Government of the District of Columbia
OFFICE OF ZONING



MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Sharon S. Schellin
Acting Secretary to the Zoning Commission

DATE: March 29, 2006

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on April 7, 2006:

1. Z.C. Notice of Public Hearing (Case No. 05-26);
2. Z.C. Notice of Public Hearing (Case No. 06-16);
3. Z.C. Notice of Proposed Rulemaking (Case No. 05-21);
4. Z.C. Notice of Final Rulemaking & Order No. 05-12 (Case No. 05-12);
5. Z.C. Order No. 05-33 (Case No. 05-33); and
6. Z.C. Order No. 03-12B/03-13B (Case No. 03-12B/03-13B).

The final rulemaking is also included on the attached diskette.

Attachments

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Telephone: (202) 727-6311 E-Mail Address: zoning_info@dcoz.dc.gov Web Site: www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO. 05-26/06-16/05-21/05-12/05-33/03-12B/03-13B
EXHIBIT NO. 5
Case 03-12B/03-13B
Exhibit 5

ZONING COMMISSION ORDER NO. 03-12B/03-13B
Z.C. CASE NO. 03-12B/03-13B
(PUD Modification – Capper/Carrollsburg Venture, LLC – Senior Building)
September 15, 2005

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Zoning Commission") held a public meeting on September 15, 2005. At the meeting, the Zoning Commission approved an application from Capper/Carrollsburg Venture, LLC, together with the District of Columbia Housing Authority, (collectively the "Applicant") for a minor modification to the consolidated planned unit development ("PUD") and zoning map amendment approved pursuant to Zoning Commission Order No. 03-12/03-13, dated October 8, 2004.

The Zoning Commission has determined that the modification request is properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 03-12/03-13, dated October 8, 2004, the Zoning Commission approved the Applicant's application for a consolidated PUD and zoning map amendment for Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and Portions of Squares 737, 799, 824, N853, and 880.

The property included in the PUD approval is located in the Southeast quadrant of Washington, D.C. and generally bounded by 2nd Street on the west, 7th Street on the east, Virginia Avenue on the north, and M Street on the south. The property consists of approximately 927,000 square feet of land area. A portion of the PUD approved by the Zoning Commission includes an apartment complex devoted to low-income senior citizens in Square 825S, known as Senior Building 2. Square 825S is zoned R-5-B, which permits a maximum height of 50 feet as a matter-of-right. 11 DCMR §400.1. Specifically, the Zoning Commission granted consolidated approval to construct an addition consisting of approximately 138 units to the existing senior apartment building, and authorized the addition to be 45 feet in height. Senior Building 2 is adjacent to an existing 60-foot tall senior building owned by the D.C. Housing Authority at 410 M Street, S.E., and the Zoning Commission found that the proposed building height of 45 feet for the senior building will establish a transition between the 410 M Street structure and the new single-family structures to the north. The Zoning Commission required the consolidated PUD to be developed in accordance with the plans dated May 27, 2003, marked as Exhibit No. 17 in the record of case No. 03-12 (the "Consolidated Plans").

Pursuant to 11 DCMR § 3028, Zoning Commission Order No. 03-12/03-13 became final and effective upon publication in the *D.C. Register* on October 8, 2004.

By letter dated August 31, 2005, counsel for the Applicant filed a request to place a minor modification to Zoning Commission Order No. 03-12/03-13 on the Commission's Consent Calendar pursuant to § 3030 of the D.C. Zoning Regulations. The letter requested that the Zoning Commission grant approval of a minor modification to change the height of the senior apartment building in Square 825S from 45 feet to 48 feet, 3¾ inches, which is less than the R-5-B matter-of-right height of 50 feet, and to approve the plans attached as Exhibit 3 of the August 31, 2005 letter.

The Applicant indicated that the Consolidated Plans indicate the proposed height of the senior building in Square 825S was 45 feet as identified on the development data sheet. However, the actual building height shown on Sheets A-5.1 and A-5.2 of the Consolidated Plans is approximately 44 feet, 1 inch, as measured from the measuring point (Elevation 80.57 feet) to the roof (Elevation 124.67 feet), and 47 feet, 8 inches, as measured from the measuring point (Elevation 80.57 feet) to the top of the parapet. The building height of 47 feet, 8 inches is shown, but not dimensioned, on the Consolidated Plans. The Applicant also indicated that the measuring point of Elevation 80.57 feet relied upon in preparing the Consolidated Plans was based upon preliminary survey information. However, the actual measuring point is 20.08 feet. This measuring point, which is more than 60 feet lower than that relied upon in preparing the Consolidated Plans, is based upon actual survey data the Applicant received subsequent to issuance of the Order. The perimeter roof coping as now designed is at Elevation 68.39 feet. Therefore, the proposed building height, based upon the actual measuring point, is calculated as follows: 68.39 feet – 20.08 feet = 48.31 feet, or 48 feet, 3¾ inches.

The Applicant's letter further indicates that Senior Building 2 as designed exceeds 45 feet by 3 feet, 3¾ inches for several reasons. First, the actual measuring point, which has been established based upon the final site survey, is more than 60 feet lower than that relied upon in the Consolidated Plans. Moreover, the entire Senior Building 2 has been raised out of the ground approximately three feet to accommodate a bio-retention pond within the central courtyard. The bio-retention pond was "strongly recommended" by the District of Columbia Department of Health ("DCDOH") during DCDOH's review of the project and is a significant environmental benefit to the development. The Applicant has proposed raising the basement floor from Elevation 15.00 feet to approximately Elevation 18.00 feet in order to accommodate positive over-land relief for the bio-retention pond and to help prevent flooding of the building.

The Applicant's letter also stated that: the Applicant reduced the overall height of Senior Building 2 to its lowest possible level by eliminating the roof parapet and utilizing internal roof drains; the ceiling heights at all residential floors are just eight feet; the basement ceiling height has been set at the absolute minimum to accommodate programming and services for the residential units above; and the proposed height of 48 feet, 3¾ inches will also establish a transition between the 410 M Street structure and the new single-family structures to the north.

The Applicant presented evidence that it had duly served a full copy of its request for a minor modification on Advisory Neighborhood Commission 6D and the D.C. Office of Planning. No comments were received from either of these organizations.

On September 15, 2005, at its regular monthly meeting, on the recommendation of the Director of the Office of Zoning, the Zoning Commission placed the Applicant's request for a minor modification on the Commission's Consent Agenda.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Zoning Commission concludes that the Applicant's proposed modification is minor and consistent with the intent of Zoning Commission Order No. 03-12/03-13. The Zoning Commission concludes that the proposed modification is in the best interest of the District of Columbia and is not inconsistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the requested minor modification will not affect any of the other conditions of the approved PUD. The modification is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

DECISION

In consideration of the reasons set forth herein, the Zoning Commission hereby orders **APPROVAL** of a minor modification to allow for construction of the senior apartment building in Square 825S to a height of 48 feet, 3¾ inches. The construction shall be consistent with the plans submitted to the Zoning Commission record by the Applicant on August 31, 2005. Accordingly, Condition No. 8 on page 32 of Zoning Commission Order No. 03-12/03-13 shall include the following:

8. Except for roof structures, the maximum permitted heights shall be as follows:

. . . . .

g. For the senior apartment building in Square 825S: 48 feet, 3¾ inches;

. . . . .

All other provisions and conditions of Zoning Commission Order No. 03-12/03-13 remain in effect.

Vote of the Zoning Commission taken at the public meeting on September 15, 2005: 5-0-0 (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, Kevin Hildebrand, and John G. Parsons to approve).

In accordance with the provisions of 11 DCMR § 3028.8, this order shall become final and effective upon publication in the *D.C. Register*; that is, on _____.