

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 816
Case No. 95-9C

**(Consolidated Planned Unit Development and Map Amendment @ Alabama Avenue, S.E -
Dupont Park Seventh Day Adventist Church)**
July 14, 1997

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on December 16, 1996. At that hearing session, the Zoning Commission considered an application from the Dupont Park Seventh Day Adventist Church, the applicant. The applicant requested consolidated review and approval of a planned unit development (PUD) and a related amendment to the Zoning Map of the District of Columbia, pursuant to Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, as filed on July 19, 1995, requested a map amendment from R-2 to R-5-A for Parcel Nos. 201/100, 201/122, 201/127, 201/200 in Square 5517 located at the intersection of Alabama Avenue and Q Street, SE. The application was amended on April 22, 1996.
2. The application, as amended, requested consolidated review and approval of a PUD in conjunction with the requested map amendment, for the above-referenced parcels of land.
3. The subject property is triangularly-shaped and is situated at the southern portion of Parkview Terrace and Alabama Avenue, SE. Massachusetts Avenue is located to the north of the site, Pennsylvania Avenue to the south, Fort Davis Park to the west, and Alabama Avenue to the immediate east. The property fronts on the intersection of Alabama Avenue and Q Street, SE, and contains 52,420 square feet of land area.
4. The applicant proposed development of an apartment housing complex for very low income elderly residents. The proposed complex would contain 45 one-bedroom dwelling units in a single three-story building with a partial basement. All of the units would be accessible to the handicapped, and 41 units would be adaptable for persons with disabilities. The building would contain approximately 38,597 square feet of floor area, have a floor area ratio (FAR)

of .74, a height of 30 feet to 54 feet at various elevations, a lot occupancy of 21 percent, and an at-grade parking lot with 23 spaces.

5. The R-2 District permits matter-of-right development of single-family detached and semi-detached dwellings with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.
6. The R-5-A District permits matter-of-right development of single-family detached and semi-detached dwellings, and with the approval of the Board of Zoning Adjustment (BZA), low density development of general residential uses including rowhouses, flats and apartments to a maximum FAR of 0.9, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.
7. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a second-stage PUD. The Commission may impose development conditions, guidelines and standards that may exceed or be less than the matter-of-right standards for height, FAR, lot occupancy, parking and loading, yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the BZA.
8. In a preliminary report dated July 26, 1996, the District of Columbia Office of Planning (OP) analyzed the applicant's request and recommended that the Commission set the case for public hearing.
9. At its regular monthly meeting on August 5, 1996, the Commission reviewed the applicant's request, considered the OP recommendations and authorized a public hearing on the application.
10. The public hearing was held on December 16, 1996. At the public hearing, the Commission heard the presentation of the applicant, the Office of Planning, the National Park Service, Advisory Neighborhood Commission (ANC) 7B, and seven residents of the area.
11. The applicant, through the prehearing submission and testimony presented at the public hearing, emphasized the Seventh Day Adventist Church's tradition of serving and addressing the needs of elderly citizens.
12. The applicant testified that the site is an ideal location for the provision of housing and supportive services to low income elderly persons because it has a low density residential character and offers pedestrian convenience to retail shopping and other facilities. It would also enable the lower income senior residents to meet their daily needs without the financial burden of automobile ownership.
13. The applicant stated that the project originated in response to the sparse and inadequate provision of comfortable, safe and affordable housing for low income elderly in the area.

Existing low income housing developments for the elderly and handicapped have long waiting periods of 5 to 10 years for prospective residents. The Allegheny East Conference in conjunction with Dupont Park Seventh Day Adventist Church was encouraged to undertake the project by local agencies and community leaders expressing their opinions about the need for housing and related services programs for lower income elderly people.

14. The applicant further testified that in seeking U.S. Department of Housing and Urban Development (HUD) Section 202 funds for the project, a change of zoning from R-2 to R-5-A is required to accommodate 45 one bedroom-bathroom units in a four-level building.
15. The applicant concluded that the public and the neighborhood in particular would benefit from the availability of new, safe, sanitary and affordable housing. The project architect testified that the apartment building incorporated a townhouse-like exterior design that would reinforce the residential character of the building and minimize the effects of the building's mass.
16. The applicant proffered the following project amenities:
 - a. The provision of rent-subsidized housing for the elderly and handicapped;
 - b. Superior architectural design and landscaping; and
 - c. The provision of employment opportunities in both construction and project operations.
17. The OP, by report dated December 11, 1996 and through testimony at the public hearing, recommended that the Commission approve the application. The OP testified that it is unlikely that the project would generate adverse area impacts in terms of noise, traffic, parking, environmental concerns or other objectionable conditions.
18. The OP indicated in its testimony that although the Generalized Land Use Map of the Comprehensive Plan designates the site for low density single-family detached and semi-detached residential use, the proposed apartment building's design, scale and lot occupancy appear to be compatible with the low density residential character of the immediate area.
19. The OP further testified that the change of zoning would be needed to achieve the additional height and massing required for the project to serve its intended purpose. The height and FAR of the proposed building would be within the PUD guidelines for the requested R-5-A zoning. The apartment building would also be in compliance with the rear and side yard requirements, lot occupancy, and the number of on-site parking spaces required by the PUD guidelines for the R-5-A District.
20. The National Park Service (NPS), through testimony at the public hearing, expressed its opposition to the 45-unit project that would be built on land that abuts NPS property along

Fort Davis Drive. To ensure that the Commission understood the basis for its opposition, the NPS provided a brief historical background of Fort Davis Park.

21. NPS testified that Fort Davis Drive is a wooded park drive that parallels Alabama Avenue and runs for approximately one-half mile between Fort Dupont Park and Fort Davis (Pennsylvania Avenue, SE). Forts Dupont and Davis are two of the 68 forts that circled the Nation's Capital as part of the Civil War defenses of Washington. As such, these two forts are strategically located on a prominent topographic ridge. Alabama Avenue marks the topographic ridge and is up-slope from Fort Davis Drive.
22. NPS noted that the proposed 45-unit building would be situated on the same prominent topographic ridge described earlier. The same strategic "high ground" known as defenders of the Union Capital protected by Forts Dupont and Davis during the Civil War, was identified for protection as parkland by the 1902 McMillan Commission.
23. The NPS representative testified that the proposed 38,597 square-foot project would impinge greatly on the curvilinear alignment of Fort Davis Drive and would be too close to the park boundary adjacent to the property. Opportunities to adequately screen the apartment building are minimal. Although some existing single-family units and other structures may be visible from the Drive, their smaller sizes, along with trees and vegetation, significantly reduce the impact on the parkland.
24. The NPS further testified that during their initial review of the proposal, they explored ways of working out arrangements that would protect NPS purposes and values. These included establishing tree conservation and reforestation areas. Additionally, consideration was given to using scenic easements to protect the park in the long term. NPS stated that during on-site reviews of the plans and after examining details such as the height of the proposed structure, it became obvious that the project's impacts on the park would be too great.
25. Finally, the NPS testified that the proposed apartment building would be much larger than any structure currently on the site. Consequently, the land clearing required, along with its associated parking, storm water pond, and turf areas, would likely be impossible to screen. The Building would be the largest, tallest, and nearest structure to Fort Davis Drive, located as precisely the point with the least vegetative cover.
26. Advisory Neighborhood Commission (ANC) 7B testified in opposition to the project. The ANC representative stated that the neighborhood had experienced numerous problems with programs currently operated by the Seventh Day Adventist () Church. He highlighted the problems encountered by the residents as a result of the church's activities as follows:
 - a. Parishioners continue to block residents' driveways when church is in session.
 - b. Existing property owned and occupied by the Church or its affiliates is poorly maintained and is an eyesore to the community.

- c. Students attending the school continue to litter residents' properties, cut through residents' yards, and in some cases are disrespectful to homeowners in the community.
 - d. Residents feel intimidated by letters sent to them by the church expressing a desire to purchase their properties, even when they are not for sale.
 - e. Residents and their elected ANC representatives believe that the church disrespected the community by not meeting with citizens who may be impacted by the church's plans.
 - f. The church never met with ANC 7B or the Fort Davis Civic Association to discuss the project and its impact on the community prior to moving forward with development plans.
27. The ANC representative indicated that the applicant has not met its obligations in accordance with chapter 3 of the Comprehensive Plan which requires community participation in the project planning process. He added that the applicant had yet to respond to the concerns of the ANC made known on April 26, 1996, in the only meeting that took place between the ANC's executive committee and representatives of the Church.
28. The Director of the Division of Aging Services of the Greater Washington Urban League, Inc. testified in support of the project. He indicated that the proposed project is a HUD/partnership. He testified to the need for housing for the elderly. He analyzed population trends in the U.S. and indicated the persons 65 years or older numbered 33.5 million in 1995. This number represented 12.8 percent of the U.S. total population. He asserted that the population of older Americans increased by 2.3 million (seven percent) since 1990. Compared to an increase of five percent for the under-65 population for the same time period. The Director urged the Commission to approve the proposed project.
29. Four residents of the neighborhood testified in opposition to the project. The residents basically reiterated the concerns of ANC-7B. They alleged that the Church reneged on its promises to maintain the school which it operates in the neighborhood and has not shown any inclination that the project, if approved and constructed, would be maintained. They also argued that the project would worsen the traffic and parking problems already created by facilities in the area.
30. At the close of the hearing, the Commission left the record open for additional submissions, particularly regarding the applicant's needs to address the ANC's concerns and other contentious issues that arose during the course of the hearing.
31. In a post-hearing submission dated January 12, 1997, the applicant outlined the efforts that were made to address the issues and concerns of the ANC. These efforts included: the enlargement of the Board of Directors for the proposed facility to include residents of the area, documentation of the attempts made to meet with the ANC, willingness to execute a

memorandum of understanding permitting residents to park on the applicant's lot on snow days, issuing a statement indicating that deacons and off-duty police officers would monitor and enforce parking regulations to ensure that driveways are not blocked by church congregants, and revision of the project plans to further consider the concerns of the NPS.

32. By letter dated January 28, 1997, ANC-7B responded to the applicant's post-hearing submission. The ANC indicated that the applicant had not met with the ANC and that all the offers contained in the applicant's post-hearing submission were unilaterally made by the applicant. The ANC continued its opposition of the project, again indicating that the applicant had given the community little or no respect as evidenced by the applicant's proceeding with the project without the community's participation. The ANC's letter noted that SDA Church congregants continued to park their vehicles in front of residents' driveways after the December 16, 1996 hearing.
33. The NPS, by letter dated January 30, 1997, reviewed the acknowledged that the applicant sent a revised set of architectural plans. After reviewing the plans, the NPS observed and commented as follows:
 - a. The applicant has a difficult task in trying to balance the competing demands of the 45-unit program with those of a residentially scaled community, an idyllic park setting, and difficult site topography. The proposed configuration of the building is inadequate to satisfy these competing demands, and a thorough redesign would be necessary to accomplish this difficult objective. Without a thorough redesign, this project remains inappropriate for the site.
 - b. The applicant's revision moves the essentially unchanged building 13 feet farther from the park boundary. The building would still be, by far, the largest, tallest, and closest structure to Fort Davis Drive, a park road specifically designed for its scenic qualities. While the added buffer would marginally enhance the possibilities for planted vegetative cover, the visual intrusion would remain overwhelming.
 - c. The proposed deletion of the partial fourth story would result in a slightly reduced perception of height, at a cost of an additional 12 feet of building frontage along park land. Mitigating effects of this modification would be marginal.
34. The NPS suggested several strategies to achieve acceptable mitigation that were either not considered or were summarily rejected by the applicant. The NPS suggestions include the following:
 - a. Substantially reconfiguring the building's location and footprint to achieve a more perceptible distancing from park boundaries. The current footprint was derived from siting the building as close to the park boundary as possible; it is not surprising that this footprint now allows very little "wiggle room" in moving the building away from the park, as noted by the applicant's architect.

- b. Excavating for basement use. NPS noted that the only basement area shown in the plans is a result of existing topography, not excavation. Location of as many service facilities as appropriate in an excavated basement would help to reduce the total building exposure to Fort Davis Drive, as more of the building would be below grade, providing a "lower silhouette."
 - c. Placing storm water facilities under the parking lot. NPS noted that the limits of disturbance currently include approximately 80 percent of the site; reduction of the total disturbed area would enhance buffering flexibility and opportunities for vegetative screening.
35. The NPS stated in its letter that its staff offered to provide the applicant with information on recently developed subsurface storm retention techniques which could be useful. And suggested that the parking/site circulation plan be reworked by placing the more easily screened elements, rather than the building, closest to the park boundary. These suggestions were not incorporated into the applicant's revised plans.
36. The NPS indicated that it regrets the applicant did not solicit its input earlier in the planning process. Instead, it was presented with a completed, very tightly designed plan that did not provide any substantial consideration of NPS' concerns. NPS indicated its willingness to work closely with the applicant to find an acceptable balance between the competing demands encountered by the project. The applicant's proposed modifications do not substantially alter the impact of the project on the park, and NPS remains opposed to the proposal.

CONCLUSIONS OF LAW

At its public meeting held on February 10, 1997, the Zoning Commission reviewed and considered all testimony and evidence presented in this case, including all post hearing submissions, revised architectural plans and responses from all parties. Based on its deliberations in this case, the Commission's conclusions of law and decision follow:

1. The Commission concludes that the bulk, size and height of the project is inappropriate for the site and will not be in harmony with the character of the neighborhood.
2. The Commission concludes that the applicant did not attempt to adequately address the concerns of the neighborhood and other organizations that opposed the project. Additionally, the applicant did afford the community sufficient opportunity to participate or provide input in the development of the proposal.
3. The Commission concurs with the NPS and concludes that the revised plans do not go far enough to mitigate the adverse impacts of the project on the neighborhood and the scenic character of Fort Davis Drive.

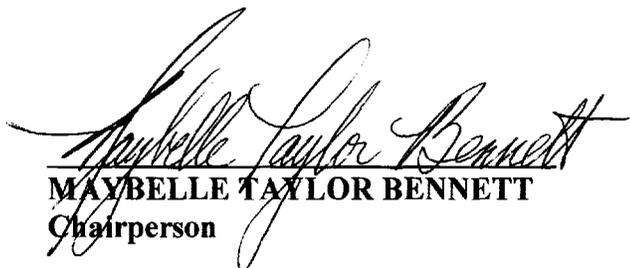
4. The Commission believes that the PUD, as designed, does not carry out the purposes of Chapter 24: to encourage the development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
5. The Commission believes that the project's storm water management plan and the project's overall height and bulk should be redesigned to save existing trees on the site, to be more compatible with the character of the neighborhood, to eliminate water run-off onto Fort Davis Drive and to respect the vistas from Fort Davis Drive.
6. The Commission believes that the approval of this application would not promote orderly development in conformity with the entirety of the neighborhood and the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.
7. The Zoning Commission has accorded Advisory Neighborhood Commission 7B the great weight to which it is entitled.

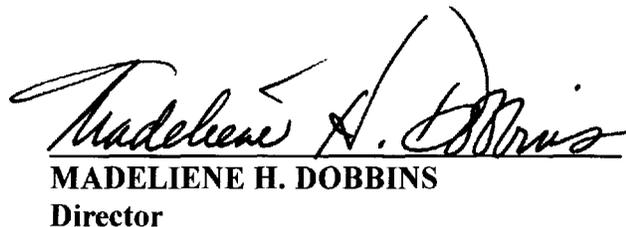
In consideration of the findings of fact and conclusions of law in this order, the Zoning Commission for the District of Columbia **ORDERS** that the proposed consolidated PUD and map amendment from R-2 to R-5-A at the subject site be **DENIED WITHOUT PREJUDICE** to immediately refile a revised application.

Vote of the Commission taken at its regular public meeting on February 10, 1997: 3-1 (Maybelle Taylor Bennett, John G. Parsons and Herbert M. Franklin, to deny without prejudice - Jerrily R. Kress opposed to the motion).

This order was adopted, as amended, by the Zoning Commission at its regular monthly meeting on July 14, 1997, by a vote of 3-0: (John G. Parsons, Jerrily R. Kress and Maybelle Taylor Bennett to adopt as amended - Herbert M. Franklin not present, not voting).

In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is on JAN 16 1998.


MAYBELLE TAYLOR BENNETT
Chairperson


MADELIENE H. DOBBINS
Director