Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 658
Case No. 89-10M/79-14F
(PUD Modification - Hillandale Mansion)
April 16, 1990

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on November 2, 1989. At that hearing session, the Zoning Commission considered the application of SUR Developers and Builders, Inc. for a modification to an 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 Section 3022 of that title.

FINDINGS OF FACT

1. The subject application, which was filed February 14, 1989, requested modifications to Zoning Commission Order No. 481, dated January 13, 1986, which controls the development of a portion of the Hillandale tract located at 3905 Reservoir Road. Z.C. Order No. 481 modified Z.C. Order No. 305 dated January 10, 1980, which granted approval of a second-stage PUD for the entire Hillandale tract.

2. The original PUD approval was for a residential development of 268 single-family dwelling units, a floor area ratio (FAR) of 0.40 and a maximum height limit of forty feet. The PUD site is zoned R-1-B and consists of approximately forty-two acres of land.

3. Z.C. Order No. 481 modified the original PUD approval with respect to a 35.75 acre portion of the PUD site. The modifications included changes in the location and configuration of the approved housing clusters, the design of the houses, changes in some of the tree preservation areas, and a reduction in the number of houses proposed for the overall PUD site by one house.

4. The property that is the subject of this application is Lots 1130 and 1161 in Square 1320, which consists of a 1.8 acre site that is located in approximately the

center of the Hillandale tract and is improved with a 23,000 square foot detached house commonly referred to as the Hillandale Mansion.

5. The applicant is also proposing to make certain improvements to the main entrance of the Hillandale project which is located off of 39th Street, N.W., to the north of Reservoir Road, N.W., in Lot 1131, Square 1320. As a result, this portion of the PUD site is also a subject of this modification application.

6. The subject application proposes to modify the restrictions on the mansion site which were imposed in Z.C. Orders No. 305 and 481 including the requirement that the mansion be retained and used for single-family use and/or club-type facilities for homeowners. The applicant proposes to raze the existing mansion and to develop the mansion site with 13 detached houses.

7. The subject application also proposes to rezone the mansion site from R-1-B to R-4. The rezoning is necessary to develop the proposed 13 houses which have a total gross floor area of 59,800 square feet.

8. Under the previously approved PUD, a gross floor area of 16,000 square feet was allocated to the mansion site based upon the previous developer's estimate of the size of the mansion. The remainer of the 0.4 FAR which was approved for the PUD project was allocated to the townhouse component of the PUD project. As a result, without a rezoning, the development envelope of the mansion site would be limited to 16,000 square feet.

9. The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet.

10. The R-4 District permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of eighteen feet, a maximum lot occupancy of sixty percent, and maximum height buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling units.

11. The proposed density of the mansion site project was derived from consultations with the Hillandale homeowners and the applicant. The proposed 13-unit project meets the desires of the homeowners for a minimal amount of density necessary to redevelop the mansion site with compatible development. It also

meets the needs of the applicant for an economically viable project.

12. The proposed project is in compliance with all R-1-B PUD development parameters except FAR. Under the proposed R-4 zoning, a total FAR of 1.0 is permitted. However, the proposed project will utilize only .764 FAR. The remainder of the 1.0 FAR which will be generated by the proposed R-4 zoning will continue to be allocated to the townhouse development. The overall increase in FAR for the entire project as a result of the proposed mansion project is only .026 FAR.

13. The proposed mansion project will not impinge on any of the existing tree preservation areas at Hillandale.

14. The applicant has entered into an agreement with the Hillandale Homeowners Association wherein the applicant has agreed to make certain improvements to the main entrance gate at Hillandale to ease congestion at the gate. The applicant has also agreed to make certain contributions to improving common facilities and areas at Hillandale including the community swimming pool.

15. The applicant also entered into a memorandum with the National Park Service to improve and upgrade the portion of the Whitehaven Park trail system which runs parallel to the northern property line of Hillandale. The trail is currently in a state of disrepair.

16. The applicant has entered into a minority opportunities agreement with the Minority Business Opportunities Commission (MBOC) and a first source employment agreement with the Department of Employment Services. (DOES).

17. The District of Columbia Office of Planning (OP), by memorandum dated November 15, 1989 recommended approval of the application based upon the following:

    a. The proposed mansion project meets all of the requirements for the R-1-B District with the exception of the FAR limitation;

    b. The designated single-family use of the mansion has not materialized despite repeated efforts to meet the conditions of the approved PUD. In the meantime, the mansion has deteriorated and it is infeasible to maintain it as a single-family residence or as a community facility;

    c. The mansion is an incompatible entity within the Hillandale development which has a destabilizing effect on that community;

d. The proposed R-4 zoning is consistent with the Comprehensive Plan Land Use map which calls for low-density residential and semi-detached houses as the predominant use as well as surrounding development because the proposed development would be controlled by the PUD process and the land-use would be restricted to single-family residential;

e. The 13 proposed single-family detached homes will have a positive impact on the community; and

f. The external urban design impacts of the proposed project should be insignificant. The height of the proposed houses will only be one foot higher that the height of the existing mansion and the site is essentially isolated by topography and existing structures from those areas which border the larger Hillandale community.

18. The District of Columbia Department of Public Works (DPW), by memorandum dated October 24, 1989, indicated that it has no objection to the PUD modification.

19. The District of Columbia Fire Department (DCFD), by memorandum dated October 2, 1989, reported that DCFD had no objections to the PUD modification, provided that the applicant contacts DCFD regarding a fire lane easement for emergency vehicle access and fire hydrant placement prior to development of the site.

20. The District of Columbia Metropolitan Police Department (MPD), by letter dated October 12, 1989, reported that MPD does not anticipate any need for an increase in police services as a result of the proposed project in MPD.

21. The District of Columbia Department of Recreation (DOR), by memorandum dated September 12, 1989, did not indicate any objection to the proposed project, however, suggested that the management of Hillandale consider instituting a self-supporting membership system allowing neighborhood residents to use the pool during the summer months.

22. The District of Columbia Office of Business and Economic Development (OBED), by memorandum dated September 12, 1989, reported that the proposed substitution of 13 single-family houses for the current mansion will create additional support for area business.

23. The District of Columbia Department of Finance and Revenue (DFR), by memorandum dated September 11, 1989, reported that it should be easier to sell the proposed

houses than it has been trying to market the mansion. DFR indicated that it had no objection to the proposed development.

24. Advisory Neighborhood Commission 3B, by letter dated November 1, 1989 and by testimony presented at the public hearing, reported that the ANC has no objection to razing the mansion or to the development of the proposed project as long as the legal means for achieving it are carefully scrutinized by the Zoning Commission.

25. The Hillandale Homeowners Association (HHOA), represented by the community representative of the HHOA Board of Directors by testimony at the hearing, indicated its support for the proposed application. The HHOA voted unanimously in support of the project on October 4, 1989 after over 18 months of consultation with the applicant.

26. Kettler Brothers, Inc. and Miller and Smith Company, which together are developing a substantial part of the Hillandale project, in testimony at the hearing, supported the proposed project because the mansion is an eyesore and a hazard, and both single-family and community center uses of the mansion is infeasible.

27. The Republic of France was admitted as a party in opposition to the case. By written correspondence, the Republic of France expressed its opposition to the application based upon the density of the proposed project, the demolition of the mansion, and potential security impacts. No specific information about the nature of such impacts was provided.

28. Several individuals testified as persons in opposition. They opposed the application based on their belief that a change of zoning was unnecessary, it would not benefit the community and that the benefits offered to the community were not a substantial value.

29. The Commission finds that the proposed modification is not inconsistent with the Comprehensive Plan for the National Capital.

30. The Commission concurs with the recommendation of OP as to the compatibility of the proposed project and the proposed R-4 rezoning with surrounding development and its consistency with city planning policies and objectives.

31. The Commission concurs with the applicant's and OP's

conclusion that the continued retention of the mansion for single-family use is not in the best interests of the community or the District of Columbia.

32. 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. NCPC, by report dated April 10, 1990, indicated that, presuming no District or Federal historic status for the mansion or grounds, the proposed action of the Zoning Commission 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. NCPC observed that landmark designation would trigger the application of the policies of the Preservation and Historic Features element of the Plan.

## 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 ensure compatibility with the neighborhood.

2. The modification to this PUD carries out the purpose of Section 2400, which is to encourage the development of well-planned residential, institutional 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 modification to this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.

4. Approval of this PUD modification is not inconsistent with the Comprehensive Plan for the National Capital.

5. Approval of this PUD modification is consistent with the purposes of the Zoning Act.

6. The PUD modification can be approved with conditions that ensure that the development will not have an adverse affect 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 has accorded to the Advisory Neighborhood Commission (ANC) 3B the "great weight" consideration to which it is entitled.

9. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

10. If the mansion or grounds are designated as landmarks, D.C. Law 2-144 will reasonably secure implementation of the preservation policies cited by NCPC and and referenced in Finding of Fact No. 32. The Mayor's Agent is not bound to approve demolition or construction as authorized by this order.

## DECISION

In consideration of the Findings of Fact and Conclusions of Law, the Zoning Commisson for the District of Columbia hereby orders APPROVAL of a modification to a previously approved PUD for Lots 1130 and 1161 in Square 1320 and a change of zoning from R-1-B to R-4 located at 39th Street and Reservoir Road, N.W., subject to the following guidelines, conditions, and standards:

1. The Planned Unit Development (PUD) modification approved herein shall be in accordance with the plans prepared by SUR Developers/Builders, marked as Exhibit No. 57 of the record, as modified by the guidelines, conditions and standards of this order.

2. The subject site, Lots 1130 and 1161 in Square 1320 shall be rezoned from R-1-B to R-4.

3. The existing structure on the mansion site shall be razed in its entirety.

4. The mansion site shall be redeveloped in accordance with the plans prepared by SUR Developers/Builders, dated November 2, 1989 which are identified as Exhibit 57 of the record.

5. A total of 13 detached houses shall be developed on the mansion site. All of the houses shall be single-family residences.

6. The maximum FAR which shall be developed on the mansion site shall not exceed .764 or 59,800 gross square feet of development.

7. The maximum lot occupancy for the mansion site shall not exceed 27 percent. Each individual house lot shall have a maximum lot width of 51.25 feet.

8. The maximum height of the houses shall not exceed 30

feet measured from the grade in front of the entrance door for those units.

9. The minimum number of parking spaces for the mansion site project shall be 39 with 3 parking spaces provided per house.

10. A minimum side yard of 8 feet and a minimum rear yard of 25 feet shall be provided for each house.

11. The location of the houses shall be as shown on Figure 1 of Exhibit 57 provided that the width and depth of the individual houses may be shifted up to 3 feet in any direction.

12. The applicant may vary the floor plans of the houses from the floor plans shown in Figures 9-A, 9-B, 9-C, 9-D, 9-E and 9-F. The applicant may also vary materials and architectural features among materials and architectural features shown on Figures 7-A, 7-B and 7-C, which include brick, wood, and stone for facades and wood shake, slate, shingle and standing seam metal for roofs.

13. The location of the tree preservation area shall be as shown on Figure 1 of Exhibit 57. The restrictions and regulations for tree preservation areas set forth in Zoning Commission Order No. 481 shall apply to this area.

14. The applicant may construct porches, stairs, patios, decks, fences, bay windows, balconies, chimneys, storage areas, and retaining walls within rear and side yards, provided no such construction infringes on the tree preservation area.

15. The location of all roads, parking areas, retaining walls, sidewalks and other similar facilities, shall be as shown on Figures 1, 2, 4 and 5A of Exhibit 57. The applicant may shift the location of retaining walls and underlying utilities by not more than 5 horizontally and 5 feet vertically from the locations shown on Exhibit 57, except where to do so would encroach on a tree preservation area or a setback, in which case the adjustment shall be allowed only to the restricted area boundary.

16. Grading shall be carried out at the dimensions shown of Figure 4 of Exhibit 57. The applicant may vary the grading 10 feet horizontally or 5 feet vertically when necessary to preserve trees or to minimize cut and fill except where to do so would encroach on a tree preservation zone or area, in which case the variation shall be allowed only to the restricted area boundary.

17. Utilities shall be provided as shown on Figure 6 of Exhibit 57. Erosion control measures shall be as shown on Figures 5-A and 5-B of Exhibit 57. Utilities, erosion control measures and construction access roads may be relocated by not more than 10 feet in any direction except where such a relocation would encroach upon a tree preservation zone or area of a plan setback, in which case the relocation shall be permitted only to the restricted area boundary.

18. Landscaping shall be provided as shown of Figure 3 of Exhibit 57. The applicant may vary the location of landscape materials and lights based on building and grading adjustments described herein but not by more than 10 feet in any direction. The types of plan materials shown may be substituted for each other, using plant material types listed. Additional quantities plant materials may be added to plan.

19. The applicant shall improve the main entrance to the Hillandale project located off of 39th Street, N.W. in accordance with Figure 11 of Exhibit 57.

20. The applicant will upgrade and improve the existing trail system located in Whitehaven Park which runs parrallel to the northern property line of Hillandale. These improvements will made under the auspices of the National Park Service (NPS) in accordance with NPS design standards and specification.

21. No building permit shall be issued for the mansion site until the applicant has recorded a covenant in the land records of the District of Columbia between the owner and the District of Columbia satisfactory to the Office of Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA). The covenant shall bind the owner and all successors in title to construct on and use of the property in accordance with this order and amendments thereto of the Zoning Commission.

22. The change of zoning from R-1-B to R-4 shall be effective upon recordation of a PUD covenant, as required by 11 DCMR 2407.

23. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division of the DCRA until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.

24. 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 2407.1 and 2406.8, DCMR Title 11. Construction shall start within three years of the effective date of this order.

25. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2038, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2038, as amended, codified as D.C. Code, Title 1, Chapter 25, (1987), and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division/DCRA to approve permits, if the applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public meeting on February 12, 1990 by a vote of 4-0 (John G. Parsons, William Ensign and Maybelle Taylor Bennett, to approve with conditions, and Lloyd D. Smith, to approve by proxy - Tersh Boasberg, not voting having recused himself).

This order was adopted by the Zoning Commission at the public meeting on April 16, 1990 by a vote of 4-0 (Maybelle Taylor Bennett, William Ensign, John G. Parsons and Lloyd D. Smith to approve - Tersh Boasberg, not voting having recused himself.

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is, on MAY 18 1990.

LLOYD D. SMITH
Vice Chairman
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

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