

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 744
Case No. 92-16C
(Consolidated PUD & Map Amendment @
1850 New York Avenue - Salvation Army)
September 13, 1993

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on March 15, 1993. At that hearing session, the Zoning Commission considered an application from the Salvation Army (Applicant). The applicant requested consolidated review and approval of a planned unit development (PUD) and related amendment to the Zoning Map of the District of Columbia, pursuant to Chapter 24 and Section 102, respectively, 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 subject application, which was filed on October 26, 1992, requested consolidated review of a planned unit development (PUD) and related change of zoning from C-M-2 to C-3-A for a portion of parcel 154/104 in Square 4263.
2. The applicant intends to construct a three-building PUD project, including a 24,000 square foot community based residential facility (CBRF), a 10,000 square foot warehouse, and a 3,000 square foot auditorium/chapel.
3. The residential facility will be 30 to 58 feet in height; the warehouse will be 30 feet in height and the auditorium/chapel will be 35 feet in height.
4. The PUD site is located in Square 4263 and is comprised of a portion of Parcel 154/104, which is vacant. Parcel 154/104 is located on the north side of New York Avenue, N.E. between Bladensburg Road and Montana Avenue in Ward 5. The PUD site consists of 102,802 square feet of land area.
5. The building adjacent to the site on the west was formerly an IBM printing facility. To the east of the site is a fast food restaurant and gasoline station. Elevated train tracks are located directly north of the site and an assortment of storage, retail, wholesale and gasoline station uses are located to the south across New York Avenue.

6. On December 14, 1992, the Zoning Commission for the District of Columbia authorized a public hearing for Case No. 92-16C.
7. The C-M-2 District permits medium bulk commercial and light manufacturing uses to a maximum floor area ratio (FAR) of 4.0 and a maximum height limit of sixty feet with new residential uses prohibited. The PUD guideline permits a building height of 90 feet and the PUD standard permits a maximum FAR of 4.0.
8. The C-3-A District permits matter-of-right moderate/medium density development of retail and office uses to a maximum height of 65 feet, a maximum FAR of 4.0 for residential and 2.5 for other permitted uses, and a maximum lot occupancy of 75 percent for residential uses. The PUD guidelines permit a height of 90 feet and an FAR of 4.5 for residential and 3.0 for other permitted uses.
9. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a first-stage PUD. The Commission may also impose development conditions, guidelines, and standards which 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 Board of Zoning Adjustment (BZA).
10. The District of Columbia Generalized Land Use Element of the Comprehensive Plan for the National Capital designates the subject site for Production and Technical Employment (PTE) uses.
11. The applicant, through testimony presented at the public hearing, indicated that the project will consist of a residential structure, a warehouse structure, an auditorium/chapel structure and indoor and outdoor recreational facilities, including an outdoor volleyball court and two half-courts for basketball. The project will occupy 36 percent of the PUD site. The residential structure will include 200 beds for the men's and women's lodges, that will be arranged in a dormitory style. The fifth floor will accommodate twenty 200-square foot efficiency-style, single occupancy units. Each unit will include a sleep-in area, kitchenette and private bath facilities.
12. The applicant also indicated the following:
 - a. The project will be phased, with the residential component to be completed first, followed by the warehouse and then the auditorium/chapel.

- b. The building materials for the project will include brick and decorative concrete masonry units and a standing seam metal roof.
 - c. The project will provide one 7-foot by 40-foot loading dock and two loading berths -- one 15 feet by 55 feet and one 12 feet by 30 feet.
 - d. The applicant proffered a memorandum of understanding with the Minority Business Opportunity Commission about construction contracting opportunities.
 - e. The applicant proffered a memorandum of understanding with the D.C. Department of Employment Services about first-source employment opportunities.
13. The applicant's original proposal provided for 80 parking spaces, but the Zoning Commission requested the elimination of 4 parking spaces on the southeast corner and 3 parking spaces on the southwest corner of the site to allow for additional landscaping. Space will be provided for approximately 73 cars.
14. In a report dated January 1993, and through oral testimony presented at the public hearing, the applicant's traffic expert concluded that the proposed PUD will not adversely impact the surrounding street network.
15. The District of Columbia Office of Planning (OP) by memorandum dated March 4, 1993 and through testimony presented at the public hearing, recommended approval of the proposed PUD with a change of zoning from C-M-2 to C-3-A for a portion of the subject site. OP noted that the location of the project in a PTE area presents an apprenticeship and job-training base for PTE uses on New York Avenue; that the overall benefits associated with the project far outweigh the loss of a small amount of industrially zoned land that would result with the proposed rezoning, coupled with the PUD controls, would be consistent with the intent and purpose of the Zoning Regulations and Map; and that the proposed rezoning would allow transient housing on the site and would have an impact on the future revitalization of the New York Avenue corridor.
16. The District of Columbia Department of Public Works (DPW), by memorandum dated March 8, 1993, addressed the transportation elements as well as the impact on the water and sewer system of the proposal. DPW concluded that the proposed project will not adversely impact the traffic on the surrounding street network and that there is sufficient sewer and water capacity for the PUD. DPW further noted that the development provides sufficient on-site parking and loading facilities.

17. The District of Columbia Fire Department (DCFD), by memorandum dated March 12, 1993 concluded that DCFD has no objection to the proposed consolidated PUD and map amendment provided that the developer complies with the fire protection provisions of the new D.C. Construction Codes.
18. The District of Columbia Department of Finance and Revenue (DFR), by memorandum dated March 1, 1993 indicated that it has no objections to the proposed PUD and further stated the project is consistent with employment and economic development objectives of the Comprehensive Plan.
19. Advisory Neighborhood Commission (ANC) 5A, by report dated March 3, 1993 voted to approve the application. The ANC report did not identify the issues and concerns of ANC-5A.
20. The Ward 5 Business Organization (W5BO) appeared at the public hearing as a party in support of the application, subject to the Salvation Army setting aside 35 percent of its' contracts for goods and services to those businesses in Ward 5 that provide those goods and services. At the hearing the W5BO requested the Zoning Commission to impose conditions of approval which would assure the fair and equitable award of contracts to Ward 5 businesses and monitoring of contracts to be awarded.
21. At the public hearing on March 15, 1993, the Zoning Commission requested that the applicant and the W5BO continue negotiations relative to an agreement to purchase goods and services and to advise the Commission of the result of the negotiations by March 31, 1993.
22. The applicant and the W5BO met on March 23, 1993 to continue negotiations. On March 29, 1993, the applicant submitted another proposal to the W5BO. By letter dated March 30, 1993, the W5BO rejected the March 29th proposal citing a lack of contractual obligation by the Salvation Army to award 35 percent of all contracts associated with the project to the W5BO.
23. The applicant, by letter dated March 31, 1993, related that it was unable to commit to purchase 35 percent of the dollar value of goods and services associated with the project from the W5BO without regard to price, ability to perform or assurance that the types of goods and services required for the project are available from the W5BO. The applicant expressed reservations as to whether it could satisfy the 35 percent requirement from the W5BO membership list.

24. By letter dated March 31, 1993, the W5BO recommended that the Zoning Commission deny the PUD application, approve the application with conditions relative to a contract with the W5BO, or defer its decision until there is an agreement with the W5BO for the purchase of goods and services.
25. On April 12, 1993 at its monthly meeting, the Commission took proposed action to approve the application and determined that final action would not be taken until agreement with the Minority Business Opportunity Commission (MBOC) has been ratified.
26. By letter dated July 8, 1993, the applicant submitted a final executed copy of the Memorandum of Understanding between the Salvation Army and the Department of Human Rights and Minority Business Development.
27. The Commission concurs with the recommendations and/or positions of OP, DPW, DCFD, DFR, ANC-5A, and the applicant and believes that the application should be approved.
28. The Commission finds that the proposed PUD will be an asset to the District of Columbia by providing vital social services which are sorely needed.
29. The Commission finds that the PUD project is not inconsistent with the Comprehensive Plan which designates the site for production and technical employment development.
30. As to the concern of the Ward 5 Business Organization, the Commission considered the organization's request that the applicant be obligated to enter into a contractual agreement to purchase goods and services from businesses in Ward 5. The Commission finds that it is unlikely that the applicant can satisfy 35 percent of its contractual requirements from the goods and services provided by the W5BO. Moreover, the Commission believes that its decision to approve the PUD must inure to the benefit of the larger community. The Commission therefore finds that the project includes significant benefits to the community in that the purpose of the PUD is to provide a site from which housing, counseling and employment services can be provided to assist in rehabilitating persons re-entering mainstream society. Further, the applicant has signed MBOC and DOES agreements with the District Government.
31. The proposed action of the Zoning Commission to approve the application was referred to the National Capital Planning Commission (NCPC), pursuant to the terms of the District of Columbia Self-Government and Governmental Reorganization Act.

NCPC, by report dated September 9, 1993, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other Federal interests in the National Capitol, nor be inconsistent with the Comprehensive Plan for the National Capital.

32. The Commission finds that the applicant has satisfied the intent and purpose of Chapter 24 of the Zoning Regulations.

CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means of controlling the development of the subject site because control of the use of the site is essential to assure compatibility with the neighborhood and achieve the goals and policies of the City.
2. The development of this PUD carries out the purposes of Chapter 24 of 11 DCMR to encourage the development of well-planned residential, institutional, commercial and mixed-use developments that offer a variety of building types and more attractive and efficient overall planning and design not achievable under matter of right development.
3. The development of this PUD is compatible with city-wide 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 and the purposes of the Zoning Act.
5. The proposed application 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 assure neighborhood stability.
6. 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 text and map of the Zoning Regulations.
7. The Zoning Commission has accorded ANC 5A the "great weight" to which it is entitled.
8. 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 application for consolidated review of a planned unit development and map amendment from C-M-2 to C-3-A for a portion of parcel 154/104 in Square 4263 located at 1850 New York Avenue, N.E. as shown on Sheet 8 of Exhibits 25, 47 and 50B. The approval of this PUD 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 architecture firm of Walton, Madden and Cooper, Inc., marked as Exhibit Nos. 25, 47 and 50B as modified by the guidelines, conditions and standards of this order.
2. The PUD project shall consist of three buildings - a 54,000 square-foot community-based residential facility (CBRF) service center, a 10,000 square-foot warehouse, and a 3,000 square-foot auditorium/chapel.
3. The residential component of the project, with its main entrance on New York Avenue, shall include 200 beds for a men's and women's lodge, generally, in a dormitory-style arrangement. The fifth floor shall accommodate twenty 200-square-foot efficiency-styled, single occupancy units. Each unit will include a sleep-in area, kitchenette and private bath facilities.
4. The total floor area ratio (FAR) of the PUD shall not exceed 4.0, of which not more than 2.5 FAR may be devoted to non-residential use.
5. The PUD project shall not exceed 58 feet in height.
6. The lot occupancy of the PUD shall not exceed 75 percent.
7. The PUD shall have a minimum of 70 on-site parking spaces.
8. Loading areas, driveways and walkways shall be located on the site as shown on Exhibit No. 50B of the record.
9. Landscaping shall be provided as shown on Exhibit No. 50B of the record.
10. The applicant shall have flexibility with respect to the following:

- a. Varying the location and design of all interior components, including partitions, slabs, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, provided that the variations do not change the exterior configuration of the building including the penthouse.
 - b. Making minor adjustments to the facade and window size and detailing.
 - c. Varying the final selection of exterior materials within the color ranges as proposed based on availability at the time of construction.
11. The applicant shall comply with the Memorandum of Understanding that it has entered into with the Minority Business Opportunity Commission which provides that the applicant will make a bona fide effort to award at least thirty-five percent (35%) of the construction related contracts for the project to Certified Minority Business Enterprises as shown on Exhibit No. 58.
 12. The applicant shall comply with its First Source Agreement with the Department of Employment Service ("DOES") which provides that the applicant will use DOES as its first source for the recruitment, referral and placement of employees in connection with the construction of the project as shown on Exhibit No. 25.
 13. The change of zoning from C-M-2 to C-3-A for the subject portion of Parcel 154/104 as shown on sheet 8 of Exhibit Nos. 25, 47, and 50B, shall be effective upon recordation of a covenant as required by 11 DCMR 2407.3.
 14. The PUD may be built in phases so long as the residential component is built in the first phase.
 15. No building permit shall be issued for the 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 and satisfactory to the Office of the 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 the property in accordance with this order, and amendments thereto of the Zoning Commission.

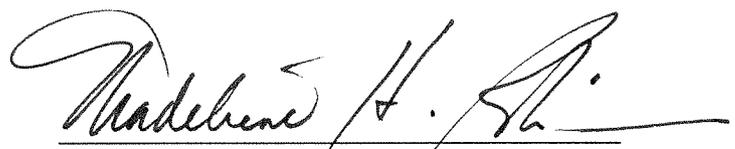
16. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA until the applicant has filed a certified copy of the covenant with the records of the Zoning Commission.
17. The PUD approval by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, application must be filed for a building permit as specified in subsection 11 DCMR 2407.1. Construction shall start within three years of the effective date of this order.
18. Pursuant to D.C. Code Section 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully 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 those provisions. Nothing in this order shall be understood to require the Zoning Regulations 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 regular monthly meeting on April 12, 1993: 3-0 (John G. Parsons, Tersh Boasberg, and Maybelle Taylor Bennett, to approve with conditions - William L. Ensign, not voting, not having participated in the case, Lloyd D. Smith, not present, not voting).

The order was adopted by the Zoning Commission at its regular public meeting on September 13, 1993 by a vote of 3-0: (John G. Parsons and Maybelle Taylor Bennett to approve as amended, William L. Ensign to approve for administrative purposes - Jerrily R. Kress and William B. Johnson, not voting, not having participated in the case.

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 OCT 15 1993.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. ROBINSON
Director
Office of Zoning