

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 101

CASE NO. 74-10/71-30F

December 13, 1974

Pursuant to notice, a public hearing of the Zoning Commission was held on October 2, 1974, to consider the final application for a planned unit development and related zone change, filed by the Dupont Circle Joint Venture.

FINDINGS OF FACT

1. The site of the proposed planned unit development is located on the south side of Dupont Circle in the block bounded by Dupont Circle, 19th Street, Sunderland Place, and New Hampshire Avenue, N.W., in Square 115, lots 31-47, 50-56, 79, 81-82, and 822.

2. The area of the subject site is approximately 66,854 square feet (Baist Atlas Vol. 1, Page 6).

3. A portion of the subject site is presently zoned C-3-B (High bulk major business and employment center - floor area ratio of 6.5 and 90 feet height limit, residential use limited to floor area ratio of 4.5 and percentage of lot occupancy of 75) at the northern tip of the site occupied by the Euram Building, which faces directly onto Dupont Circle. The remainder of the site is presently zoned SP (Office-floor area ratio of 5.5, height limit of 90 feet).

4. The related zone change filed with this final application for a planned unit development, requests that the portion of the subject site presently zoned SP be changed to C-3-B.

5. This final application proposes the construction of a 12 story office building to a height of 130 feet with roof structures extending above that level, with retail space on the first floor and part of the first cellar, and parking at four below-grade levels.

6. The gross floor area of the proposed building would be 301,433 square feet. Approximately 82,000 square feet of the total would be from a transfer from the Columbia Historical Society.

7. The most significant feature of this planned unit development is the proposal to transfer unused density from an existing building on the site, the Christian Heurich Mansion owned by the Columbia Historical Society, to the proposed 12 story office building to be built in the center of the site. The applicant has contracted to purchase said 82,000 square feet of unused development rights to be used in the construction of the proposed building.

8. The Columbia Historical Society property currently contains 15,695 square feet of gross floor area (approximately a floor area ratio of 0.9) in the Heurich Mansion and Carriage House. Under the present SP zoning a total of 95,590 square feet could be developed on the Society's property. If the requested zone change to C-3-B is granted, a total of 112,870 square feet could be developed by the Society. The property owned by the Society would thus have an unused development potential of approximately 97,175 square feet.

9. The subject site is located in the Dupont Circle section of the District. Within the site two new structures, the Euram and Sunderland Buildings, have been constructed within the recent past. Other buildings adjacent to Dupont Circle and the site have been recently completed. This construction has included office buildings and apartment houses. The general area is of a mixed character, including large amounts of residential space as well as retail and employment facilities. One of the most important visual aspects of the area adjacent to the site is Dupont Circle itself. Five streets lead into the Circle from ten different directions. These streets break into the facade of the Circle. There are presently eleven building facades facing on the Circle. Of these, seven are approximately 40 feet or less in height, while the remaining four are approximately 90 feet or greater in height.

10. Immediately across 19th Street from the subject site is the Dupont Circle Building, an office building constructed prior to 1958, which rises to 130 feet and exceeds the maximum allowable FAR in the C-3-B zone district. The site is and will be accessible by mass transit. Numerous metro bus routes use Connecticut Avenue, Massachusetts Avenue, P Street, 19th Street, and 20th Street. The Dupont Circle station of the Rockville Metro route will be constructed to serve the area containing the site. The entrance to the south end of the station will be located on the east side of 19th Street immediately across the street from the site.

11. Existing zoning in the area is a combination of high density districts, including C-3-B, SP, and C-2-B. As aforesaid, the east side of 19th Street immediately across from the site is zoned C-3-B, but developed with a building approximately conforming to specifications of the C-4 zone district. The northwest side of New Hampshire Avenue is zoned C-3-B. The third side of the site is bordered by SP zoning. The C-3-B zone district currently extends approximately three-quarters of the way around Dupont Circle.

12. The Zoning Advisory Council concluded, and the Commission finds, that the proposal as presented does not reflect any substantial change from the preliminary application and that the design of the new building is in conformance with the Zoning Commission preliminary approval contained in Zoning Commission Order No. 81 (TR II pg. 8).

13. The Zoning Advisory Council concluded, and the Commission finds, that a modification allowing vehicular access relocated from New Hampshire Avenue to 19th Street would not adversely affect pedestrian circulation (TR II pg. 8). The Zoning Advisory Council recommended that no transfer of development rights from the site currently occupied by the Sunderland Building should be allowed.

14. The Zoning Advisory Council concurred in the staff report and recommended that the specific conditions therein, as hereinafter discussed, should be contained in the approval of the said planned unit development. The Zoning Advisory Council concluded, and the Commission finds, that this application for final approval of the planned unit development and for change of zoning from SP to C-3-B is in harmony with the intent and purposes of the Zoning Regulations and Map (TR II pp. 8-9).

15. The Office of Planning and Management concluded, and the Commission finds, that the final application is in conformance with the guidelines and standards set out by the Zoning Commission in Order No. 81 granting preliminary approval of the planned unit development, the proposed building is consistent with the intent and purposes of the Zoning Regulations and Map, the proposal is consistent with Section 7501 of the Zoning Regulations and the scale and architectural design is compatible with development in the surrounding area (TR II pp. 12-13).

16. The Office of Planning and Management concluded, and the Commission finds, that no transfer of development rights from the site currently occupied by the Sunderland Building should be allowed, since there was no mention of this proposal in the preliminary application (TR II pg. 13).

17. The Office of Planning and Management recommended approval of the zone change from SP to C-3-B and approval of the final application for a planned unit development subject to the conditions specified in Order No. 81 and certain conditions set forth in the staff report (exhibit 2, public hearing of October 2, 1974).

18. The National Trust for Historic Preservation recommended approval of the planned unit development which would allow the transfer of development rights from the Heurich Mansion, assuring preservations of its historic and architectural significance (TR II pg. 16).

19. The applicant asked that the application be amended to delete the request for transfer of development rights from the Sunderland Building, and the request was accepted by the Commission (TR II pg. 18).

20. The exclusive record in the prior hearing on the preliminary application was incorporated in its entirety by reference into the record of the hearing on the final application (TR II pg. 37).

21. The Columbia Historical Society is in need of financial assistance to continue to operate and preserve the Heurich Mansion and surrounding property. (TR I pp. 212-213).

The increased costs of maintenance and upkeep as well as necessary repairs have made it increasingly difficult for the Society to justify from an economic standpoint the retention of the building (TR I pp. 71, 122, 169, 201, 202, 205, 212, 213, 215). Although the Society is not in financial debt at this time, additional funds are necessary to cover the costs of needed maintenance and repairs which will be required if the building and grounds are to continue to operate and be open to the public (TR II pg. 34).

22. The proposed sale of the development rights for the property owned by the Columbia Historical Society is necessary in order to raise the funds required to enable the Society to continue to maintain the historic mansion and surrounding property. The transfer of development rights concept is a recognized means of preserving urban landmarks (TR II pp. 15-16). Sale of the development rights by the Columbia Historical Society will assure preservation of the Heurich Mansion and its surrounding property (TR II pp. 16, 26, 28, 50, 52), (TR I pp. 36-37, 71, 101, 131, 147, 439). The sale of development rights will assure the preservation of the Heurich Mansion for two reasons: (1) it will provide the necessary funds to operate and repair the property and (2) it will reduce the economic feasibility of ever selling the property because the development on said property will be permanently reduced to that permitted under the existing zoning minus the development rights sold to the Dupont Circle Joint Venture (TR I pg. 91). Historic preservation ordinances are limited in their ability to preserve historic landmarks because of constitutional restrictions on the taking of property (TR I pp. 36-37, 153-155). The transfer of development rights is an effective means of preserving the Heurich Mansion as an historic landmark (TR I pg. 147), (TR II pg. 16).

23. The proposed building will enhance the working environment in the Dupont Circle area. The new zoning will no longer restrict office uses to nonprofit organizations and/or professionals (TR II pg. 7). The construction of an office building whose design and appearance is compatible with existing buildings is consistent with the needs and desires of the abutting property owners (TR II pp. 25-26, 38). The proposed building will provide a shop lined two story arcade through the building (TR II pg. 28). The building will provide a concentration of employment

and retail space in close proximity to a Metro station and other employment areas and will therefore encourage the use of mass transit (TR I pp. 234-235, 304). The building's design provides for a 90 foot set back from Sunderland Place, open space, the preservation of the Heurich Mansion and will be free standing thereby providing an attractive facade on all four sides and the maximum window area for light, air, and views (TR I pp. 233-234, 275), (TR II pp. 19, 27-28).

24. The proposed building will enhance the neighborhood. The overall density in the square will be below that which is permitted by right under existing zoning (TR II pg. 21). The scale and architectural design of the building is compatible with the development in the surrounding area (TR II pg. 13). The new building will promote better land utilization by replacing an open parking lot which is the source of visual, noise, and air pollution with a new building which complements the balance of the square (TR II pg. 21, (TR I pp. 240, 303, 233)).

25. The architecture and design of the new building will provide open space and will be in harmony with the other buildings in the block (TR I pp. 233-234, 275), (TR II pg. 27). The new building will provide for the preservation of an historic landmark and a garden and open space which will greatly enhance the neighborhood (TR II pp. 27-28). The building will also provide an arcade with shops which will encourage pedestrian activity in the evening close to a Metro stop and promote the safety of those persons going to and from Metro (TR I pg. 235). There will be an interesting paving and planting of the arcaded area which will provide a pleasant walk way through the building to Metro (TR I pg. 278).

26. In the proposed building, cars will be parked in an underground garage properly ventilated with filtered air exhausted to the outside and noise problems eliminated (TR I pg. 276). The use of all electric heating-cooling systems will eliminate the use of burners and burning fuels, such as oil (TR I pp. 277, 283).

27. The new building provides for a direct pedestrian connection across 19th Street at street level to the Dupont Circle Metro Station. 19th Street is only 31 feet in width

and is a well controlled cross way. It is neither necessary nor desirable to provide an elevated cross walk to the Metro station as this would require pedestrians to ascend or descend stairs at either side of the road way (TR I pp. 278, 64).

28. There is no maximum limitation on the number of parking spaces under the Zoning Regulations. Property owners may as a matter of right provide any number of parking spaces in excess of the legal minimum. In this case, the applicant originally proposed 445 parking spaces well above the legal requirement and permitted under the Zoning Regulations (TR I pg. 276).

29. Under any Article 75 PUD, the Zoning Commission has the authority to specify the number of parking spaces and because of the proximity to Metro, in this case required, the reduction of parking spaces to 160 which is the number proposed in this final application (TR II pg. 41). In terms of the number of parking spaces, the 160 spaces now proposed is approximately 40 less than the number of spaces now existing on the surface parking lot on the property. By providing fewer spaces, there will be no increase in the traffic flow (TR II pg. 41).

30. Lelia J. Smith, representing Don't Tear It Down, Inc., supported the application stating that this means of development would save a structure of landmark quality and would not necessarily detract from the immediately adjacent area.

31. Mr. Nicholas J. Addams, representing the Dupont Circle Citizens Association, a party in opposition to this application, stated that the Association "would not participate in a hearing on the design of a building which we feel under the law should not be constructed in the first place" (TR. 5).

32. There was opposition to the final application for a planned unit development and related zone change from Harriett B. Hubbard and Catherine McCarron (TR. 54-72).

CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means of controlling the development of the subject site.

2. The additional floor area ratio, created pursuant to the Zoning Regulations when property is included in a planned unit development, can legally be allocated to any property in the planned unit development.

3. This final application is appropriate, taking the present character of the area into consideration, because it would encourage stability of the area and the land values therein.

4. The approval of this final application is in harmony with the intent, purpose and integrity of the comprehensive zone plan of the District of Columbia as embodied in the Zoning Regulations and Map.

5. The final approval of this preliminary application for a planned unit development is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938, 52 Stat. 797), as amended.

6. The approval of the related zone change from SP to C-3-B would not adversely affect the character and use of adjacent or neighboring districts.

7. The approval of the zone change from SP to C-3-B is in harmony with the intent, purpose and integrity of the comprehensive zoning plan as embodied in the Zoning Regulations and Map.

DECISION

While the proposed FAR of the new building to be built in the middle of the site was 7.0, the effective FAR of the proposed building due to a concentration of density would have been 9.79. By reducing the overall FAR of the site to 6.5, the effective FAR of the proposed building is reduced to 8.9. The lessening of height and bulk of the proposed building will decrease its visual impact on the immediately adjacent historic landmark, the Heurich Mansion, and will provide a less abrupt height and bulk differential between the new building and buildings in the immediate area including the Euram and Sunderland Buildings.

Upon consideration of the findings of fact and conclusions of law herein, the Zoning Commission ORDERS APPROVAL of said final application for a planned unit development and related zone change, subject to the elements, conditions, and guidelines hereinafter set forth:

1. Change from SP to C-3-B, lots 79, 81, 822, 39-47, 50-56, in Square 115, bounded by New Hampshire Avenue, Sunderland Pl., and 19th Street, N.W.
2. The property shall be developed with no more than five separate buildings. The existing Euram and Sunderland Buildings shall not be increased or decreased in terms of gross floor area, provided that certain minor modifications may be made to the Sunderland Building, as shown on Exhibit 7 A, B, C & D of the public hearing.
3. The existing Heurich Mansion, Carriage House and garden shall be preserved. Additional construction on that site for a library and/or auditorium, not to exceed a total of 15,275 square feet of gross floor area, may be approved, but only if the property owner applies to the Zoning Commission for an amendment to the approved Planned Unit Development.
4. The overall FAR for the entire Planned Unit Development shall not exceed 6.5.
5. The new building shall include 82,000 square feet of gross floor area transferred from the Columbia Historical Society property.
6. The new building shall not exceed 130 feet in height. Any roof structures in the excess of that limit, as normally permitted by the Regulations, shall not exceed 17 feet in height.

7. The new building shall be devoted to any uses permitted in the C-3-B district, provided that the ground floor and one half of the first cellar shall be devoted to retail commercial uses, provided further that such retail uses shall not include banks.
8. Parking shall be provided at the rate of one space per 2,000 square feet of gross floor area.
9. A convenient and secure parking area for 25 bicycles shall be provided on the ground level or first cellar level.
10. Vehicular access to the new building shall be from 19th Street, N.W., and shall be restricted to one point.
11. The final design shall contain a pedestrian passage through or around the new building from New Hampshire Avenue to 19th Street. The area of such pedestrian passage will not be included in the calculation of FAR permitted on the site. Such passage shall be fronted on by and contain entrances to the retail establishments referred to in item no. 7 above.
12. The landscaping of said Planned Unit Development shall be as set forth on Sheet No. A-2, dated May 15, 1974, and the accompanying schedule of planting as submitted by the applicant.
13. All provisions contained in the Proposed Conditions Relating to Preservation of Christian Heurich Memorial Mansion, Carriage House and Grounds, annexed hereto as Attachment Number I, are by this reference made part of this final approval of the Planned Unit Development. Said conditions for preservation shall run with the land.

14. The final design of the building shall be based primarily on the plans submitted with this final application and designated as follows:

Titled: Proposed Twelve Story Office Building
1333 New Hampshire Avenue, N.W.
Washington, D. C.
Architect: Vlastimil Koubek, AIA
Sheets dated May 15, 1974, A-1 through A-12

15. Approval of the application by this Commission and Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.
16. The change of zoning shall not be effective until the recordation of the covenant required by subsection 7501.2 to include conditions for the preservation of the Heurich Mansion and Carriage House and completion of the Planned Unit Development process.
17. The applicants shall submit the stages and schedule of development with the application for further processing before the Board of Zoning Adjustment.

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STERLING TUCKER

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ATTEST:

Martin Klauber
Martin Klauber
Executive Secretary