

March 31, 2006

Carol J. Mitten, Chair
D.C. Zoning Commission
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

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D.C. OFFICE OF ZONING
2006 MAR 31 PM 1:52

Re: Request to Reopen the Record
Zoning Commission Case No. 05-24
(Eastgate Family Housing)

Dear Ms. Mitten and Members of the Commission:

This memorandum requests that the Zoning Commission reopen the record of Case No. 05-24 so as to make a decision on an issue that was not quite ready for decision at the conclusion of the public hearing. This has to do with the construction of decks at the rear of the proposed houses. The Applicant in Case 05-24 – the District of Columbia Housing Authority and the associated private development team of A & R/THC LLC II – herewith submits information on this subject and a proposed addition to Order No. 05-24, if the Commission agrees. This submission is being concurrently served on Advisory Neighborhood Commission (“ANC”) 7E and the Office of Planning.

Near the conclusion of the public hearing, the Applicant’s design team and the Zoning Commission discussed the need for suitable controls over decks that property owners may wish to construct. The preference was for size standards for matter-of-right decks, so that individual owners would not have to request a modification of the PUD in order to construct a deck. The Applicant indicated that it needed to analyze the physical constraints and opportunities and suitable controls over decks at a later time. Hence this submission.

The Applicant’s goal is to allow reasonably-sized decks as a matter of right. First, it should be noted that the Zoning Regulations provide substantial flexibility for the construction of decks that are relatively low to the ground, pursuant to 11 DCMR § 2503.2:

A structure, other than a building, no part of which is more than four feet (4 ft.) above the grade at any point, may occupy any yard required under

ZONING COMMISSION
District of Columbia

the provisions of this title. Any railing required by the D.C. Construction Code, Title 12 DCMR shall not be calculated in the measurement of this height.

Grimm & Parker Architects analyzed all of the lots in the site plan to determine those that could construct decks of four feet or less above grade and those where sloping conditions would require the owner to exceed four feet in height for at least part of the deck. The results of that analysis are summarized in the chart attached as *Exhibit A*. In short, 60 of the 178 total lots (excluding the two grand home lots) would have a problem constructing a deck of less than four feet above grade. The chart indicates the lot occupancy of each dwelling and the projected lot occupancies for each of these lots if a deck of either 8 feet X 10 feet or 10 feet by 12 feet were constructed. The far right column indicates which lots would require a variance (technically a PUD Modification) because lot occupancy would exceed the maximum lot occupancy allowed in the R-5-A District of 40 percent.¹

The 10 X 12-foot decks typically create lot occupancies in the 50% - 60% range, with some lots below this level and 10 lots that exceed 60 percent lot occupancy with construction of the deck. All except two of the 60 lots could construct a deck of 8 X 10 feet and stay within a 60 percent lot occupancy.

The Applicant recommends that decks be allowed as a matter of right so long as the resultant lot occupancy does not exceed 60 percent. This will constrain a few lots to construct relatively small decks if a deck is desired, while allowing moderate-sized decks that either partly or entirely exceed 4 feet above grade on the remaining houses. The remaining 118 lots that are able to construct decks of four feet or less in height would have more flexibility.

In support of this straightforward rule, the Applicant notes that this is a predominantly townhouse development, similar to development patterns in the R-4 District, in which a lot occupancy of 60 percent is allowed as a matter of right. The expectation is that few, if any, owners would construct very large decks below the four-foot height limit. And, it is not clear that relatively large decks of low elevations would be a problem for neighbors or detrimental to the public interest. The 60 percent limit is likely to allow reasonably-sized, but not excessively large decks in most cases. The two grand home buildings would not be eligible for this flexibility, and the Applicant also proposes that the 20 detached dwellings remain subject to the 40 percent lot occupancy limitation, the same as allowed in R-1 Districts. Based on the data, the detached dwellings will be able to construct ample decks under this standard.

Based on the rationale stated herein, the Applicant proposes that the Zoning Commission adopt the following additional condition in Zoning Commission Order No. 05-24:

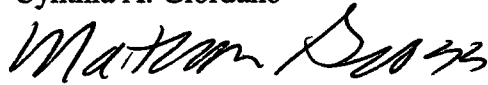
¹ A color copy of the site plan is attached as *Exhibit B*.

A property owner may construct a deck at the rear of a dwelling unit as a matter of right, provided that the resultant percentage of lot occupancy does not exceed sixty percent (60%). This flexibility shall not apply to the grandd home buildings on Lots 38 and 40, nor to the detached houses to be constructed on Lots 103-108, 123-132 and 162-165, which shall be subject to the normal 40 percent lot occupancy limitation.

Thank you for your consideration of this request.

Respectfully submitted,
ARNOLD & PORTER LLP


Cynthia A. Giordano


Nathan W. Gross, AICP

Attachments

cc: Advisory Neighborhood Commission 7E
Via Facsimile
Office of Planning
Via Facsimile

Exhibit A: Decks and Lot Occupancy Analysis

G R I M M + P A R K E R A R C H I T E C T S

February 8, 2006

Eastgate Family Housing
G+P 20436

RE: Deck / Lot Coverage Analysis

The following list identifies the lots where the square foot area of a deck addition would have to be added to the building square footage. The DC requirement for including the square footage of a deck in the overall building square footage is any deck floor that exceeds four (4) feet above grade shall be added to the building square footage in determining lot coverage. Maximum Lot Coverage is 40%, coverage over 40% would require a variance to construct a deck.

<u>Lot No.</u>	<u>Lot Coverage</u>	<u>10'X12' Deck Lot Coverage</u>	<u>8'X10' Deck Lot Coverage</u>	<u>Variance Req'd</u>
9	60.7%	70.2%	67.0%	Yes
41	46.0%	52.25%	50.17%	Yes
42	53.2%	61.59%	58.79%	Yes
43	46.0%	52.25%	50.17%	Yes
44	48.8%	56.49%	53.9%	Yes
45	53.2%	61.59%	58.79%	Yes
46	53.2%	61.59%	58.79%	Yes
47	46.0%	52.25%	50.17%	Yes
48	46.0%	52.25%	50.17%	Yes
49	53.2%	61.59%	58.79%	Yes
50	53.2%	61.59%	58.79%	Yes
51	48.8%	56.49%	53.92%	Yes
52	48.8%	56.49%	53.92%	Yes
53	53.2%	61.59%	58.79%	Yes
54	53.2%	61.59%	58.79%	Yes
55	53.2%	61.59%	58.79%	Yes
56	35.1%	39.88%	38.28%	No
85	43.6%	50.46%	48.17%	Yes
86	51.3%	59.39%	56.69%	Yes
87	49.3%	57.07%	54.48%	Yes
88	48.8%	56.48%	53.92%	Yes
89	41.5%	41.49%	39.61%	Yes, No
90	32.9%	39.48%	35.88%	No
91	47.1%	54.55%	52.07%	Yes
92	47.1%	54.51%	52.04%	Yes
93	46.9%	54.35%	51.88%	Yes
94	29.8%	34.45%	32.89%	No
95	30.5%	35.27%	33.67%	No
96	47.4%	54.86%	52.37%	Yes
97	47.8%	55.37%	52.86%	Yes
98	48.1%	55.72%	53.19%	Yes
99	35.9%	41.62%	39.73%	Yes, No
100	33.0%	38.25%	36.52%	No
101	56.6%	65.5%	62.53%	Yes

<u>Lot No.</u>	<u>Lot Coverage</u>	<u>10'X12' Deck Lot Coverage</u>	<u>8'X10' Deck Lot Coverage</u>	<u>Variance Req'd</u>
102	40.7%	47.09%	44.95%	Yes
104	34.6	37.92%	36.83%	No
105	27.8%	30.11%	29.35%	No
107	23.9%	26.14%	25.39%	No
109	33.8%	39.14%	37.36%	No
110	49.2%	56.91%	54.33%	Yes
111	49.2%	56.91%	54.33%	Yes
112	49.2%	56.91%	54.33%	Yes
113	36.7%	42.46%	40.53%	Yes
114	36.7%	42.46%	40.53%	Yes
115	49.2%	56.91%	54.33%	Yes
116	49.2%	56.91%	54.33%	Yes
117	36.7%	42.46%	40.53%	Yes
118	36.7%	42.46%	40.53%	Yes
119	49.2%	56.91%	54.33%	Yes
120	49.2%	56.91%	54.33%	Yes
121	49.2%	56.91%	54.33%	Yes
122	36.6%	42.38%	42.38%	Yes
123	31.5%	34.48%	33.49%	No
124	29.1%	31.83%	30.91%	No
125	29.6%	32.35%	31.41%	No
126	29.4%	32.21%	31.28%	No
128	29.5%	32.34%	31.41%	No
129	22.9%	25.11%	24.38%	No
130	19.4%	21.2%	20.59%	No
131	17.5%	19.11%	18.56%	No

Exhibit B: Site Plan



Bowman
CONSULTING
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Hyattsville, MD 20782

RELEASED F

- ☒ P.A.D. Applicant
- ☐ Bidding
- ☐ Permit
- ☐ Construction

LANDSCAPE SITE PLAN
EASTGATE FAMILY HOUSING

DATE	DESCRIPTION
07/20/04	PUR BANCORP
08/25/04	PUR BANCORP
09/20/04	PUR BANCORP

LA-1

FILE No. 2008-B-PLA
2-00001 AND 2-00002