GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION ORDER NO. 912A
Z.C. Case No. 98-20A
Minor Modification to the Planned Unit Development
for Walter E. Washington Estates
June 13, 2005

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on June 13, 2005. At the meeting, the Zoning Commission approved an application from Cemi-Ridgecrest, Inc. (the "Applicant") for a minor modification to an approved planned unit development (PUD") for a 9.6-acre parcel near 9th and Bellevue Streets and Southern Avenue, S.E. (Square 6159, Lot 125), pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. Because the modifications were deemed to be minor, a public hearing was not conducted. The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

PROCEDURAL HISTORY

By Zoning Commission Order Nos. 829 (dated August 4, 1997) and 912 (dated October 18, 1999), the Commission approved a PUD authorizing construction of the Walter E. Washington Estates, a community redevelopment in the Washington Highlands neighborhood comprising a total of 141 townhouses, an apartment building for seniors, a clubhouse, and a Community Center. The Community Center is authorized, under Order No. 829 to accommodate, among other uses, a child development center and an after-school program, subject to certain conditions as to the number and ages of participating children. The PUD site is zoned R-5-A.

Two previous minor modifications to this PUD, and one modification after public hearing, have been granted. The first minor modification was for site plan changes to create more green space in rear yards (Order No. 829A) and the second was to allow construction of the senior building in place of 11 approved townhouses (Order No. 829B).

A modification that required a public hearing (Zoning Commission Case No. 98-20M/97-3C, Order No. 912) authorized the Applicant to expand the PUD site to include two additional lots that the Applicant had acquired subsequent to the original PUD. Order No. 912 approved plan changes to (1) relocate the Community Center to the 9th Street frontage of the enlarged PUD site and (2) construct 11 townhouses on the former Community Center site. The Community Center was also enlarged to accommodate anticipated demand for space for community service organizations. The design was also

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modified in response to the opportunity presented by the larger site. The residential buildings in the PUD have been constructed and occupied for several years as of the date of this Order.

FINDINGS OF FACT

The application submitted on June 1, 2005 presented factual evidence and addressed the proposed expansion in number of children pursuant to the criteria for approval of a child development center in 11 DCMR § 205.

The Community Center is under construction and occupancy is projected for September 2005. The Center will offer job training, continuing education, child care, and public space for the community. It will house three tenants: the Darrell Green Youth Life Foundation, the Walter E. Washington Computer Learning Center, and the Nation's Capital Child and Family Development child development center and after-school programs. The childcare facilities were approved in Order No. 829 to be located on the lower level and second level of the building. In the instant minor modification, the requested changes relate only to the child development center and the after-school program.

First PUD Modification. The first requested modification is an increase in the maximum number of children allowed in the child development center and a change to the allowed age range of the children. The approved uses in the Center were not modified by Order No. 912 and continue to be governed by Decision Condition No. 6 in the original Order, No. 829, as follows:

> *6. The Community Center shall include uses generally consistent with the following:*
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> *a. A day care center which shall operate from approximately 7 a.m. through 7 p.m. Monday through Friday, for a total of approximately 35 children from the ages of six months to five years. Although PUD residents will be given first priority, other area residents will be eligible for space. The Center shall meet all regulations and standards required for the operation of such a facility.*
>
> *b. After school care for approximately 8 children, ages six through fourteen. The hours of operation of this program shall be from approximately 3 p.m. to 7 p.m., Monday through Friday.*
>
> (Conditions c, d, and e are not related to the substance of this minor modification.)

The Applicant's first request is to allow fifty-nine (59) children to be served by the day care center, rather than thirty-five (35) children as approved in Condition 6a. The Applicant also requests that ages six (6) weeks to five (5) years be allowed as the age range of the children, rather than six (6) months to five (5) years. The Applicant stated

that the need for day care facilities in this part of Ward 8 is high, as indicated by officials at the Department of Health to the Applicant's day care provider. The operator of the facility, the Nation's Capital Child and Family Development ("NCCFD"), is the largest day care provider in the city, and advised the Applicant of the need. Demand to accommodate additional children at that center and others east of the Anacostia River is strong.

The child care center will occupy the lower level of the Community Center building. According to licensing standards, the space available for childcare can accommodate 59 children, pursuant to 29 DCMR § 328.3.

Second PUD Modification. Condition 6b of Order No. 829 approved an after-school care program for "six children, ages six through fourteen," with hours of operation from 3 p.m. to 7 p.m. Monday through Friday. In this minor modification, the Applicant requests approval for thirty-three (33) children rather than eight (8) children as originally approved to be in the after school care program This program will be located on the second level in the Community Center. The Applicant also requests that the age range for the children be changed from six (6) to fourteen (14) years as approved in Order No. 829 to four (4) to twelve (12) years of age.

The application stated that increasing the number of children allowed to participate in the after-school care program will better utilize the resources available at the facility, will provide extended activities to more children and will provide more jobs to the neighborhood. Its broadened reach will better serve the community at large and have a positive impact on both participants and residents. Pursuant to 29 DCMR § 328.3, up to 33 children can be accommodated in the space allocated to the after-school program.

The application addressed the criteria for approval of the proposed expansion in participants using the criteria for approving a Child Development Center under § 205 of the Zoning Regulations. In summary, the rationale for approval presented by the Applicant is as follows:

The use is allowed as a special exception in the R-5-A District.

The Applicant's day care provider has had preliminary consultations with licensing regarding compliance with licensing standards. The application also included documentation of compliance with child development center standards in DCMR 29, including in particular the requirement of thirty-five (35) square feet of floor area per child.

There is little likelihood of adverse effects on neighboring property for several reasons. This child care center was designed to serve the new Walter E. Washington Estates community, and the Community Center was evaluated and approved as an integral part of the PUD.

It is projected that approximately seventy-five percent (75%) of the parents will live within walking distance and will walk the children to the site. Approximately fifteen

percent (15%) will use public transit and ten percent (10%) will drive. This is based on the experience of the Johenning child care center at 4025 9th Street, S.E., approximately one block away, which is run by the day care provider in this case. For parents who drive, the Center has thirty-four (34) parking spaces that parents can use while walking their children into the Center. Finally, drop-offs will occur over the time period from 7:00 to 9:30 a.m. and pick-ups will occur over a three-hour period from 3:00 to 6:00 p.m. Accordingly, automobile congestion is unlikely.

Finally, as shown on the Site Plan submitted by the Applicant, the driveway accessing the parking area is directly off of 9th Street, S.E., so that cars will not need to pass by any residences to reach the parking area and Community Center.

The thirty-four (34) parking spaces dedicated to the Community Center will be ample for the child care and after-school programs in combination with the other two organizations that will use the building.

The play area is immediately adjacent to the Community Center building, so that the children will not need to cross a street or alley to use it. The tennis court is immediately adjacent to the play area and will also serve as recreation space.

There is no other child development center within the same square. There is one within 1,000 feet, and there will be no cumulative adverse effect on the neighborhood because both centers serve families in the immediate neighborhood.

There was no opposition to the proposed minor modification. Advisory Neighborhood Commission 8E was served by the Applicant with the requested modification, but did not submit a written report. The Office of Planning ("OP") was not requested to and did not submit a written report to the Commission.

On June 13, 2005, at its regular monthly meeting, the Zoning Commission reviewed the Application as a Consent Calendar matter and granted approval of the minor modification to the approved PUD. The Zoning Commission concurs with the Applicant that approving the modification is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

CONCLUSIONS OF LAW

Upon consideration of the record in this Application, the Zoning Commission finds that the proposed modification is minor and consistent with the intent of the previously approved Zoning Commission Order No. 829. Further, the Commission concludes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the proposed modification will enable the Community Center and child care services therein to serve more children and families in the immediate vicinity.

The modification is sufficiently minor that consideration as a Consent Calendar item without a public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the Application for a minor modification of an approved PUD. Conditions Numbered 6a and 6b of Order No. 829 are hereby revised to read as follows:

"6. The Community Center shall include uses generally consistent with the following:

"a. A day care center which shall operate from approximately 7 a.m. through 7 p.m. Monday through Friday, for a total of approximately fifty-nine (59) children from the ages of six (6) weeks to five (5) years. Although PUD residents will be given first priority, other area residents will be eligible for space. The Center shall meet all regulations and standards required for the operation of such a facility.

"b. After school care for approximately thirty-three (33) children, ages four (4) through twelve (12). The hours of operation of this program shall be from approximately 3 p.m. to 7 p.m., Monday through Friday."

This Order was **ADOPTED** by the Zoning Commission at its public meeting on June 13, 2005, by a vote of 5-0-0 (John G. Parsons, Gregory N. Jeffries, Carol J. Mitten, Anthony Hood, and Kevin L. Hildebrand to adopt).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the D.C. Register; that is, on AUG 12 2005.

CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

Government of the District of Columbia

OFFICE OF ZONING

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As Secretary to the Commission, I herby certify that on AUG 05 2005 copies of this Z.C. Order No. 912A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Cynthia Giordano, Esq.
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5. Councilmember Marion Barry
6. Office of Planning (Ellen McCarthy)
7. Ken Laden, DDOT
8. Zoning Administrator
9. Office of the Attorney General (Alan Bergstein)

ATTESTED BY: Sharon S. Schellin

Sharon S. Schellin
Acting Secretary to the Zoning Commission
Office of Zoning