ZONING COMMISSION ORDER NO. 04-37
Case No. 04-37
(PUD and Map Amendment – Eastgate Senior Residences)
July 11, 2005

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Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on May 23, 2005 to consider an application from the District of Columbia Housing Authority ("DCHA"), A&R Development Corporation ("A&R"), and The Henson Development Company ("THC", and together with DCHA and A&R, the "Applicant") for consolidated review and approval of a Planned Unit Development ("PUD") and related map amendment, 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 for contested cases.

FINDINGS OF FACT

The Application, Parties and Hearing

1. On December 17, 2004 the Applicant filed an application for consolidated review and approval of a PUD and related zoning map amendment (the "Application") for a triangular shaped lot bounded by Anacostia Road to the north, Ridge Road to the west and B Street to the south and east (Square 5409, Lots 22-25) (the "PUD Site"). The Applicant is the DCHA, in partnership with two private sector developers experienced in developing affordable housing.

2. On January 13, 2005 the Zoning Commission decided to schedule a public hearing on the application. After proper notice, the Zoning Commission opened and completed the public hearing on May 23, 2005. The only party in attendance was the Applicant, although Advisory Neighborhood Commission ("ANC") 7A, the boundaries of which include the PUD Site, had party status as well.

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. At its July 11, 2005 meeting the Zoning Commission took proposed action by a vote of _____ to approve with conditions the Application and plans presented at the public hearing.

5. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by action dated

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_____, found that the proposal would not adversely affect their interest or be inconsistent with the Comprehensive Plan for the National Capital.

6. The Zoning Commission took final action to approve the Application on _____.

The Site and the Area

7. The Property consists of approximately 54,538 square foot property constituting Lots 22, 23, 24 and 25 in Square 5409 (pending processing of application for consolidation of lots into Lot 26, Square 5409) in Southeast Washington, D.C. The site is currently zoned R-5-A, Low-Density Apartments/General Residential, which allows a maximum density of 0.9 FAR and a maximum building height of three stories and 40 feet as a matter of right and 1.0 FAR and 60 feet with a PUD.

8. The proposed PUD site is located between Anacostia Road, SE to the north, Ridge Road, SE to the west and B Street, SE to the south and east. The property is triangular in shape with a limited amount of natural vegetation. The proposed building will be situated generally in the eastern portion of the lot with parking and open space occupying the western-most side. Roughly one-third (1/3) of an acre at the intersection of Anacostia Road, SE and B Street, SE will remain open space. The site of the proposed senior housing development was formerly part of the Stoddert Terrace multi-family public housing complex, which was built in 1960. However, the site has been vacant since the former housing complex was cleared by DCHA in 1998.

9. The Application requested a zone change from R-5-A to R-5-B as part of the Application because the proposed building exceeds the bulk limits of the R-5-A zone, although the proposed height of the building could be accomplished within the 60-foot height limit allowed in R-5-A with a PUD.

10. The surrounding land use context in this section of the Marshall Heights neighborhood is predominantly residential. The residential development across Anacostia Road, SE is composed of single-family brick and siding homes. Across B Street, SE there are two-story detached homes that are accessible from an alleyway. Across Ridge Road, SE and part of B Street, SE there exists a mixture of two and three story brick garden apartments that are public housing facilities owned and operated by DCHA. The above-cited residential areas are zoned R-5-A, a designation that allows the various types of residential development that currently exist.

11. Public transportation serves the PUD Site well, with Metrobus stops along adjacent streets that will improve the percentage of senior housing residents commuting by public transit and reduce automobile dependence.

The PUD Project

12. The apartment building will have 100 one-bedroom senior units. The height of the proposed building is four stories and 49' 10". The gross floor area ("g.f.a.") as

designed is 88,582 square feet, which equals a floor area ratio ("FAR") of 1.62 on the lot area of 54,538 square feet. Lot occupancy is 43.1% percent.

13. The development design maximizes the amount of green space and is well under the building coverage allowed for property zoned R-5-B. The existing roadways of Anacostia Road, SE and B Street, SE will provide vehicular access to the site.

14. The exterior of the building will consist of 2-colors of brick and 2 colors of vinyl siding. The other exterior material will be an External Insulating and Finishing System ("EIFS"), which will provide accents for added energy efficiency and visual appeal. The building has been oriented to ensure that the overall design of the apartment building will be contextual with the surrounding neighborhood.

15. The current configuration of air conditioning units for each apartment ensures that the visibility of the units will be masked to match the color of the building. At the public hearing, the Applicant presented sample photographs of the finished product based on a similar project in the area.

16. The building provides special amenities for seniors, including grandparents room, exercise room, health care, security and convenient access to public transportation.

17. The parking area is located on the corner of Anacostia Road, SE and B Street, SE to maximize green space, and the associated landscaping will diminish the impact of the surface parking and provide a buffer for the residential units. The parking lot is also oriented so that it is perpendicular to the nearby residential homes, minimizing the visual impact even further. A six foot (6') brick screen wall with wooden doors will be used to screen the service and loading areas. This service area will contain an emergency generator, trash containers, electrical transformers, and other mechanical equipment for the building. Landscaping will also be used to soften the impact of the screen wall and provide an additional buffer surrounding the service area.

18. The landscaping plan provides for adequate open space and a pedestrian friendly environment. The landscaping will include brick pavers and stamped asphalt for selected areas, such as the sitting areas, to create attractive spaces for residents to use for rest and relaxation. The landscaping plan proposes a mix of architectural (building façade) and pedestrian-scale lighting that is mounted at lower heights to optimize its utility for pedestrians. One of the significant features of the site plan is its recognition of the therapeutic value of the landscaping for senior residents. The inner courtyard contains numerous shrubs and ornamentals that provide seasonal color as well as fragrances, inviting residents to use the site for walking and exercise.

19. The Applicant has entered into a First Source Agreement wherein it has agreed to use the Eastgate Community Supportive Services Program and the District of Columbia Department of Employment Services as first source for recruitment, referral and placement of employees. In addition, the Applicant will enter into a Local, Small and Disadvantaged Businesses Memorandum of Understanding ("LSDBE MOU") with the District of Columbia regarding.

20. In response to requests by the Zoning Commission at the public hearing, the Applicant submitted a Post-Hearing Submission on June 20, 2005 that addressed several issues. This submission clarified issues regarding the possible use of African-inspired brickwork, copies of revised elevations and plans, a materials sample board, and a written description of potential changes to the pocket park. This submission also provided documentation of the Applicant's First Source employment agreement.

21. As addressed in the Applicant's Pre-Hearing Statement and in testimony at the public hearing, the following public benefits and project amenities will be created as a result of this project.

    a. Comprehensive Plan: Major Themes. The proposed new senior housing exemplifies many of the 10 Major Themes set forth in the Comprehensive Plan, including: "Stabilizing and improving the District's neighborhoods;" "Respecting and improving the physical character of the District", and "Providing for diversity and overall social responsibilities."

    b. Comprehensive Plan: Low-and Moderate-Income Housing. One of the objectives listed in the Comprehensive Plan is "[t]o provide for the housing needs of low- and moderate-income residents".

    c. Comprehensive Plan: Policy Objectives. The following policies designated in the Comprehensive Plan: "Continue to rehabilitate and improve the District's public housing stock to meet current housing standards . . .", "Develop and encourage the use of the most energy efficient systems and methods for insulating, heating, and cooling multi-unit low- and moderate- income rental housing" and. Continue the city's comprehensive effort to address the number and percentage of vacancies within the District's public housing inventory".

    d. Comprehensive Plan: Elderly Housing. The Comprehensive Plan includes a specific elderly housing objective, "to provide for the housing needs of elderly households and to reduce the overall cost of housing among elderly households". This project furthers that objective by implementing the following Comprehensive Plan policies: it directly furthers the policy of establishing ". . . as a matter of major governmental priority the production of housing for elderly households", continues ". . . comprehensive efforts to modernize and upgrade District-owned housing for the elderly projects", assists in the continued "improve[ment of] the District's publicly owned housing for the elderly units, and furthers "[z]oning and health regulations . . . designed to promote an increase in supply, security, and affordability of housing for the elderly."

    e. The Comprehensive Plan: Land Use. The Comprehensive Plan requires that the city's "[l]and use policies must ensure that all neighborhoods have . . . sufficient housing opportunities to accommodate a range of needs., and the Generalized Land Use Map of the Land Use Element designates the PUD site for "Moderate Density Residential" use and development. The Office of Planning has consistently considered the R-5-B District to be "not inconsistent" with the

Moderate Density Residential designation. In this case, the proposed density of 1.62 FAR is also within the moderate range. The proposed height of forty nine feet ten inches (49' 10") is less than the allowed sixty feet (60') of height for a PUD in either the existing R-5-A or requested R-5-B zones.

f. Comprehensive Plan: Ward 7 Element. This project is true to the focus of the Ward 7 plan, which requires that the city "[p]rovide for the housing needs of the elderly and to reduce their overall housing costs" and provide "a wider range of housing opportunities for the elderly". The Ward 7 plan also states that "emphasis should be given to low cost affordable housing for the elderly in Ward 7".

g. Attractive architecture, urban design and landscaping. The proposed development will assist in the provision of senior housing on a lot that will retain significant amounts of open space. The development proposed in this PUD contains attractive urban design features and new landscaping. The project ensures that open space will be maintained and upgraded to create a more pleasant and interactive environment for residents and guests. The building will be compatible in scale and design with the surrounding neighborhood. The landscaping plan will enhance both the private and public open spaces of the property. The apartment building includes superior functional areas for the use of the future residents, including a grandparents room, health care, security and convenient access to public transportation.

h. Minimal Transportation Impacts. The proposed elderly housing development will generate an usually low level of automobile travel in and out of the site. The PUD Site is served by Metrobus routes and is within close distance of Metrorail.

i. HOPE VI Amenities. The fact that this site is included in the New Eastgate HOPE VI development will allow residents to access additional social services and local residents will be eligible for enhanced job creation and training activities. Tenants of the Eastgate Senior Residences will be members of the Eastgate Residents Association Community Development Corporation ("ERA CDC") which is a Section 501(c)3 nonprofit that will manage and oversee the community and supportive services for residents of the HOPE VI developments. Through its case managers, ERA CDC will interview residents to determine their individual needs and assist them in obtaining job training, homeownership opportunities and skills training. In addition, residents will have health and emergency services provided by an array of social service partners. The Eastgate Senior Residences tenants will also be targeted with on-site healthcare management in the wellness room provided. Nurses will be able to conduct medical exams, develop treatment/case management plans and conduct follow-up visits as required. Health management services will address hypertension, diabetes, respiratory illness, and depression and other emotional or mental illness. The HOPE VI plan also targets Eastgate Senior Residences tenants for life-enrichment services promoting independent living for the senior and disabled adult population. The program will focus on transportation and daily living activities and will offer the

services of the Kenning Institute, an affiliate of Duke University's Center for the Study of Aging and Human Development.

Office of Planning Report

22. By report dated May 13, 2005 and by testimony presented at the public hearing, the Office of Planning ("OP") recommended approval of the Application, stating "[t]he development will provide housing for a portion of the District's population that is underserved and will allow DCHA to better distribute and utilize its resources appropriately.". In addition the report stated that "[t]he development will be an asset to the new residents because of the many on-site services that will be provided", and "OP believes that the proposal is consistent with the elements of the Comprehensive Plan".

Reports of Other Agencies

23. By report dated May 6, 2005 the D.C. Department of Transportation stated that "additional traffic generated by this project will have no significant impact in terms of capacity and level of service on the surrounding intersections."

Advisory Neighborhood Commission 7A

24. Advisory Neighborhood Commission 7A ("ANC 7A") did not submit a statement at the public hearing or in the record. The Applicant presented plans to ANC 7A on several occasions.

Other Community Organizations/Members

25. Letters in support of the PUD application were submitted to the record from the Eastgate Redevelopment Association, Marshall Heights Community Development Organization, the Fort Dupont Civic Association, Dupont Commons Homeowners Association Board of Directors, LaTanya Hill, Kenneth Council and Delores Wade.

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 development of this PUD is compatible with city-wide goals, plans and programs and is sensitive to environmental considerations. The Commission also finds that the proposed PUD is not inconsistent with the Comprehensive Plan.

8. 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 Findings 21 and 22, above.

9. The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.

10. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1997.

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 22, 23, 24 and 25 in Square 5409 (pending processing of application for consolidation of lots into Lot 26, Square 5409). 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 Grimm & Parker, marked as Exhibits __, __, __, and __, as modified by the guidelines, conditions, and standards of this order.

2. The subject property shall be rezoned from R-5-A to R-5-B.

3. The development approved in this PUD shall be a new, 100-unit, three and four-story apartment building for senior citizens. Rents will be in the affordable range for low- and moderate-income households.

4. The total floor area ratio (FAR) of the development shall not exceed 1.62 FAR and the maximum lot occupancy shall not exceed 43.1% percent.

5. The height of the building shall not exceed 50 feet.

6. The development shall provide off-street parking for 19 vehicles, as shown on the site plan.

7. Exterior materials shall include two brick and siding.

8. The applicant shall have the flexibility to:

   a. Vary the location and design of all interior components of the building, provided that the variations do not change the exterior configuration of the building;

   b. Add plaques, monuments, shrubs, hedges, flowers, benches and potentially a gazebo and walkway to the pocket park design.

   c. Make minor adjustments to the width, location and orientation of the driveway entrances to the Property from Anacostia Road and from B Street, S.E. in consultation with the D.C. Department of Transportation in the building permit process.

   d. Eliminate the dumb waiter from the plans and to create a paved pathway from the entrance to the Terrace Level around the building to the loading platform area, for purposes of efficient trash removal.

   e. Deviate from the roof colors provided on the material board, by using materials that are in substantial accordance with the colors provided by the Applicant in its post-hearing submission.

   f. Provide African-oriented designs in the brick façade of the building in in substantial accordance with the graphic representations provided by the Applicant in its post-hearing submission

9. The applicant shall enter into a Memorandum of Understanding with the D.C. Office of Local Business Development prior to the issuance of a building permit.

10. The requirement for a 55-feet deep loading berth is hereby waived and Applicant's 33-foot deep loading berth is approved pursuant to this PUD.

11. 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.

12. 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.

13. 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.

Vote of the Zoning Commission taken at its public meeting of_____, by a vote of _____. This order was adopted by the Zoning Commission at its public meeting of, _____, 2005, by a vote of _____.

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 _____.

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning