

**TESTIMONY BEFORE THE DC ZONING COMMISSION
MONDAY, APRIL 18, 2011
PUBLIC HEARING AT 441 4TH ST, NW, SUITE 220-S
REGARDING ZONING CASE #'S 05-28B and 05-28C**

**PRESENTED BY MR. GREG RHETT
PRESIDENT, EASTLAND GARDENS CIVIC ASSOCIATION**

Good evening Commissioners, staff, and neighbors, my name is Greg Rhett. I am the President of the Eastland Gardens Civic Association. I am a homeowner who has resided within this Ward 7 community for 13 years. This historical residential community is where we raise our children, vote, and pay our taxes. Eastland Gardens is officially designated as an African-American Heritage Trail Neighborhood for the District of Columbia... and it is so marked with a plaque.

Our thriving middle-class neighborhood dates to 1928 when a group of developers called Eastland Gardens, Inc, bought some 150 acres of the former Benning Racetrack property and began to construct **HOUSES**. In the more than 80 years since, this has remained a combined (Parkside, Mayfair, Paradise, Kenilworth, and Eastland Gardens) residential community.

Our neighboring community, Mayfair Mansions, is also designated as an African-American Heritage Trail Neighborhood for the District of Columbia... and it too is marked with a plaque.

Mayfair Mansions, completed in 1946, is one of the District's earliest garden apartment complexes. Howard University Professor of Architecture, Albert I. Cassell (who would also later become the chief architect/designer for the Howard University Campus) purchased the former Benning Race Track in 1942 in order to build the Colonial style project he conceived and designed. The project, which opened with more than 500 units, represented a collective effort to provide **AFFORDABLE HOUSING** for black residents. When completed, Mayfair Mansions was a first-class complex offering a welcome

HOUSING opportunity for working-and-middle-class blacks who were excluded from housing elsewhere because of racially restrictive housing covenants. It was listed on the DC Inventory of Historic Sites and the National Register for Historic Sites in 1989.

As to our specific standing in this matter, Parkside, Mayfair, Lotus Square, Paradise, Eastland Gardens, and Kenilworth are all served by ANC7D and by the 6th District Patrol Service Area 601. Consequently, we are all directly and immediately impacted by any proposed plans/projects within this area.

In order to protect and preserve the long and storied character of our historic neighborhood, we remain strongly opposed to Case #05-28E, which dovetails into Case #05-28B and #05-28C.

For tonight's hearing, we want to be very clear that we are strongly opposed to Case #'s 05-28B and 05-28C. These proposed "Major Changes" to first-stage approvals granted by this Commission, are not consistent with the residential character of this community, nor are they consistent with the **2006 Ward 7 Planning and Development Priorities and specifically, the 2006 Far Northeast/Southeast Area plan.**

Four Comprehensive Plan workshops took place in Far Northeast and Southeast during 2005 and 2006. These meetings provided an opportunity for residents to discuss both citywide and neighborhood planning issues. The Advisory Neighborhood Commissions and groups such as the Ward 7 Leadership Council also provided a voice for local priorities and concerns. There have also been many meetings in the community not directly connected to the Comprehensive Plan, but focusing on long-range planning issues.

The Ward 7 Planning and Development Priorities states:

The community delivered several key messages during these meetings, summarized below:

a. **The low density character that typifies most Far Northeast and Southeast neighborhoods should be maintained.** While it is recognized that the area contains much vacant land with the potential for infill development, **this development should generally be similar in density to what exists today.** This is one of the few areas in the city with opportunities to build three- and four bedroom homes suitable for families with children. Whereas the neighborhood lost families to Prince George's County and elsewhere in the past, it may gain families from these areas in the future **if it builds appropriately designed housing,** provides quality schools, and improves public services.

“While protecting established single family neighborhoods is a priority, Far Northeast and Southeast recognizes **the need to provide a variety of new housing choices.**”

We strongly believe that both the proposed Urgent Care Center/Health Clinic and the proposed Community College are absolutely **not consistent** with the historic character of our combined neighborhoods or our Far Northeast/Southeast Area Plan. If allowed, these proposals will completely destroy the neighborhood atmosphere and “flavor” of this combined community.

Re Case #05-28B: Urgent/Health Care Center

As we understand current law and zoning regulations regarding building heights, the applicant's request to change the current zoning for Block I of the property from residential to medical office must have zoning approval. In order to protect and preserve the neighborhood character of this combined community, we strongly urge the Commission to reject this requested change. We believe that the original stage-one PUD applicant should stay with the original zoning plan that was vetted by the community and approved by this Commission. We beg to differ with the Office of Planning's recommendation that this requested modification is “not inconsistent” with the current Comprehensive Plan.

The **Generalized Policy Map** depicts the site as within the “Neighborhood Enhancement Areas” designation. *“The guiding philosophy in Neighbor Enhancement Areas is to ensure that new development “fits in” and responds to the existing character, natural features, and existing/planned infrastructure capacity.* Neither Case # 05-28B nor #05-28C meets the above philosophical criteria.

The applicant proposes to not only increase the density and intensify land use within this combined community, they also want to reduce the previously required number of parking spaces (102), and now propose to move existing street parking spaces (63) below grade. We have yet to see evidence that this is even possible given that this area clearly falls within the Anacostia River Watershed. Finally, we believe that this institutional structure will certainly increase daily grid-lock and additional traffic and safety concerns for the residents of this community. The Center will be located on narrow residential streets. To our knowledge, there are no plans to widen said streets (Kenilworth Terrace or Hayes St). We have not seen the results of the pending DDOT analysis of the submitted traffic impact study.

Furthermore, to our knowledge, the applicant has not submitted any recent data that proves their contention that this proposed Health Center is desired by a majority of this community. No evidence or data has been submitted that proves the applicant’s contention that this Health Center will be utilized by residents of our combined community – negating their “Site Planning” benefit.

We believe that this proposed usage and requested amendments for this particular plot of land is **inconsistent with the Comprehensive Plan, and is inconsistent with the existing character of the surrounding area land use recommendations set forth within the Planning and Development Priorities of the Far Northeast/Southeast Area Plan:**

Chapter 17: Far Northeast & Southeast Area Element:

Policy FNS-1.1.1: Conservation of Low Density Neighborhoods

Recognize the value and importance of Far Northeast and Southeast's stable single family neighborhoods to the character of the local community and to the entire District of Columbia. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect and protect the existing low density land use pattern while allowing for infill development that is compatible with the neighborhood character.

Policy FNS-1.1.2: Development of New Housing

Encourage new housing for area residents on vacant lots and around Metro stations within the community, and on underutilized commercial sites along the area's major avenues.

Policy FNS-1.1.4: Retail Development

Support the revitalization of the neighborhood commercial areas listed in Policy FNS-1.1.3 with new businesses and activities that provide needed retail services to the adjacent neighborhoods and that are compatible with the surrounding land use.

Policy FNS-1.1.9: Congestion Management

Re-examine traffic control and management programs.....and develop measures to improve pedestrian safety and mitigate the effects of increased local and regional traffic on residential streets.

Policy FNS-1.2.6: Historic Resources

Protect and restore buildings and places of potential historic significance in Far Northeast and Southeast.....

Policy FNS-2.8.3: Density Transitions at Parkside

Provide appropriate height and scale transitions between new higher density development in the Kenilworth-Parkside neighborhood and the established moderate density townhomes and apartments in the vicinity. Buildings with greater

heights should generally be sited along Kenilworth Avenue and Foot Street, and should step down in intensity moving west toward the river.

The applicants want to convince you and us, that these proposals are altruistically pure in motive and intent. Based upon the evidence/plans submitted, we strongly believe that the "real" motive behind these proposals is bottom-line profit potential for quick land deals. After all is said and done, City Interest will be the only entity to reap the potential profit of these land deals, initiated by them, for them. The peace and tranquility, safety, and property values of long time homeowners and residents will be forever tarnished and ruined. Based upon testimony provided at the April 4th hearing, the Ex Dir of DCPCA admitted that they had only spoken with a hand-full, of the approximately 8,000 residents who live within this area.

In May of 2006, I and many of my neighbors demonstrated our very sincere enthusiasm and excitement about the possibilities and opportunities that this Parkside Planned Unit Development represented. Like other neighbors, we also want realistic and neighborhood friendly amenities and improved services within our community. We made the time to come before this Zoning Commission to offer our supportive testimony for the record re the developer's Stage 1 proposals.

Today, almost 5 years later, we now come before this body to offer our strong opposition to the overall direction and non-transparent approach that the developer has taken with their requested amendments and modifications re their Stage 2 proposals.

Basic reasons for opposition from the Eastland Gardens Civic Association:

1. If approved, these 3 sets of requested amendments and modifications could **negatively impact our property values, our quality of living, and our peace and tranquility.** This compact and isolated historically-designated residential area was never intended to serve as a host of industrial, institutional, or large

commercial enterprises. These requested Stage 2 PUD modifications and amendments will dramatically shift this residential centered history.

2. We see these requested **amendments and modifications as an isolated hodge-podge of profit-driven actions which do not enhance the attractiveness of this community to new residents** (renters or homeowners). In fact, these requested City Interest amendments/modifications could potentially derail the viability of other planned residential projects within this immediate area (Pollin Memorial and Mayfair Mansions). There are already more than 350 tax-credit rental units (Mayfair and Lotus Square) already on line, or soon to be online within this immediate area, on top of another 142 townhomes (Pollin), which are already under construction. This project received commitments of approximately \$9M in District tax dollars, plus, the land for this project was granted to them by the DC Housing Authority.

3. City Interest, by **aggressively pushing forth THEIR vision for OUR community** demonstrates that they have no consideration of mitigating factors that could potentially destroy the long-term economic value and character of this community. Mitigating factors such as what happens if the Pollin Project goes into default because no one will purchase a market rate townhome (plans already underway for 142 units) **overshadowed by 12-story buildings and an Urgent Care Center all shoe-horned into such a compact residential area....**

Mitigating factors such as how difficult will it be for the owner of the recently defaulted 5 buildings within Mayfair Mansions to rent out 109 apartments units overshadowed by 12-story buildings and an Urgent Care Center all shoe-horned into such a compact residential area. These potential defaults will certainly increase in the costs of homeowners and renters insurance; will spur a tremendous increase in traffic and grid-lock; and will ultimately result in the very real possibility of decreased home values, which, in-turn will increase the difficulty of any of us getting equity lines of credits or refinancing loans, **no matter how good our personal credit ratings may be!**

4. We absolutely are **very fearful of the resulting traffic, parking, and public safety challenges that will most assuredly result from these requested Stage 2 amendments and modifications.** Residents are already facing frequent traffic grid-lock that virtually traps us within this “one-way-in and one-way-out” community. One traffic accident on Rt 295 South.... And it’s over! We can only imagine how much worse it will be with the additional vehicular traffic resulting from these unrealistic proposals... **Contrary to some previous DDOT analysis we do not find their traffic impact assessment acceptable.**
5. Fellow residents and neighbors are **absolutely insulted and overwhelmed by the demonstrated arrogance and divisive approach taken by the developer and their potential buyers.** They have been as non-transparent, non-inclusive, and uncooperative as they could possibly be (i.e., **convening “secret” meetings; non-response to written questions; providing 4 different presentation materials at 4 different community meetings, etc**) in their desire to impose their individual wills and **turn a quick profit from associated land deals and developers fees** (we had to publicly embarrass a City Interest representative into publicly disclosing that they in-fact had a financial interest in the EDUCARE deal as the paid developer for the project (currently under construction).
6. Finally, in these **distressed economic times for the District of Columbia, we find this whole arrangement to be fiscally irresponsible...given that both potential land purchasers (DCPCA and CCDC) will utilize District and/or Federal tax dollars to consummate these land deals that at the end of the day will only profit City Interest.** With so many closed DCPS owned buildings, why should the District finance land acquisition and construction costs for the CCDC? Why can’t the DCPCA simply utilize their funds to simply build out a more appropriate space at the DC General Health Campus...? Approximately 1 mile south of this area?

In a review of the Transcripts from a 2010 Zoning Commission “Sit-Down” Hearing, wonder if this Zoning Commission ever received adequate responses to various member questions and concerns:

1. “All along, residents have been led to believe, and the zoning in place for these parcels suggests that the initial stages of this PUD would be a series of additional townhomes. What is being proposed is much more dense than that.”
2. “The original Office of Planning’s recommendation condition was that **no 2nd Stage development beyond a matter of right should be approved until the new bridge was built, or at least under construction. The original PUD tied the development directly to the bridge construction;** then it appears the developers changed their approach and or the Office of Planning inexplicably backed off of this recommendation.”
3. “Without that bridge, exactly how can the developer justify framing this development as pedestrian oriented? Where will that additional pedestrian traffic come from?”
4. “So, whatever happened to the plans to construct offices and neighborhood friendly retail? No potential tenants were ever presented to the Commission.”
5. “Has the developers adequately explored the potential for Benning road access, given that there’s basically still only one-way-in and one-way-out of this area?”
6. “Parkside Homeowners Association was clearly opposed to this PUD and not comfortable with, nor has the Commission been provided with detailed traffic studies and DDOT analysis of how this all will fit in with the Stage 2 proposals.”

7. **"Has the DDOT submitted a revised and updated traffic impact analysis regarding the adequacy of pedestrian and vehicular access to this site if it includes a Community College and an Urgent Care/Health Center?"**
8. At a previous ZC hearing/meeting on this 2nd stage proposal, the Commission also asked the applicant about the affordability proffer, the period of affordability for the affordable housing proffer, and the applicant was very straightforward in answering in terms of the rental units. But for "for sale," "we're not exactly clear what is being proposed here." They're clearly tying this to like HPAP programs and various programs that really set the affordability periods, and letting that be the driver.

Questions/Concerns arising from the May 15, 2006 Public Zoning Commission Hearing re the 1st Stage PUD:

Mr. Phil Feola with Pillsbury Winthrop Shaw Pittman, on behalf of the Applicant, clearly stated that the purposes of this **PUD** are really the completion of the **Parkside** Master Plan, a 26-acre tract of land that was started in the mid 1980s but never completed. This project would include all aspects of good neighborhood planning. It will have at the end of the day affordable housing and market rate housing. It will have rental housing and home ownership opportunities. It will have **retail and service opportunities** that don't exist in this neighborhood, and it will provide an opportunity for a major employment facility in this area so we are able at the end of the day to develop 1,500 to 2,000 housing units, 500,000 to 750,000 square feet of employment office space, 30,000 to 50,000 square feet of neighborhood serving retail.

Not once, in his sworn testimony, did he mention a Health/Urgent Care Clinic. Not once did he mention a Community College.

Another expert witness, speaking on behalf of the applicant, Mr. Donald Carter, from Pittsburgh, Pennsylvania, President of Urban Design Associates in Pittsburgh testified that they were able to come up with a very solid proposal/plan by initiating a very inclusive resident engagement process. He talked about how for approximately 1yr they took the time to publicly meet with residents via planning charrettes throughout the impacted area, **PRIOR** to coming up with any plan or proposals. Mr. Carter testified that at the end of the design charrette, after they had done their work, they had a big public meeting, and said to residents: "this is where we think we are going, what do you think about that?" And, they stayed as long as needed, and heard as many questions as needed, and based upon the evidentiary list provided to the Commission – they proved that they had pretty much touched every single community development organization, neighborhood group, Social Service group, that they could find, and there were just literally hundreds of people involved throughout the process. Mr. Carter testified about how they built "big-scale" models that residents could look at, so that they could see what kind of ideas the developer had in mind..... He spoke about how there was such a tremendous resident turnout at all of their events.....

Mr. Carter specifically talked about the "community vision" that they had gained from the process.... A vision: *"the visions were, and we heard this from everybody, mixed-income housing of all types, so that everyone can live here, new retail mixed use, including office, affordable housing for people in the neighborhood, not necessarily to attract people from out of the neighborhood, new permanent jobs, better access to the Metro, access to the river, and it's family friendly and welcoming, just as Ward 7 is."*

For this 2nd Stage application, this successful and transparent charrette process was totally abandoned. There were very limited attempts by the developer or their agents to get true community input, or gain community buy-in for these modifications and amendments submitted before this body today. This 2nd Stage application simply represents the developer's isolated and divisive attempt to simply impose their will and profit-driven desires upon the residents of this community.

Mr. Carter further testified that *"we didn't want to ignore the context of D.C. as well, so we investigated recent developments in D.C., in terms of mixed-use buildings, condos, rental apartments, office buildings, as well as townhouse developments. We were looking for the best examples that we could find in D.C. As Phil said earlier, our program was based on hard market studies. On the residential side, we used Zimmerman-Volk Associates, who are, I think, the best at looking at inner-city housing developments, and they predicted over the next five plus years 1,500 to 2,000 housing units could be built here, a mix of rental and for sale, of all kinds, condos, lofts and townhouses, everything but single-family residential, detached. All the other categories are there. And, this is a commitment of the developers already, but it also is justified in the market, 20 percent affordable, 20 percent workforce, and 60 percent market. Under commercial, as you know, all three developers are very experienced in the District, and this is the commercial development that they've determined is justifiable in the market, 500,000 to 750,000 square feet of office and technical space, plus 30,000 to 50,000 square feet of retail."*

Not once, did Mr. Carter, speak or allude to hearing this community express a desire to host an Urgent Care/Health Clinic. Not once in his testimony on behalf of the applicant did Mr. Carter speak or allude to hearing this community express a desire to host a Community College.

He further went on to address retail and marketing principles: *"I want to highlight the last, because a lot of people have thought this would be a great retail site, as a retail shopping center, but in actual fact, the market is telling us that the retail should be neighborhood serving, for the people who live in the neighborhood now, who will move there eventually, who live in Mayfair, who live in Eastland Gardens, plus the people who will be working there in the new office building. So, combining all of the hard information, the soft information, what the market was telling us, we developed design principles. Before we put one line on paper we said, what is all this telling us, what we should use to guide our design, and how can we test ourselves at the end? These are the design principles. Provide neighborhood-serving retail, develop mixed-income housing,*

support education improvements, and connect to open space amenities, make safe and attractive pedestrian connections, and improve vehicular access, buffer from the PEPCO plant. It's not going to go away. High-quality building street-scape, open space and public art, all about what we were hearing from everyone and what the data was telling us."

Not once did Mr. Carter speak or allude to the marketing data (hard or soft) indicating that a Community College or an Urgent Care/Health Care center fit into the resulting "design principles."

And finally closing statement from Mr. Carter: *"when we met with the residents of Parkside Townhomes we found a very proud and a very defensive neighborhood in a sense, what is going to happen, they've maintained their houses, they have a townhome association, and around them is all this vacant land, what is going to happen around us? What was promised to us in the past? And, what we heard over and over again is, we want townhomes around us. We want people to own their homes, just as we own our homes. We don't want rental apartments next to us, we want townhomes, and **we don't want big buildings looming over our building.**"*

In conclusion, it is clear that in order for these amendments/modifications to be implemented, the construction will have to dig 2 to 4 stories beneath the surface; in fact, the plan appears to indicate that there will be 2 below-ground levels of parking for approximately 60 vehicles. Given this, what are the outcomes of recent soil bearings? What are the results from the research regarding some admitted issues with the water-table within this area? Has the Commission received this data, or an updated report/finding?

Thank You for the Opportunity to Submit this Written Testimony