacerbate an already congested street system.
27. ANC-2D, by that same letter, recommended the following, if the Zoning Commission determined that it would approve the application:

- a. the applicant should be required to prepare an affirmative action and community participation plan that is satisfactory to DHCD;
 - b. the applicant should be required to post a "Social Performance Bond" or enter into a binding instrument establishing its financial liability if it fails to meet the conditions of the above-mentioned plan;
 - c. the applicant should be required to commit to the DOES First-Source Employment Program; and
 - d. the applicant should demonstrate that the proffered \$250,000 "community linkage program" is commensurate with the value of the PUD to the applicant; and the value of the program should be increased as may be necessary to so provide.
28. On November 4, 1988, the Anacostia Waterfront Master Plan final report dated November 1988, as prepared by Wallace Roberts & Todd, was filed into the record of the case and included the following statements and recommendations:
- a. The area should be developed for residential and commercial mixed use with public squares, a waterfront park and open spaces emphasized.
 - b. A maximum building height of 130 feet would not intrude on the view plane and would not obstruct visibility of the Washington monument.
 - c. A height modulation scheme adjacent to sensitive uses such as Fort McNair, the waterfront, and the residential uses in the northern portion of the area, should be adopted.
 - d. Current land uses should be continued and their presence reinforced.
 - e. Twenty-five to thirty percent of the total FAR should be residential.
 - f. The entire study area encompassing a broader area than just Buzzard Point should be developed to an average FAR of 5.5.
 - g. Potomac Avenue should be upgraded into a wide boulevard as a special street.
 - h. Building walls should be used to create defined public space.

- i. The proposed internal road system with minor improvements is adequate to handle site generated traffic. One half of the estimated 25 million square foot buildout could occur without making any major capital investments to the transportation system.
 - j. The regional traffic problem must be addressed at a regional level.
 - k. The water supply, sanitary sewer and storm drainage systems have the capacity to serve projected levels of development.
 - l. A transferable development rights program, establishing sending and receiving zones, may be a successful method by which existing property rights can be protected and public investment and taking minimized.
29. The applicant, by letter from counsel dated November 10, 1988, requested further hearings on the proposal, as it may be affected by the waterfront study. The applicant, by letter dated November 21, 1988, proposed further revisions to the project that were consistent with the recommendations of the waterfront study. The applicant proposed to reduce the FAR to 5.5 (3.85 FAR for commercial uses and 1.65 FAR for residential use), reduce the height of the commercial portion at 2nd Street to 110 feet and the residential portion at the west boundary to ninety (90) feet, reduce the lot occupancy to seventy-five percent, and reduce the number of parking spaces to 1600.
30. OP, by supplemental memorandum dated November 21, 1988 reported that:
- The Anacostia Waterfront Master Plan establishes a number of planning principles for the study area which, while areawide in focus and thus quite general, still provide some basis for evaluating the Capitol Point proposal. But, in order to use the plan, it is necessary to extrapolate from what is provided in order to fill in the information gaps for specific sites and projects. Ideally, this should be done for the whole study area, but can be accomplished initially for the Capitol Point site.
31. OP recommended that as revised by applicant's November 21, 1988 letter, the application be approved with the following conditions:

- a. The maximum height of the residential component of the project located adjacent to Fort McNair should not exceed 90 feet as it steps back from a height not exceeding 50 feet at the wall;
 - b. The height of the commercial component along 2nd Street, S.W. should not exceed 110 feet;
 - c. The project should be set back approximately 40 feet from the wall of Ft McNair, approaching the ideal relationship of height to setback of 1:1. The plan recommends the same general relationship along much of the waterfront. The present setback from the wall measures approximately 15 feet;
 - d. The proportion of residential FAR in the project should not be decreased when the setback from the wall is increased;
 - e. The FAR of the proposed development should not exceed 5.5;
 - f. The residential portion of the project should include a mix of ownership types and opportunities;
 - g. The project, which will act as a catalyst for the implementation of the Anacostia Waterfront Master Plan, should be constructed as quickly as possible;
 - h. Any future owners of the subject site should be bound by the conditions of the PUD; and
 - i. The Certificate of Occupancy (C of O) for the residential portion of the project should be obtained concurrently with or prior to obtaining the C of O for the commercial portion of the project.
32. The Commission of Fine Arts, (CFA), by letter dated March 14, 1988 and by testimony presented at the public hearing, opposed any action that would permit a building height of over 90 feet at the site. CFA is concerned about the effect of a taller building on Fort McNair and on the view of the Capitol. CFA suggested a 75 foot building height for the PUD site.
33. The District of Columbia Surveyor, by Exhibits No. 105 and 106, and by testimony presented at the public hearing, indicated that a portion of Second Street at the southeast corner of the PUD site exceeds a street width of 110 feet. Consequently, the 1910 Height Act may permit a 130 foot project to be developed on the PUD site.

34. The Department of the Army, a party in opposition, by letter dated March 3, 1988 and by testimony, stated that the mass and height of the applicant's proposal is incompatible with Fort McNair and poses a threat to air traffic at National Airport, and to Fort McNair in terms of security, access, safety, and operational planning and normal operations. The Department of the Army also noted that from a design standpoint the proposed PUD conflicts with the historic designation of Fort McNair. It recommended that the zoning hearing for the applicant's PUD be postponed until the completion of the Anacostia Waterfront Study.
35. The National Capital Planning Commission (NCPC), a party in opposition, by report dated March 3, 1988 and by testimony, requested denial of the PUD proposal or in the alternative, deferring action on the map amendment until the waterfront study was sufficiently complete to provide necessary guidance. NCPC objected to the proposed PUD's size, noting that it would overwhelm Fort McNair, and expressed concern that the applicant's proposal would negatively impact the security, traffic generation, urban design and historic preservation interests of the federal installation. NCPC contended that the Comprehensive Plan would have to be amended before the site could be rezoned to any category that would allow other than federal use.
36. The Buzzard Point Planning Association (BPPA), a party in conditional "support" of the application, by statement dated March 21, 1988, and by testimony presented at the public hearing, indicated that it represents owners of 75% of the zoned land in the Buzzard Point area. BPPA supports a comprehensive approach to planning in the Buzzard Point peninsula, particularly with respect to transportation and circulation, continuation of existing uses and maintaining current density entitlements. BPPA recommended the creation of an entirely new zone district for the Buzzard Point peninsula. The new zone would permit high building heights but would be lower in response to sensitive areas in the peninsula. The recommended densities would be up to 6 or 8 FAR, and would allow up to 130 feet in height.
37. BPPA, through its expert architect and planner, proposed a street design structure that makes use of the South Capitol Street connector. BPPA recommends terminating Potomac Avenue at the wall of Ft. McNair, thus extending through the privately-owned PUD site. BPPA's architect recommended a transfer of density rights within the Buzzard Point peninsula. The street grid pattern proposed by BPPA relates back to the L'Enfant Plan. Industrial uses would be retained until

they are no longer needed by their owners. BPPA conditionally supported the PUD proposal because its members agree that high density, mixed-use development represents the best possible future for Buzzard Point.

38. Several persons expressed support for the PUD application, including but not limited to, the Horning Brothers Co., Marine Management Inc., a concession of the Fort McNair Yacht Basin, American Logistics Association, MUSCLE, and the Coast Guard.
39. The Zoning Commission finds that the Capitol (Buzzard) Point area is, in fact, a development opportunity area for housing, commercial, and public and recreation uses in the District of Columbia.
40. The Commission believes, that, having purchased a tract of unzoned Federally-owned land, applicant is now entitled to use that land, pursuant to reasonable zoning controls. By Z.C. Order No. 623A, dated July 6, 1989, the Zoning Commission has applied a base underlying zoning that would allow for matter-of-right development.
41. The Commission concurs with some of the recommendations of OP and others, believes that first-stage PUD approval, with conditions, is appropriate, and finds that the applicant has satisfied the requirements of 11 DCMR 2405.
42. As to the concern of ANC-2D, and others about the affect of piece-meal development in the Buzzard Point area, the Commission concurs, in part. The Commission finds that the Anacostia Waterfront Study will serve as an effective planning catalyst but that additional comprehensive planning and zoning initiatives will be needed. The Commission, however, believes that the applicant should not be required to carry the full burden of waiting until the planning and zoning initiatives are complete. The Commission notes that the applicant filed a two-stage PUD application two and one-half years ago, and that the proceeding has not reached a stage that allows the applicant to file or complete the second-stage PUD process. This action suggests that the applicant has made a good-faith effort to allow for planning and zoning initiatives to be completed. The Commission believes that the time needed to complete the second-stage PUD process for the instant proposal will allow the comprehensive planning and zoning initiatives additional time to be completed.
43. As to the concern of ANC-2D and others regarding the scale, height, and density of the proposal, the Commission finds that the revisions by the applicant in

response to the recommendations of the Anacostia Waterfront Study represent a reasonable and appropriate modification that addresses those concerns. The Commission is also mindful that the purpose of first-stage PUD review is to set a conceptual framework within which a more detailed second-stage PUD review can be considered.

44. As to the concern of ANC-2D and others about the issue of traffic, the Commission concurs with the applicant's traffic expert and finds that the proposal will not adversely affect the street system. The Commission, however, is mindful that, in order for the Buzzard Point peninsula to reach full development potential, a comprehensive traffic and transportation plan must be implemented and that comprehensive infrastructure development should be completed. Accordingly, the conditions of approval include a requirement that the applicant develop a plan to address improvement of the infrastructure.
45. As to the concern about the issue of security, the Commission is persuaded that there is not any substantial security risk from the development as approved. Further, appropriate setback features and the reduction in height from 130 feet to 110 feet provide positive incentive for continued refinement during the second-stage PUD process.
46. The Commission notes that some existing privately-owned buildings in the Capitol Point area, which were developed as a matter-of-right under the industrial zone district development limits, are closer to sensitive buildings at the Fort than the PUD development will be.
47. The Commission does not concur with the positions of NCPC nor the Department of the Army. The Commission finds that its decision appropriately scales back the project from the Fort, and that a 110 foot building height fronting on 2nd Street, S.W., is an appropriate level of development to stimulate revitalization of the peninsula. The Commission acknowledges the historic quality of the Fort and finds that the PUD proposal respects its landmark status from an urban design and historic preservation perspective.
48. The Commission does not concur with the full extent of CFA's position. There is a reasonable height concern, but this Commission finds that a 110 foot building fronting on 2nd Street, S.W., with scaled-back tiers at Ft. McNair, is appropriate for the site, consistent with the WRT Final Report, and from an urban design point-of-view, softens the visual impact on the Fort.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the Anacostia Waterfront area and the District of Columbia.
2. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned residential, commercial and mixed-use developments 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 development of the project is compatible with District-wide and neighborhood goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. The approval of this application is not inconsistent with the Comprehensive Plan of the National Capital because it will produce needed housing, be a catalyst for redevelopment of the Buzzard Point peninsula, strengthen the distinguishing physical qualities of the area, and increase employment opportunities.
5. The approval of the application is consistent with the purposes of the Zoning Act and the Zoning Map of the District of Columbia, which include stabilizing land values and improving mixed use areas.
6. The application can be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community or the District. The project will enhance and promote the revitalization of the area.
7. The approval of this 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.
8. The Zoning Commission has accorded ANC 2D the "great weight" consideration to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders that this application for first-stage review of a PUD for Square 602, with zoning pursuant to the W-1 and W-3 Zone Districts, be APPROVED. The approval is subject to the following guidelines, conditions and standards.

1. The Planned Unit Development shall be developed in accordance with the plans prepared by the architectural firm Mariani & Associates, part of the record in this case, as modified by the guidelines, conditions and standards of this Order.
2. The maximum height of the commercial portion of the building shall not exceed 110 feet, excluding roof structures; and the maximum height of the residential component shall not exceed 90 feet excluding roof structures.
3. There shall be no portion of the PUD project within fifty (50) feet of the eastern property line of Fort McNair. No portion of the PUD project shall exceed a height of forty (40) feet within 115 feet of the Fort McNair property line. No portion of the PUD project shall exceed a height of sixty (60) feet within 165 feet of the Fort McNair property line. No portion of the PUD project shall exceed a height of 90 feet within 224 feet of the Fort McNair property line.
4. The floor area ratio of the project shall not exceed 5.5, excluding roof structures, including 3.5 maximum FAR for non-residential uses and 2.0 maximum FAR for residential uses.
5. There shall be no deck constructed on the west front of the PUD project.
6. The overall lot occupancy shall not exceed seventy-eight (78) percent.
7. Landscaping shall be provided as shown on the plans submitted in the record by the applicant and as further refined during the stage two PUD hearings.
8. Antennas shall be permitted on the roofs of the buildings, subject to the Zoning Regulations that apply to antennas.
9. The applicant may submit an application for rezoning of the site from W-1 and W-3 with the application for second stage approval. In addition to the following requirements, the applicant may submit alternative second-stage PUD proposal(s) that reflect design flexibility that is not inconsistent with the conditions of this order.
10. The applicant shall submit with the second stage application: a phased development plan that is consistent with Finding of Fact No. 17; detailed plans and elevations indicating the design treatment of the proposed PUD, including building materials, color and other details; and a revised parking scheme consistent with the reduction in building mass.

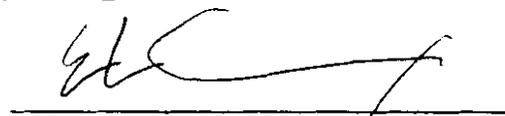
11. During the second stage PUD review process, the applicant shall submit details concerning participation, with other landowners in the Buzzard Point Peninsula, in a shuttle bus or other public transportation service between the site and the Green Line Navy Yard and Waterside Mall Metrorail stations, when completed.
12. The applicant shall submit a plan by which it would cooperate with the District of Columbia government, and provide financial support, to develop improvements in the infrastructure in the area of, and impacted by, the PUD. Sixty days before filing the second stage application, the applicant shall submit the infrastructure improvement plan to DPW for review.
13. The applicant shall implement a First-Source job opportunity agreement with the Department of Employment Services, and a minority business opportunity agreement with the Minority Business Opportunity Commission.
14. The applicant shall make a bona-fide "best effort" attempt to address and resolve the security concerns raised by NCPC and the Army.
15. The first stage PUD approval by the Zoning Commission shall be valid for a period of one year from the effective date of this Order. Within such time, the applicant shall file the first stage of second-stage application if this first stage approval is to remain in effect.

Vote of the Zoning Commission taken at the regular monthly meeting on May 8, 1989: 5-0 (John G. Parsons, Maybelle Taylor Bennett, George M. White, Lloyd D. Smith and Lindsley Williams, to grant first-stage approval).

This order was adopted by the Zoning Commission at a special meeting on July 6, 1989 by a vote of 5-0 (John G. Parsons, Maybelle Taylor Bennett, George M. White, Lloyd D. Smith, and Lindsley Williams to adopt).

In accordance with the provisions of DCMR 3028, this order shall become final and effective upon publication in the D.C. Register; that is on, AUG 18 1989.


MAYBELLE TAYLOR BENNETT
Vice-Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat