

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 948
Case No. 01-12C
(Consolidated PUD – Nehemiah Homes at Fort Dupont)
November 19, 2001

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on September 24, 2001, to consider an application from WIN/Enterprise Fort Dupont Nehemiah Homes, Inc., the District of Columbia Housing Authority (DCHA), and the Fort Dupont Dwellings and Additions Resident Council, for consolidated review and approval of a 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 11 DCMR 3022.

FINDINGS OF FACT

1. On May 9, 2001, the WIN/Enterprise Fort Dupont Nehemiah Homes, Inc., the District of Columbia Housing Authority (DCHA), and the Fort Dupont Dwellings and Additions Resident Council filed an application for consolidated review and one-step approval of a Planned Unit Development for the property consisting of Lots 24-28, 48 and 49 in Square 5401 and Lots 5-13, 16-18, 25, 802, 803, 807, 808 and 812 in Square 5402. On June 11, 2001, the Zoning Commission decided to set down the application for hearing.
2. A description of the proposed development, including a description of the subject property and notice of the public hearing were published in the D.C. Register on August 3, 2001, and were mailed to all property owners within 200 feet of the property as well as Advisory Neighborhood Commission (ANC) 7A.
3. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines and standards that may exceed or be less than the matter-of-right standards identified for height, floor area ratio (FAR), lot occupancy, or yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions that would otherwise require approval by the Board of Zoning Adjustment (BZA).

4. The subject property, to be named “Dupont Commons” after construction, is located in the Greenway neighborhood of Southeast Washington and is vacant (except for public streets and trees), having been cleared in the 1990s of buildings that were formerly the Fort Dupont Dwellings and Fort Dupont Additions public housing complex. Dupont Commons is in Ward 7 and within the boundaries of Advisory Neighborhood Commission (ANC) 7A.
5. The location of the property is to the north of Fort Dupont Park and south/southeast of Fort Chaplin Park and Fort Drive Park. The two sections of Stoddert Dwellings public housing are located immediately north and south of the property. The site is bounded generally by Ridge Road and Burns Street on the southwest and northeast, and by B and D Streets on the north and south, all S.E. The land area of the site is approximately 566, 957 square feet, or 13.02 acres.
6. The land use designation of the property in the Comprehensive Plan Act of 1984, as amended, and the Generalized Land Use Map is “Moderate Density Residential,” defined as areas to be developed primarily with row houses and garden apartments. The proposed PUD is clearly consistent with this designation.
7. The subject property is currently zoned R-5-A, and the applicant seeks no change in zone classification. The R-5-A District permits matter-of-right development of single-family detached and semi-detached dwellings and, with the approval of the BZA, low-density development of general residential uses including row houses, flats, and apartments to a maximum lot occupancy of 40% (60% for churches and schools), a maximum FAR of 0.9, and a maximum height of three stories/forty feet (11 DCMR 2405). The PUD standards for the R-5-A District establish a maximum FAR of 1.0 and a maximum height of 60 feet.
8. The property is proposed to be developed with 147 townhouses, or row houses, with a gross floor area of approximately 251,000 square feet, a floor area ratio (FAR) of 0.44, and a lot occupancy of 16.6%. All of the new buildings will be constructed to a height of 40 feet or less. The indicated height, FAR and lot occupancy are well within the standards of the PUD regulations. The great majority of the houses will be row houses, with the end units on each row technically being semi-detached houses. The development will provide 180 parking spaces, compared to a parking requirement under R-5-A standards of 147 spaces. A number of the side yards at the ends of rows do not meet the side yard requirement of 8 feet. However, amendments to the site plan have reduced the number of noncomplying side yards, and, applicant noted that in nearly all cases, the side yards are adjacent to common open spaces with no adverse effects on neighbors. Accordingly, the only R-5-A standard from which some flexibility is required by this application is the side yard requirement.
9. The 147 townhouses will be sold at affordable prices to provide housing for home ownership in an area of the city where rental housing is predominant. More than 50 percent of the homes are aimed at families earning less than 65 percent of the

D.C. area median income (approximately \$45,000 for a family of four), and 20 units are reserved for families with incomes between \$15,000 and \$20,000. The first priority for home purchase goes to former residents of Fort Dupont Dwellings public housing, followed by other public housing residents and then first-time homebuyers. The project includes homeownership counseling and ongoing technical assistance. A key objective of the development is to foster self-sufficiency for public housing residents and other local residents.

10. The townhouses will each have 1,280 square feet of finished space on two floors, as well as three bedrooms, a living/dining area, a kitchen with breakfast nook, bathroom and powder room. Various optional floor plans will be available (subject to the topography of the lot), with features including a walkout basement, separate dining room, up to two extra bathrooms, a garage with storage area, a finishable den and a finishable English basement. The exterior materials will be a combination of brick and vinyl siding, with a minimum 40 percent of exterior area of the building being brick veneer. The architect has strategically located the brick facades in locations of most significant public visibility. At the public hearing the applicant indicated a willingness to increase the percentage of brick exteriors if public funds can be identified for this purpose.
11. The proposed site plan preserves ample open spaces and numerous existing, mature trees. These large open spaces add scenic and recreational value to the living environment and are also part of a natural drainage system that allows storm water to collect at two bio-retention areas, which also serve as aesthetic features of the property. The landscaping plan preserves a grove of oak and pine trees to the east of Burns Place, S.E., as well as other scattered trees, and proposes additional plantings, including shade trees designed to enhance the ridge line near the Fort Circle Park system. The grove of trees also serves as a natural buffer between some of the houses and the adjacent active recreational area.
12. Many recreational facilities, which will serve the project, include existing tennis courts and a basketball court on adjacent property of the D.C. Department of Parks and Recreation. Major regional parks such as Fort Chaplin, Fort Dupont and Fort Circle Parks are close by, as well as the recreational facilities of several public schools. A number of existing, mature street trees that line some of the street frontages will be preserved, and additional street trees will be planted to complete the streetscape attractively. The landscaping plan also preserves a grove of oak and pine trees to the east of Burns Place, S.E., as well as other scattered trees, and proposes additional plantings. The grove of trees serves as a natural buffer between some of the houses and the active recreational area.
13. The proposed PUD will be financed through a combination of public and private funding. The project relies on resources that have been firmly committed, including \$3.675 million from the Secretary of the Treasury, \$500,000 from the Federal Home Loan Bank of Atlanta, \$3 million at zero percent interest from

religious orders, and up to \$3 million at zero percent from a consortium of local lending institutions, private equity, and other sources of funds.

14. An issue as to the ownership of the northern portion was raised and resolved among the applicant, the D.C. Department of Parks and Recreation (“D.C. Parks”), the D.C. Housing Authority and the National Park Service (NPS) after the submission and setdown of the PUD application. Initially, the applicant prepared the PUD application on the basis, backed up by title report, that DCHA was the owner of the entire PUD site and that DCHA would convey the entire site to the developer. With respect to the northern portion of the site, which contains recreational fields and open space maintained by D.C. Parks, it was originally intended that the developer would transfer the existing recreational facilities to D.C. Parks, which would continue to operate them as part of the Benning-Stoddert recreation center. However, after the PUD setdown, NPS advised the applicant that a deed executed in 1957 indicated that this federal land was transferred to DC Parks for recreation purposes which does not permit other uses. As a result, prior to the PUD hearing, the applicant redrew the boundaries of the PUD to exclude this northern portion of the PUD site and the project bio-retention areas were relocated to the southern portion of the PUD site.
15. The traffic impact analysis prepared for the applicant by O.R. George & Associates, Inc., concluded that: key intersections near the PUD site currently operate at highly acceptable levels of service during a.m. and p.m. peak periods and will continue to do so after completion and occupancy of Dupont Commons; Average Daily Traffic (ADT) volumes for nearby streets have remained generally stable for many years and can readily accommodate traffic generation from this development; the number of proposed parking spaces is adequate; and transit service along Ridge Road and Minnesota Avenue can accommodate additional demand from Dupont Commons after occupancy.
16. The District of Columbia Office of Planning (OP) by memorandum dated September 21, 2001, recommended approval of the application. OP noted that the proposed PUD meets the standards of the PUD regulations in 11 DCMR 24, is consistent with the intent and purpose of the Zoning Regulations and Map, is not inconsistent with the Comprehensive Plan and provides significant public benefits. “Units are designed with shallow front yards and deep back yards to provide building mass along the street that frames the street. Regular spacing of street trees provides shade and beauty to the streetscape. On-street parking provides a buffer between pedestrians and moving vehicles and slows through traffic. Through the provision of numerous new tree plantings, preservation of existing vegetation, conservation of existing steep slopes, and construction of efficient and attractive bio-retention areas, the development will positively impact the natural environment. The site layout maximizes the use of existing infrastructure, particularly Burns Place, SE. This minimizes required grading and environmental disturbance due to construction.

17. The applicant met several times with ANC 7A and presented the final plans at the ANC's meeting of September 18, 2001. ANC members expressed, as they had previously, general support for the project, but a quorum was not present. Thus, the ANC was not able to take a vote and submit a formal report for the public hearing.
18. The Commission concludes that the proposed project includes the following public benefits and project amenities:
 - a. Housing and affordable housing, including opportunities for low- and moderate-income households to own townhouses;
 - b. Urban design, landscaping and creation and preservation of open spaces, including preservation and planting of trees, low ground coverage and grading and buildings framing the street frontages;
 - c. Site planning and efficient and economical land utilization;
 - d. Environmental benefits, including superior water quality control by means of bio-retention facilities and controlling storm water run-off by means of open space and tree preservation;
 - e. Efficient and safe vehicular and pedestrian access, including ties to existing systems;
 - f. Economic benefits to the District of Columbia, including numerous jobs for D.C. residents, home ownership opportunities, and tax revenues (property, income and sales).
19. The Zoning Commission finds that the impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is acceptable given the significance, quantity and quality of public benefits cited in Finding No. 10, above. The Commission also finds that the proposed PUD is not inconsistent with the Comprehensive Plan for the National Capital.
20. The proposed residential development was formulated in full partnership with the residents of the former public housing complex on the site. In fact, the Fort Dupont Dwellings and Fort Dupont Additions Residents' Council is a full partner in the development along with the Washington Interfaith Network (WIN), Enterprise Homes, Inc., and the D.C. Housing Authority. Other neighborhood residents and Advisory Neighborhood Commission 7A were also fully involved in planning the proposed PUD. Officers of the Residents' Council testified in support of the PUD as part of the applicant's team.
21. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by action dated November 19, 2001, found that the proposed PUD would not adversely affect the federal establishment or other federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia.
2. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits, 11 DCMR 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare and convenience,” 11 DCMR 2400.2.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development.
4. The Zoning Commission has the authority under the Zoning Regulations to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may be exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, or yards or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
5. The approval of this PUD is not inconsistent with the Comprehensive Plan.
6. The proposed PUD meets the minimum area requirements of 11 DCMR 2401.1.
7. The approval of this PUD is appropriate because the proposed development is compatible with the present character of the surrounding area.
8. The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.
9. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1997.
10. Advisory Neighborhood Commission (ANC) 7A did not submit a report or testify on this case.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders APPROVAL of this application for consolidated review of a planned unit development for Lots 24-28, 48 and 49 in Square 5401 and Lots 5-13, 16-18, 25, 802, 803, 807, 808 and 812 in Square 5402. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans prepared by the architectural firm of Heffner Architects, PC, and the site plans and landscape plans by the engineering firm of Ben Dyer Associates, Inc., marked as Exhibit 34, as modified by the guidelines, conditions, and standards of this order.
2. The PUD development shall be a new housing development consisting of 147 row houses or townhouses, including end units which are semi-detached dwellings.
3. The total floor area ratio (FAR) of the development as a whole shall not exceed 1.0 and the maximum lot occupancy of the development as a whole shall not exceed 40%.
4. The maximum height of all buildings within the PUD shall not exceed 40 feet.
5. The development shall provide on-street and off-street parking for 180 vehicles, as shown on the site plans marked as Exhibit 34, Plan C-5.
6. Exterior materials shall include vinyl siding and brick veneer, together with a requirement that at least 40% of the exterior area of the buildings as a whole shall be brick veneer.
7. The applicant shall have flexibility with respect to the following:
 - (A) to vary the location and design of all interior components of the townhouses;
 - (B) to vary the project grading plans as necessary to accommodate permitted changes in the location of the townhouses (within five feet in any direction per the authority of the Zoning Administrator as provided for in § 2409.6(d) of the Zoning Regulations) for the purpose of staggering the townhouses with the townhouse rows; and
 - (C) to make minor adjustments:
 - (1) in the façade and fenestration detailing of the townhouses;

- (2) in the location and appearance of all signage for the project provided that such signage shall be generally consistent with the approved plans.
8. The applicant shall enter into and abide by the terms of a First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least 51 percent of the jobs created by the PUD project. Upon completion of project construction, the applicant shall file a report with the Office of Zoning identifying the extent to which the aforementioned goal was achieved.
9. The applicant shall enter into and abide by the terms of a Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of 35 percent participation by small, local and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project. Upon completion of project construction, the applicant shall file a report with the Office of Zoning identifying the extent to which the aforementioned goal was achieved.
10. Pursuant to 11 DCMR 2409.3, no building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA). This covenant shall bind the applicant and all successors in title to construct on and use the subject property in accordance with this order or any amendment thereof.
11. 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.
12. The PUD 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 shall be filed for a building permit as specified in 11 DCMR 2408.8 and 2409.1. Construction shall start within three years of the effective date of this order.
13. Pursuant to D.C. Code § 1-2531 (1991), 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 at D.C. Code, Title 1, Chapter 25 (1991). 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.

The Commission, on October 15, 2001, voted to **APPROVE** the application on a vote of **5-0-0** (James H. Hannaham, Anthony J. Hood, Carol J. Mitten, John G. Parsons, and Peter G. May to approve).

The order was **ADOPTED** by the Zoning Commission at its public meeting on November 19, 2001, by a vote of **4-0-1** (Carol J. Mitten, John G. Parsons, Peter G. May, and Anthony J. Hood to adopt; James H. Hannaham, not present, not voting).

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 DEC 14 2001.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning