

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 903

Case No. 99-1C

**(Consolidated Planned Unit Development
on Parcel No. 173/143, Square 4325)**

September 3, 1999

This Decision and Order arises out of an application from the Fort Lincoln Housing Limited Liability Company for the consolidated review and one-step approval of a planned unit development (PUD) for parcel No. 173/143 in Square 4325.

PROCEDURAL HISTORY

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on June 24, 1999, to consider an application from Fort Lincoln Housing Limited Liability Company for a planned unit development (PUD) pursuant to Chapter 24 of the D.C. Zoning Regulations, Title 11, of the District of Columbia Municipal Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022

FINDINGS OF FACT

1. On February 8, 1999, the Office of Zoning received an application from the law firm of Wilkes, Artis, Hedrick and Lane, on behalf of Fort Lincoln Housing L. L. C., a District of Columbia limited liability company established for the specific purpose of developing this portion of the Fort Lincoln residential community as permitted and encouraged under the Urban Renewal Plan (URP). The application requested a consolidated review and approval (one step approval) of a planned unit development (PUD) for Parcel No. 173/143 in Square 4325.
2. The PUD site is located in Ward Five (5) between Fort Lincoln Drive and Commodore Joshua Barney Drive, N.E. The site is approximately 250 feet southwest of Eastern Avenue and south of the District of Columbia/State of Maryland boundary. It is bounded on the north and northeast by vacant land, on the northwest by Lincoln Elementary School, and on the southwest by Anacostia Park and the Anacostia River. The site consists of 1,025,337 square feet of land area. It is currently zoned R-5-D and is in the ownership of the District of Columbia.

3. The R-5-D zone district permits matter-of-right general residential uses of high density development, including single-family dwellings, flats, and apartments to a maximum height of 90 feet, a maximum floor area ratio (FAR) of 6.0 for apartment houses and 5.0 for other structures, and a maximum lot occupancy of 75 percent.
4. The Generalized Land Use Map of the Comprehensive Plan designates the property in the medium density residential land use category. The property is controlled by the District of Columbia and administered by the Redevelopment Land Agency (RLA) and the Department of Housing and Community Development (DHCD), which are co-applicants of this PUD.
5. The applicant proposes to construct a residential development containing 93 single-family detached dwellings, or, in the alternative, 79 single-family detached dwellings and 30 condominium units. The single-family dwellings will average approximately 2,000 square feet in gross floor area and will be less than 40 feet in height. Each residence will be platted on an individual lot and sold in fee simple. The common areas, including the street, will be deeded to a dwellings owners' association which will be controlled by the residents.
6. The alternative development scheme proposes 79 single-family detached houses on individual lots, with 30 condominium units located in six, two - and three-story buildings. The total project will contain approximately 200,000 square feet of gross floor area. In either alternative, the total lot occupancy of the site will be 18 percent, and the composite gross floor area of the housing units will remain approximately 200,000 square feet of gross floor area.
7. 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 which may exceed or be less than the matter-of-right standards identified for height, floor area ratio (FAR), lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment (BZA).
8. At the public hearing session on June 24, 1999, the Commission heard the presentations of the applicant, the Office of Planning, the testimony of the project's development team expert witnesses, and Advisory Neighborhood Commission (ANC) 5A, all in support of the application. There was no testimony from parties or persons in opposition to the application.
9. Robert Jeffers, Jr., a representative of the applicant, testified that the subject property was located within the Fort Lincoln Urban Renewal Area. The Urban Renewal Plan for the Fort Lincoln Urban Renewal Area ("Fort Lincoln Urban

Renewal Plan"), most recently updated in 1994, describes several general development objectives for the Fort Lincoln area, including a substantial increase in the number of housing units. This portion of the Fort Lincoln Urban Renewal Plan also specifically encourages home ownership for those of moderate income. Both of these goals are met by the proposed PUD.

10. He testified that the R-5-D District in which the site is located is designed to permit a flexibility of design by permitting in a single district all types of residential development. He indicated that the R-5-D District permits a maximum FAR of 3.5, a lot occupancy of 75 percent and a height of 90 feet, with no limit on the number of stories. A rear yard of at least 15 feet is required, or four inches for every foot of vertical height measured from the finished grade to the highest point of the roof or parapet wall, whichever is greater. He also stated that in the R-5-D District the side yard of a one-family detached dwelling or a one-family semi-detached dwelling must be at least eight feet wide. There is no minimum lot area or minimum lot width requirement in the R-5-D District.
11. He testified that the proposed project is an appropriate step in fulfilling the master plan for Fort Lincoln which includes the development of moderately priced housing and the growth of a diverse and functionally inclusive community with appropriate public and private community facilities and services.
12. William Collins, a representative of Fort Lincoln Village Limited Partnership, the partner in Fort Lincoln Housing, L.L.C., testified on behalf of the applicant. Mr. Collins testified that no new single-family dwellings were built in the Northeast quadrant of the District during 1998. He further testified that each of the project's detached dwellings or condominiums would be customized to the individual buyer and would include options based upon the buyer's desires and needs. Mr. Collins stressed the need for the applicant to have the flexibility to build units priced within a certain range and indicated that, if the Zoning Commission imposed requirements on the type of material to be used, such as brick facades, the price of the units could become too high for the target market. Mr. Collins stated that brick facades would be an option if a buyer is willing to pay additionally for it.
13. The applicant, through written submission, and by testimony at the public hearing indicated that the project calls for units to be built on a site not yet subdivided for dwellings, and that the great majority of the site does not front on a public right-of-way. The only feasible way to develop the site is through the use of a theoretical subdivision under Section 2516 of the Zoning Regulations. The applicant stated that, because of the topography, the unusual shape of the property, and the constraints of the Fort Lincoln Urban Renewal Area Plan, some of the specific standards of Section 2516 cannot be met.
14. The applicant proffered the following public benefits and project amenities:

- a. The addition of 93 single-family dwellings, or in the alternative, 79 single-family dwellings and 30 condominium units to the housing market in the District of Columbia;
 - b. Development of a vacant site in Fort Lincoln New Town;
 - c. Carefully designed dwellings that will enhance the aesthetic quality of the area and create an attractive environment for people in the neighborhood;
 - d. The effective use of existing vacant land which will create a sense of community;
 - e. A significant increase in tax revenue for the District in the form of real estate and income taxes from the transfer of property from government ownership to private property;
 - f. The provision of a First Source Employment Agreement with the D.C. Department of Employment Services and a Memorandum of Understanding with the Department of Human Rights and Local Business Development.
15. The project architect, William Devereaux of Devereaux & Associates, P.C., who was recognized by the Commission as an expert in architecture, described the project as a unique opportunity to create an architectural style for a previously undeveloped part of the District. Mr. Devereaux stated that the development would function as a small community in many ways. He emphasized the applicant's need to retain a certain amount of design flexibility in regard to the individual detached dwellings or condominium units. This flexibility is necessary so that the project's dwellings can be tailored to meet the various needs of the wide pool of potential homebuyers. The architect stated that the FAR of the project would be 0.2, with a gross floor area of 200,000 square feet, a lot occupancy of approximately 18 percent, and a building height not to exceed 40 feet or three stories. Each single-family dwelling will include a two-car garage and each condominium unit will have one off-street parking space.
16. Victoria Erickson, also of Devereaux & Associates, P.C., testified as to the landscape architecture of the subject site. Ms. Erickson described the circulation patterns of the development. She explained that a series of two-way and one-way private roads would work in conjunction with the surrounding District roads to connect all parts of the housing development and make travel within the development easy.
17. The District of Columbia Office of Planning (OP), by memorandum dated May 21, 1999, and by testimony presented at the public hearing, recommended approval of the application. OP concluded that the project is not inconsistent with the Comprehensive Plan and the Generalized Land Use Map and that the

application will provide substantial benefits for the District through the creation of either 93 single-family dwellings, or in the alternative, 79 single-family, detached dwellings and 30 condominium units.

18. Advisory Neighborhood Commission (ANC) 5A voted to support the application on April 27, 1999. By a letter, dated June 20, 1999, the ANC indicated its support of the application.
19. At the close of the hearing, the Commission requested that the applicant submit additional information regarding a number of issues raised. The Commission also left the record open to receive the information. The issues were as follows:
 - a. Provide alternative garage elevations to make the garage doors seem less prominent from the street;
 - b. Provide a site plan to include a sidewalk on the main street between the houses;
 - c. Provide a revised lighting plan, allowing for additional lighting within the project; and,
 - d. Provide an example of a Home owners' association agreement
20. By letter dated June 30, 1999, the applicant filed the additional materials with the Office of Zoning.
21. At its public monthly meeting on July 12, 1999, the Commission reviewed and considered all submissions and testimony of the case. The Commission also reviewed the applicant's post-hearing submission and took proposed action to approve the application.
22. The Commission concurs with the positions of the applicant, OP, and ANC 5A that the consolidated planned unit development application should be approved.
23. The Commission finds that the proposed height and bulk of the project is appropriate for the subject property and the surrounding area, and will not adversely impact the character of the neighborhood.
24. The Commission finds the minor deviations from the area requirements of Subsection 2615 are necessary for the successful completion of the project and will not adversely affect neighboring properties.
25. The proposed action of the Zoning Commission to approve this 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 a report dated August 5, 1999, found the proposed PUD would not 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. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.
3. Approval of this PUD is not inconsistent with the Comprehensive Plan, including the designation of the site for medium density residential use.
4. Approval of this PUD application is appropriate because the application is generally consistent with the present character of the area.
5. The Commission takes note of the position of Advisory Neighborhood Commission 5A and, in its decision, has accorded to the ANC the "great weight" consideration to which it is entitled.
6. The approval of the application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
7. The proposed application can be approved with conditions, which will ensure that development will not have an adverse effect on the surrounding area.
8. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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 Parcel 173/143 in Square 4325. 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 and materials submitted by the architectural and engineering firms of Devereaux & Associates, P.C., and VIKA, Inc., marked as Exhibit Nos. 4 and 29, as modified by the guidelines, conditions and standards of this Order.

2. The project shall be a residential development consisting of 93 single-family, detached dwellings, or, in the alternative, 79 single-family detached dwellings and 30 condominium units located on a 23.53-acre portion of Parcel 173/143 in Square 4325, with a total FAR of approximately 0.2 and gross floor area of approximately 200,000 square feet, as shown on the plans marked as Exhibit Nos. 4 and 29.
3. Landscaping shall be in accordance with the plans marked as Exhibit No. 4 of the Record.
4. The height of the individual, detached dwellings and condominium units within the project shall not exceed 40 feet, nor shall they exceed three stories, as shown on the plans marked as Exhibit Nos. 4 and 29.
5. The lot occupancy of the project shall not exceed 18 percent, as shown on the plans marked as Exhibit Nos. 4 and 29.
6. The applicant shall have the necessary flexibility to make adjustments to the project with respect to the location and design of all interior building components, including partitions, slabs, doors, hallway columns, stairways, and electrical and mechanical rooms, provided that the variations do not change materially the configuration of the project. Further, The applicant has the necessary flexibility to adjust the siting of the houses on each individual lot to minimize environmental degradation and maximize open space, provided that such siting does not reduce any setback or yard areas as shown on the plans marked as Exhibit No. 4.
7. The applicant shall be granted flexibility to make minor adjustments in the window and door detailing and the location of windows, and doors and as to the various design options to be included in the individual single-family detached dwellings or condominium units, including such things as exterior building materials and the inclusion of a porch.
8. If a brick facade is used, the brick must wrap around each of its corners a minimum of 12 inches.
9. The applicant shall include porches in some of its models in order to encourage design diversity for the facades.
10. The applicant shall include street lighting in the project as indicated on the plans marked as Exhibit Nos. 4 and 29.
11. The applicant shall provide sidewalks throughout the development as shown on the plans marked as Exhibit Nos. 4 and 29.

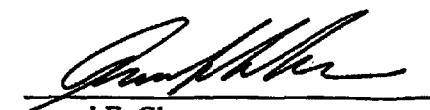
12. The applicant shall be responsible for the initial organization of a homeowners' association for the subject housing development.
13. The garages of the PUD shall be constructed in accordance with either scheme one or scheme two as shown on the elevations in The applicant's post-hearing submission marked as Exhibit No. 29 of the Record.
14. The applicant shall enter into a First Source Employment Agreement with the Department of Employment Services in order to achieve the goal of utilizing District of Columbia residents for at least 51 percent of the jobs created by the project.
15. The applicant shall enter into a Memorandum of Understanding with the Department of Human Rights and Local Business Development in order to achieve a minimum 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 of the project.
16. No building permit shall be issued for the PUD until the applicant has recorded a covenant in the land records of the District of Columbia, between the applicant and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the applicant and all successors in title to construct and use the subject property in accordance with this order, or amendment thereof by the Zoning Commission.
17. 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 Office of Zoning.
18. This consolidated 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 must 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.
19. Pursuant to D.C. Code Section 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 as D.C. Code, Title 1, Chapter 25 (1991), and this order is conditioned upon full compliance with those provisions. 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.

Z.C. ORDER NO. 903
CASE NO. 99-1C
PAGE 9

Vote of the Zoning Commission taken at its public meeting on July 12, 1999: by a vote of 3-0 (Angel F. Clarens, Herbert M. Franklin and Anthony J. Hood to approve; John G. Parsons not present not voting.)

The Zoning Commission at its public meeting on September 13, 1999 adopted the order, by a vote of 3-0: (Anthony J. Hood, Angel F. Clarens, to adopt, Herbert M. Franklin, to adopt by proxy; John G. Parsons, not voting, having not participated in the case.

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 8 1999.



Angel F. Clarens
Chairperson
Zoning Commission



Jerry R. Kress, FAIA
Director
Office of Zoning

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