

Government of the District of Columbia
ZONING COMMISSION



April 15, 2003

Patricia E. Gallagher, AICP
Executive Director
National Capital Planning Commission
401 9th Street, N.W., Suite 500
Washington, D.C. 20576

Re: Z.C. Case No. 02-17C

Dear Ms. Gallagher:

At its regular public meeting held on April 15, 2003 the Zoning Commission for the District of Columbia took proposed action to approve the following case:

Case No. Z.C. Case No 02-17C (5401 Western Avenue, N.W.)

The proposed decision of the Commission to approve the above-mentioned case is referred to the National Capital Planning Commission (NCPC) for review and comments pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code Section 1-201 et seq.

The Zoning Commission plans to take final action on this application at its April 14, 2003, public meeting. Please provide your comments before May 12, 2003. If you have any questions, contact Alberto P. Bastida at the Office of Zoning on (202) 727-0330.

Sincerely,

A handwritten signature in black ink that reads "Alberto P. Bastida".

Alberto P. Bastida, AICP
Secretary to the Zoning Commission

Attachment

cc: David A. Zaidain

ZONING COMMISSION
District of Columbia
Case 02-17
EXHIBIT 229

ZONING COMMISSION
District of Columbia
CASE NO.02-17
EXHIBIT NO.229

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 the Applications for consolidated review of a Planned Unit Development for Square 1663, Lots 805 and a portion of Lot 7 and for a Zoning Map amendment from R-5-B to R-5-C for the Washington Clinic property located in Square 1663, Lot 805. This approval is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans prepared by Shalom Baranes and Associates, dated October 25, 2002, as supplemented by drawings dated December 5, 2002, and January 6, 2003, marked as Exhibits 79, 79A, 175, and 212 respectively in the record, (the "Plans") as modified by the guidelines, conditions and standards herein.
2. The PUD shall be a residential building, consisting of approximately 182,000 square feet of gross floor area, with no more than 125 units. The Project shall not exceed a density of 4.15 FAR based exclusively on the site area of the Washington Clinic Land. The building shall not exceed a height of 78.75 feet, as measured in accordance with the Zoning Regulations. The Project may include a roof structure with a height not to exceed eighteen feet, six inches as indicated in the Plans and in accordance with the Zoning Regulations.
3. The Applicant shall provide affordable housing as described in Exhibit 223 in the record. To the extent that minor modifications need to be made in the execution of this program to conform to District or Federal housing programs, the Applicant shall work with the Department of Housing and Community Development to make such changes to comply with the same.
4. The Applicant shall include a day care center for a maximum of 44 children. The Applicant will provide the Day Care Center space to the selected operator by a lease for fifty years with a rent not to exceed \$1.00 annually. The Day Care Center shall be constructed on the Lisner Land, in accordance with the architectural plans and drawings referenced in Condition No. 1. The Day Care Center shall have a maximum gross floor area of 3,000 square feet, not to exceed 0.4 FAR exclusively on the Lisner Land.
5. The Day Care Center shall be operated so that enrollment is open to children of employees working within one-quarter mile of the Project and to children of community residents on an equal basis with the goal of achieving a 50-50 ratio between the groups. If the Day Care Center must make an organizational or other change to continue operations, the Day Care Center will continue to promote the 50-50 mix between

neighborhood children and children of employees working within one-quarter mile of the Project, with the goal of ensuring that neighborhood children participate in the Day Care Center on an equal or preferred basis with children of employees working within one-quarter mile of the Project.

6. The Project shall include a minimum number of parking spaces in the amount of 1.1 parking spaces per dwelling unit, including eight parking spaces devoted to visitor parking. Parking spaces shall be offered for sale separately from affordable dwelling units and no purchaser of an affordable dwelling unit shall be required to purchase a parking space. The eight visitor spaces may be provided on a surface lot in accordance with the Plans. The eight visitor spaces shall be free of charge to visitors. The Project shall also include four parking spaces to be devoted to employees and/or staff of the Day Care Center. The eight visitor spaces shall be reserved for use by the Day Care Center during the morning drop off period (7:30 a.m. through 9:30 a.m.) and the afternoon pick up period (4:00 p.m. through 6:00 p.m.).
7. The Project shall include one twelve foot by fifty-five foot loading berth, with a 200 square foot loading platform, and one ten foot by twenty foot service/delivery space as shown on the Plans. No deliveries to the Project shall be made during the Day Care Center's morning drop off period (7:30 a.m. through 9:30 a.m.) or the Day Care Center's afternoon pick up period (4:00 p.m. through 6:00 p.m.), so as not to interfere with the egress and ingress of parents dropping off children at the Day Care Center or with rush hour traffic.
8. If the Applicant constructs a lay-by along Military Road, as depicted in the Plans, the Applicant shall require the operator of the Day Care Center to send letters to all parents of the Day Care Center informing them that use of the lay-by for drop off of children or pick up of children at the Day Care Center is forbidden. In addition, the Applicant shall request the DDOT to place signs at the lay-by restricting its use to a five minute period.
9. The Project shall include approximately 24,700 square feet devoted to open, green space, which is readily accessible to the public and has no physical barriers to its entry, as depicted on the Plans. The open space shown on the plans shall not be fenced in or enclosed. No playground for the exclusive use of the day care center shall be permitted on site. Prohibitions on (1) enclosing the open space and (2) a playground for the exclusive use of the day care center shall be included in the declaration of condominium. The Project shall also include a pedestrian path connecting the residential area with the commercial area, as depicted on the Plans. Landscaping improvements shall be in accordance with the Plans. The Applicant or its successors shall maintain all landscaping improvements.
10. The Applicant shall retain those trees on the Site indicated on the landscaping plan as indicated on the Plans.
11. The Applicant shall include landscaping improvements as indicated on the Plans within the fifteen foot building line setback along Military Road. The Applicant or its successors shall maintain all landscaping improvements.

12. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and as approved by the Public Space Division of DDOT. The Applicant or its successors shall maintain all landscaping improvements.
13. The Applicant shall submit to the DDOT its traffic mitigation plan as set forth in the Prehearing Submission at Exhibits 33, 33A and 33B in the record. Any of the proposed traffic calming measures approved by the DDOT shall be accomplished by the Applicant or at the Applicant's expense.
14. The Project shall include a raised pedestrian crosswalk across the new curb cut and a stop sign at the entrance approach to Western Avenue shall be provided to enhance operational efficiency and safety of this driveway.
15. The Applicant shall implement a Transportation Management Plan as set forth in Finding 40(f). To the extent that modifications must be made to the Transportation Management Plan, the Applicant shall receive the approval of the DDOT to effectuate such changes. The Applicant shall include in its promotional and marketing materials a summary of the elements of the Transportation Management Plan, including the availability of car sharing services such as FlexCar. The Applicant shall give a copy of the Transportation Management Plan to each purchaser of a unit.
16. Prior to the issuance of the building permit for the residential building, the Applicant shall contribute \$75,000 to the non-profit Friends of Livingston Park for use in making improvements to the Park in the District near the Site.
17. The Applicant shall follow the Revised Construction Management Plan filed as Exhibit 212, as supplemented by Exhibit 223, of the record.
18. The Applicant shall work with the DDOT to optimize the signal light at the intersection of Western and Wisconsin Avenues. The improvements required to optimize the signal light at the intersection of Western and Wisconsin Avenues and approved by the DDOT shall be accomplished by the Applicant or at the Applicant's expense.
19. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To make minor modifications to the location and design of the Day Care Center, provided that the building is consistent with the location shown on the Plans;
 - c. To vary the number and location of parking spaces, not to decrease below the minimum of 1.1 parking spaces per unit plus four parking spaces for the Day Care Center;

- d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;
 - e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.
20. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners 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 successor in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.
 21. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.
 22. The 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, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this order.
 23. Pursuant to the Human Rights Act of 1977, D.C. Code § 1-2531 (1991), the Applicant is required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act.