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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

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MEMORANDUM

To: Office of Documents and Administrative Issuance

From: Sharon S. Schellin
Secretary to the Zoning Commission

Date: October 17, 2007

Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on October 26, 2007:

1. Z.C. Order No. 03-12D/03-13D;
2. Z.C. Order No. 03-12E/03-13E;
3. Z.C. Order No. 03-30A;
4. Z.C. Order No. 04-19A;
5. Z.C. Order No. 04-36;
6. Z.C. Order No. 05-24A;
7. Z.C. Order No. 05-38;
8. Z.C. Order No. 06-31; and
9. Z.C. Order No. 07-12.

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 04-36
EXHIBIT NO. 128

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ZONING COMMISSION
District of Columbia
CASE NO.04-36
EXHIBIT NO.128

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
Z.C. ORDER NO. 04-36
Z.C. Case No. 04-36
Consolidated Planned Unit Development and Related Zoning Map Amendment
Application of Dorchester House Associates LLC and Kalorama West LLC
(Square 2572, Lot 35)
May 8, 2006

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 30 and April 13, 2006 to consider an application from Dorchester House Associates LLC and Kalorama West, LLC for the consolidated review and approval of a planned unit development and related amendment to the Zoning Map for Lots 815 and 816 (record Lot 35) in Square 2572, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR") Title 11 (Zoning). For the reasons stated below, the Commission hereby denies the application.

FINDINGS OF FACT

Preliminary Matters

1. On December 16, 2004, Dorchester House Associates LLC and Kalorama West LLC (together, the "Applicant") filed an application for review and approval of a planned unit development ("PUD") and a related amendment to the Zoning Map of the District of Columbia for record Lot 35 in Square 2572 (the "Property"). The Applicant sought a Zoning Map amendment for the western portion of the Property so that the entire site would be zoned R-5-D.

2. At a public meeting on March 14, 2005, the Commission voted to set down the application for a public hearing. Thereafter, on September 15, 2005, the Commission reconsidered its original decision to set the application down for a hearing so as to address the issue of whether a trellis, proposed by the Applicant to connect the existing building to proposed new construction, would be sufficient to consider the project a single building. The Commission decided to set the application down in two alternatives: the Applicant could propose to create a single building on the Property through the construction of a "substantial connection" between the existing building and the new addition or the Applicant could seek relief to have two buildings on a single record lot. The Applicant subsequently revised the project to include a more significant connection

between the existing Dorchester House apartment building and the proposed new construction.

3. A public hearing on the application was conducted in accordance with 11 DCMR § 3022. At the hearing, the Commission granted party status in opposition to the application to the Dorchester Tenants Association and the Reed-Cooke Neighborhood Association. The Commission denied requests for party status from various individual residents of the Dorchester House and from the Dorchester Rent Rollback Organization. Advisory Neighborhood Commission ("ANC") 1C, the ANC in which the Property is located, was automatically a party in this proceeding.

PUD Application and Project

4. The project site consists of Lots 815 and 816 (record Lot 35) in Square 2572, in the Adams Morgan neighborhood of Ward 1. The Property is an irregularly-shaped parcel with a land area of approximately 158,150 square feet and frontage on 16th Street, Kalorama Road, 17th Street, and Euclid Street.

5. The Property is improved with the Dorchester House, a large apartment building containing approximately 394 apartments, with the address of 2480 16th Street, N.W. A surface parking lot is located at the rear of the apartment building.

6. The Property is currently split-zoned. The eastern portion, improved with the apartment building, is located in the R-5-D zone. The western portion, the site of the parking lot, is zoned R-5-B.

7. The area surrounding the Property contains apartment buildings, rowhouses, and Meridian Hill/Malcolm X Park. The Euclid Mews townhouses and condominium apartments are located to the northwest of the Property. Rental apartments in two projects are located across 17th Street to the west, and the Citadel building, a former roller-skating rink being redeveloped as a grocery store and office space, is located to the south and southeast of the Property.

8. The Property is located in the medium- and moderate-density residential land use category as shown on the District of Columbia Generalized Land Use Map.

9. The PUD application requested approval of an addition to the existing apartment building, to be constructed on the site of the surface parking lot on the western portion of the Property (the "Addition"). The Addition would contain 145 to 151 rental residential units, for a total of approximately 545 rental apartments on the Property. The Addition would have a total gross floor area of approximately 182,510 square feet.

10. The Addition would contain two levels of below-grade parking, providing approximately 307 parking spaces for residents and guests of the Addition and the existing building. The upper level and the loading berth for the Addition would be accessed from 17th Street; the loading berth and trash receptacles would be located entirely inside the garage. The lower level and the existing building's loading berth would be accessed from Kalorama Road, in the same location as the driveway to the existing parking lot and the existing loading area.

11. The connection between the existing building and the Addition would contain approximately five new residential units and would create a hallway that would allow internal circulation between the existing building and the Addition. The connection would be two stories tall on the 17th Street (southwest) side of the hallway and three stories tall on the 16th Street (northeast) side.

12. The Applicant stated that rezoning the Property to R-5-D was needed to allow the Addition to obtain the requested height and that the proposed density of the Addition was needed in part to defray the costs of constructing the parking garage.

13. The existing surface lot provides 131 parking spaces. After construction of the Addition, the Zoning Regulations would require approximately 182 parking spaces at the Property.

14. The Addition would be six stories in height (58 feet, 6 inches as measured from the center of the 17th Street frontage), with two additional floors set back approximately 28 feet from the property line, for a total height of 78 feet measured from 17th Street. A deck would be provided on the terraced setback on the roof of the sixth floor overlooking 17th Street. The Addition would step down to the northern property line, where the building height would be 45 feet (four feet higher than the abutting Euclid Mews development).

15. The Applicant provided a sight-line study depicting the visual impact of the Addition along 17th Street. The study showed that the tallest portion of the Addition would not be visible from the west side of 17th Street at the ground level. The Applicant also prepared a sight-line study depicting the visual impact of the Addition from the intersection of 17th Street and Kalorama Road. The latter study showed that a portion of the Addition would be visible from the intersection.

16. The right of way on 17th Street is 50 feet wide, with a curb-to-curb width of approximately 30 feet. Parking is permitted on both sides of the street.

17. The maximum building height permitted as a matter of right in the R-5-B zone is 50 feet. (11 DCMR § 400.1.) A maximum height of 60 feet may be permitted with a PUD in the R-5-B zone. (11 DCMR § 2405.1.)

18. The front of the Property is 16th Street, where the property is zoned R-5-D. The R-5-D Zone permits a maximum building height of 90 feet. The height of the existing building is 90 feet.

19. The Addition and the existing building would be considered a single building for zoning purposes if a substantial connection existed between the two structures. If considered a single building, the permitted height of the expanded building would be measured from the front of the Property, that is, 16th Street.

20. The Applicant requested flexibility from provisions of the Zoning Regulations requiring that (a) all roof structures must be located in a single enclosure, all roof structures must be set back from all exterior walls a distance equal to their height above the roof, and all roof structures must be the same height; (b) a 30-foot rear yard must be provided; and (c) all standard parking spaces must have minimum dimensions of 9 feet by 19 feet and all drive aisles must be a minimum of 20 feet wide.

21. The Applicant stated that the following public benefits and project amenities would be created through the proposed PUD:
    (a) Housing and affordable housing: The PUD would create 145 to 151 new rental residential units, with the Applicant reserving 30 percent of the bonus density achieved through approval of the PUD (approximately 30,000 square feet of gross floor area) as affordable units for households having an income not exceeding 80 percent of the Area Median Income ("AMI") for the Washington, DC Metropolitan Statistical Area (adjusted for family size).

    (b) Urban design and architecture: According to the Applicant, the Addition would provide a transition from the higher density of 16th Street to the lower scale residential neighborhood to the west.

    (c) Site planning: The PUD would have a landscaped interior courtyard and would have a lot occupancy of 46.5 percent, less than the maximum permitted. The existing surface parking lot would be replaced with the Addition, while the total landscaped area and number of parking spaces on the Property would be increased.

    (d) Effective and safe vehicular and pedestrian access: The Applicant's traffic expert concluded that traffic generated by the Addition would not significantly impact the roadway network and that no mitigation measures (other than retiming a traffic signal at the intersection of 16th and Euclid Streets) would be necessary to accommodate site-generated traffic. The traffic expert also concluded that the Addition would not increase demand for on-street parking in the neighborhood, because the proposed parking spaces were expected to be sufficient to

accommodate the expansion. The Applicant agreed to limit the length of trucks that would come to the Property to 40 feet.

(e) Uses of special value: The Applicant proffered community amenities that would provide uses of special value to the surrounding neighborhood, including:

(i) Jubilee Support Alliance: The Applicant would contribute $100,000 to the Jubilee Support Alliance for use by Jubilee Housing in the renovation of the Ritz Apartment building at 1631 Euclid Street, N.W.

(ii) Washington Parks & People: The Applicant would contribute $20 per unit in both the existing building and the Addition for a period of 20 years, providing a total value of $218,000 and a present value of $137,897, to Washington Parks & People for use in specific park-related programs.

(iii) Environmental benefits: The Applicant asserted that the Addition would have environmentally appropriate attributes, especially related to stormwater management and energy-efficient building materials and systems.

(iv) Employment and training opportunities: The Applicant indicated its intention to execute a First Source Employment Agreement with the Department of Employment Services and a Memorandum of Understanding with the Office of Local Business Development.

Government Reports

22. The Office of Planning ("OP"), in its report dated March 20, 2006 and through its testimony at the public hearing, recommended approval of the application, provided that the project did not require relief from the required rear yard, which would serve as the functional front of the new construction and subject to the resolution of specific details regarding the proffered amenity package. OP stated that the proposed use would be in character with the neighborhood and that the proposal was generally consistent with the Comprehensive Plan[1], the Generalized Land Use Map, and the intent of the Zoning Regulations.

23. OP testified that the Applicant's proposed connection between the Addition and the existing building would be acceptable as a real connection, noting its size and its function: the connection would contain apartments as well as providing internal circulation. According to OP, the existing building and the Addition would be one building for zoning purposes, such that the proposed height of the Addition along 17th Street would be consistent with the Height Act. OP testified that the proposed Addition would be appropriate at the site, noting that modifications had been made to the project as

[1] All references to the Comprehensive Plan are to the version of the plan in effect when this case was decided and not the amended version in effect on the date this Order is published.

initially proposed, including the setting back of the upper floors and the setting back of the Addition at the northern property line.

24. The District Department of Transportation ("DDOT") submitted a report dated March 21, 2006 in support of the PUD project. DDOT reviewed the proposal in terms of trip generation and levels of service near the site; parking and loading; a traffic improvement program intended to improve access, safety, and circulation in the area; and the availability of public transportation to serve the development.

ANC 1C

25. At a public meeting on March 1, 2006, with a quorum present, ANC 1C voted 8-0 to adopt a resolution in opposition to the application. The ANC expressed concerns that: (a) the height and density of the proposed project were inconsistent with the current zoning of the parcel where the Applicant sought permission to build the Addition, inconsistent with the Comprehensive Plan designation for the parcel, and inappropriate for the area of the community in which the height and density were sought; (b) the height and density of the proposed project would have adverse impacts on the surrounding area that would be unacceptable and not capable of being mitigated; (c) the proposed map amendment that would enable the requested height and density was inappropriate for the narrow street on which the parcel is located; and (d) the proposed public benefits associated with the project were illusory and inadequate given the size of the proposed project and the extent of the zoning relief being sought.

26. In its report, ANC 1C challenged the Applicant's assertion that rezoning the western portion of the Property to R-5-D would be consistent with the goals and policies of the Comprehensive Plan. Instead, ANC 1C asserted that the current R-5-B zoning was appropriate for the site, given its location on a narrow street and adjacent to other narrow streets.

Parties in Opposition

27. The Reed-Cooke Neighborhood Association ("RCNA") presented written statements and testimony at the public hearing in opposition to the application. RCNA stated its support for development that would fit the character, size, and scale of the neighborhood. However, RCNA opposed approval of the PUD application on the grounds that the proposed height of the Addition was excessive for a parcel abutting the Reed-Cooke Overlay and that the density of the proposed project would create adverse impacts related to increased traffic congestion. According to RCNA, the size and scale of the proposed Addition was too large for a building fronting on a narrow residential block of 17th Street.

28. The Dorchester Tenants Association also presented written statements and testimony at the public hearing in opposition to the application. The Association challenged the value

of the public benefits and project amenities proffered by the Applicant relative to the requested zoning flexibility and urged the Commission to deny the application on the grounds that the PUD would cause adverse impacts related to parking and traffic.

Persons in Opposition

29. The Commission received letters or heard testimony from a number of people opposed to the proposed PUD. The statements in opposition to the application generally contended that the Addition would be too large for its location and would generate adverse impacts related to traffic, parking, and loss of open green space on the Property.

NCPC

30. Christine Saum, the director of the Urban Design and Plan Review Division of the National Capital Planning Commission ("NCPC"), filed a written statement and presented testimony in opposition to the project. Because NCPC had not formally reviewed the application, the testimony was presented on behalf of the NCPC staff. The NCPC staff recommended denial of the requested Zoning Map amendment, stating that the allowable height for the proposed building fronting on 17th Street should be no greater than 50 feet. According to the NCPC staff, while the proposed connection between the existing building and the planned Addition might be sufficient to satisfy the method set forth in the Zoning Regulations for determining building height, the proposed height of the Addition would not be consistent with the intent of the Height Act, because the new construction would appear to be a new building fronting on 17th Street, separate from the existing apartment house.

CONCLUSIONS OF LAW

1. The planned unit development process is designed to encourage high-quality developments that provide public benefits. (11 DCMR § 2400.1.) The overall goal is to permit flexibility of development and other incentives, such as increased building height and density, provided that the 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.) In deciding a PUD application, the Commission must judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case. (11 DCMR § 2403.8.) The impact of the project on the surrounding area and on the operation of city services and facilities must not be found to be unacceptable, but must instead be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project. (11 DCMR § 2403.3.)

2. The Applicant proposed to construct a new project on a parcel currently devoted to a surface parking lot at the rear of an existing apartment building. Because the parcel is part of a larger record lot that fronts on more than one street, the Applicant may select which side of the lot is the front for zoning purposes. Assuming construction of a meaningful connection between the new project and the existing building on the lot, the new construction would be considered part of a single building, whose height would be measured from the front of the property.

3. With regard to the measurement of building height, the Applicant's proposal is permissible under both the Building Height Act of 1910, D.C. Official Code, § 6-601.05(b) (2001), and the Zoning Regulations. Pursuant to the Height Act, the "height of a building on a corner lot will be determined by the width of the wider street." (D.C. Official Code § 6-601.05 (d).) The definition of "building height" in the Zoning Regulations states that if a building fronts on more than one street, any front may be used to determine the maximum height of the building, but the basis for the height of the building will be determined by the width of the street selected as the front of the building. (11 DCMR § 199.)

4. Whereas the Addition could be considered part of a single building if connected to the existing 90-foot apartment building, the maximum height permitted as a matter-of-right or through the PUD process on the western portion of the Property is currently limited by its R-5-B zoning designation. The Applicant sought to increase the permitted building height for the proposed Addition through a PUD-related map amendment to the R-5-D zone, which already applies to the eastern portion of the Property.

5. The Commission was not persuaded that the proposed density and height of the Addition – 58 feet, six inches, rising to a maximum of 78 feet as measured from 17th Street – would be appropriate for its location. The proposed Addition would face a narrow street at a height significantly greater than the maximum height currently permitted on the site. The Commission concurs with ANC 1C, the NCPC staff, and the parties in opposition that the height and density of the proposed Addition would be inappropriate for that location, especially considering the narrow width of 17th Street and the relatively lower scale of the nearby Reed-Cooke Overlay district, and would have adverse impacts on the surrounding area that would be unacceptable and not capable of being mitigated. The Commission concludes that the proposed PUD would not protect or advance the public health, safety, welfare, and convenience, because the impact of the project on the surrounding area would be unacceptable and not capable of being mitigated.

6. The Commission was not persuaded by the Applicant's arguments concerning the need for additional height and density in the proposed PUD. The Applicant indicated that the requested density was needed to pay for the construction of underground parking that would replace the surface lot and to provide parking for the new development. However,

the Applicant's proposal to provide approximately 300 parking spaces would exceed the zoning requirement by more than 100 spaces.

7. The Commission accorded the recommendation of OP the "great weight" to which it was entitled pursuant to D.C. Official Code § 6-623.04 (2001). The Commission was not persuaded by the OP's finding that the proposed height of the Addition would be acceptable given that a maximum of 60 feet could be permitted with a PUD under the existing R-5-B zoning and the Addition would appear slightly less than 60 feet from 17th Street. In fact, although the Applicant's initial plans were modified to propose a lower building, the Applicant sought approval of new construction that would rise to a maximum height of 78 feet facing 17th Street.

8. The Commission accorded the issues and concerns raised by ANC 1C the "great weight" to which they are entitled pursuant to D.C. Official Code § 1-308.10(d) (2001). The Commission generally concurred with the recommendation of ANC 1C to deny the application, especially with respect to the ANC's assertions that the proposed map amendment to R-5-D would be inappropriate at the location of the proposed Addition.

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 **DENIAL** of the application from Dorchester House Associates LLC and Kalorama West LLC for the consolidated review and approval of a planned unit development and related amendment to the Zoning Map for Lots 815 and 816 (record Lot 35) in Square 2572.

On May 8, 2006, the Zoning Commission **DENIED** the application by a vote of 4-0-1 (John G. Parsons, Anthony J. Hood, Carol J. Mitten, and Gregory N. Jeffries to deny; Michael G. Turnbull, having not participated, 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 OCT 26 2007.