

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

MEMORANDUM

TO: D.C. Zoning Commission

FROM: *AS per*
Andrew Altman, Director

SUBJECT: Zoning Commission Case No. 02- 17PUD and Order No. 02-17
Applicant Request for Approval of Modifications to Order No. 02-17
An Approved Consolidated Planned Unit Development (PUD) With Related Map
Amendment at 5401 Western Avenue, NW --Square 1663, Lot 805 and a Portion of Lot 7

DATE: March 1, 2004

ZONING COMMISSION
District of Columbia

Case 02-17
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The Office of Planning (OP) has reviewed the applicant's request, and February 27, 2004 filing, for modifications to the design of the proposed approved PUD at 5401 Western Avenue, N.W. as well as requested changes to the Zoning Commission Order for Case 02-17.

Based on OP's review of the applicant's submission, it is OP's opinion that the requested modifications to both the project's design and the language of the Order are consistent with the original project and with the recommendations in the final OP reports on this project, dated November 4 and November 7, 2002. OP recommends the Commission approve the requested modifications to the design and the order as *de minimis*, with the additional conditions that are noted below.

OP notes that ANC 3E, which had previously opposed the project before the Zoning Commission, has now voted 4-0 to approve the proposed modifications. The Friendship Heights Organization for Reasonable Development (FHORD), which had been the party in opposition to the project, and which had mounted a judicial appeal of the Zoning Commission's in the case, has now dropped its opposition and has indicated to OP that it supports the modifications.

Comparison of Approved PUD and PUD With Requested Modifications

Based on the information submitted on February 27, 2004, the proposed modifications would retain the merits of the approved PUD, while further reducing the impact of the project on the neighborhood. There would be a 9,000 square foot reduction in overall square footage, an 8-foot reduction in the penthouse height and an increase in the ratio of accessible parking spaces to residential units. None of the previously proffered benefits or amenities would be reduced, and a publicly accessible fountain would be added. There would be no change in the formula that generates the affordable housing square footage.

OP has asked the applicant to submit more detailed drawings for the eighth level and roof floor plans.
OP will review this information and will submit additional comments if needed.

TABLE: COMPARISON OF APPROVED PROJECT AND PROPOSED MODIFICATIONS

SITE R-5-B: 43,840sf R-2: 15,000sf Total: 58,840	Pro-rated R-5-B/ R- 2 M-O-R GSF	Pro-Rated R-5- B /R-2 w/ PUD	Approved PUD R-5-C w/ PUD & 5%, for Clinic; R-2 for 15K SF of Lisner Home site	Modified PUD Filed 02-27-04 R-5-C w/PUD & Lesser User of 5%, for Clinic; R-2 for 15K SF of Lisner Home site
FAR	R-5-B: 1.8 R-2: n/a	R-5-B: 3.0 R-2: .4	4.15 for the residential building on the Clinic land only; 0.4 FAR on the Lisner land only. Includes 5% bonus Approximate average of 3.14	3.95 for the residential building on the Clinic land only; table shows 0.2 FAR shown on the Lisner land only, but plans are unchanged so may remain same @ .4. 5% bonus dropped Approximate average of 3.04
Lot Occ.	R-5-B: 60% R-2: 40%	60%	45%. (53% on R-5-C Clinic site; 20% on R-2 Lisner)	No change
Building Height	50'	60'	78.75 feet (includes 5% bonus)	No change
Roof Structure	18' 6"	18'6"	18' 6"	10'. Although penthouse footprint is larger, it is below the .37 M-O-R FAR
GSF	<u>R-5-B:</u> 78,912 sf <u>R-2:</u> 5 du	R-5-B: 131,520sf R-2: 6,000 sf	185,000 (182,000 residential in R-5-C; & 3,000 daycare in R-2)	176,000 (173,00 residential in R-5-C, & 3,000 daycare in R-2)
#du. @, say, 900 SF/each (15% common area typical)	<u>R-5-B:</u> 80 apts. <u>R-2:</u> 5 houses <u>Total:</u> 85	R-5-B: 131 apts. R-2: 3 single-family @ approx. 2,000 each Total: 134	125 This is the maximum number of permitted units.	No change. Overall size reduction may result in fewer than 125 units being constructed; this is permitted by existing Order.
Parking	1 space/2du	1 space/ 2du	1.1: 1 <u>apparent</u> , including employee & day care parking, plus 8 free visitor parking spaces above-ground. Actual ratio of du's to spaces is closer to 1:1	<i>Ratio of du's to spaces is now actually 1:1.1</i> Retains same foot print on two underground levels, but now specified @ 1.1 <i>accessible</i> spaces per du unit, plus 4 underground spaces for day care center, plus the previous commitment to 8 free visitor spaces.
Access Points			2 vehicular and a secondary lobby entrance on Western; lay-by and principal lobby on Military	No. change
Rear Yard			26.25' required for residential; at least 60' proposed 20' required for Children's Ctr.; at least 20' proposed	No change
Side Yard			None Required for residential; 8 ft. required for Child Ctr; 8' and 27'9" proposed	No change.
Court			19.69 required; at least 26' proposed	20'
Loading			1@ 55'; 1@ 20'	No change.
Uses	No retail	No retail	Residential only, daycare external	No change.
Affordable Housing	Not required	Not required	5% of bonus sf devoted to 80% a.m.i. housing, i.e., 4-6 units	No change in formula. <i>Smaller building means 5 units of 900 sf likely</i>
Other Notable Amenities/ Public Benefits			Day Care Center; \$ 75K to Chevy Chase Park; Pedestrian Path / 20K sf landscaping ; Tree Preservation; Traffic Mitigation; Flex Car, Safety Improvements; More parking than zoning, and market, requires, including some Free Visitor Parking	<i>All of previous, plus: more parking; external residential parking restrictions on condo occupants; lowered penthouse; ,more contextual design; more monitoring of excavation and (if needed) blasting; fountain in open space</i>

Recommendation

Based on review of documents filed for the requested Modification, and on discussion between OP and the applicant, OP recommends the Modification be approved as *de minimis*, with the following revisions to Zoning Commission Order No. 02-17. The changes to the approved Order that have been proposed by the applicant are underlined. The additional changes recommended OP are noted in **SMALL CAPS**.

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 dated February 27, 2004, marked as Exhibit No. ___ of the record, with the day care center developed in accordance with the plans dated December 5, 2002, and January 6, 2003, marked as Exhibits 175, and 212 of the record (the "Plans), as modified by the guidelines, conditions and standards herein.
2. The PUD shall be a residential building, consisting of approximately 173,000square feet of gross floor area, with no more than 125 units. The Project shall not exceed a density of 3.95 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 ten (10) feet, as indicated in the Plans and in accordance with the Zoning Regulations applicable to roof structures and mechanical penthouses. **THE DESIGN OF THE ROOF STRUCTURE SHALL NOT ENABLE THE INCLUSION OF OCCUPIABLE SPACE NOT OTHERWISE PERMITTED BY 11DCMR §411.**
3. The Applicant shall provide affordable housing as described in Exhibit 223. **THE AFFORDABLE HOUSING SHALL BE CONSTRUCTED ON-SITE AND SHALL COMPRISE NO LESS THAN 5% OF THE ADDITIONAL GROSS SQUARE FOOTAGE PERMITTED THIS PROJECT BY ITS APPROVAL AS A PLANNED UNIT DEVELOPMENT UNDER THIS ORDER.** To the extent that minor modifications are needed in the execution of this program to conform to District or Federal housing programs, the Applicant shall work with the DHCD to make such changes to comply with the same.
4. The Applicant shall include a Day Care Center for a maximum total enrollment of forty-four (44) children, and the Applicant shall provide the Day Care Center space to the selected operator by a lease for fifty (50) 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 provide (i) at least 1.1 accessible parking spaces per dwelling unit, although additional tandem spaces for residents may be provided in the garage; plus (ii) four (4) parking spaces to be devoted to employees and/or staff of the Day Care Center; and (iii) eight (8) visitor parking spaces provided in a surface lot in accordance with the Plans and adjacent to the Day Care Center. These eight (8) visitor spaces shall be free of charge to visitors, 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.), and shall be available for visitor/non-resident parking at all other times. 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.
7. As a condition for purchasing a condominium interest in the Project or for entering into a lease to occupy a unit in the Project, each owner or renter shall agree not to seek or obtain a residential street parking permit so long as the owner or renter resides at the Project. Each condominium owner and tenant who will reside in a unit in the Project shall disclose to the condominium board (or developer), prior to purchasing a unit or signing a lease, information about his or her automobile ownership/leasing and the automobile ownership/leasing of any others who will reside in the unit. Each condominium owner or tenant shall be given a parking license agreement with the condominium association or developer pursuant to which the owner or tenant can license one or more parking spaces subject to the availability of such spaces. If sufficient parking spaces are not available, the requirements of the first sentence of this Condition No. 7 shall still apply in full force and effect. The owner or renter may waive his or her right to license a space if no tenant of the unit owns an automobile. The parking license agreement may assign one or more specific parking spaces per unit and shall set forth the terms and conditions of the parking requirements of the PUD, as modified. In the event that a unit is rented and the unit is subject to a parking license agreement, the lease shall state (i) that there is a particular parking space assigned to the unit, (ii) that the lease is subject to compliance with the parking license agreement, and (iii) that the monthly parking fee for the space is as stated. If, following the sale of all condominium units, there are parking spaces in the garage which have not been assigned pursuant to parking license agreements, the developer or condominium board will use commercially reasonable efforts to encourage the lease or sale of those surplus spaces. In the event subsequent owners or renters who reside in a unit own automobiles in excess of available parking spaces available under parking license agreements, the first sentence of this Condition No. 7 shall still apply.
- ~~7.8.~~ The Project shall include one 12-foot by 55-foot loading berth, with a 200-square-foot loading platform, and one 10-foot by 20-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.

- ~~8.9.~~ 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 (5) minute period.
- ~~9.10.~~ The Project shall include approximately 24,700 square feet devoted to open, green space that 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 the Site. Prohibitions against enclosing the open space and 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, **AND SHALL INCLUDE A FOUNTAIN OR WATER FEATURE ACCESSIBLE TO THE PUBLIC.** The Applicant or its successors shall maintain all landscaping improvements in good condition.
- ~~10.11.~~ The Applicant shall retain those trees on the Site indicated on the landscaping plan as indicated on the Plans.
- ~~11.12.~~ The Applicant shall include landscaping improvements as indicated on the Plans within the 15-foot building line setback along Military Road. The Applicant or its successors shall maintain all landscaping improvements in good condition.
- ~~12.13.~~ 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.
- ~~13.14.~~ The Applicant shall submit to the DDOT its traffic mitigation plan as set forth in the Prehearing Submission at Exhibits 33, 33A and 33B. Any of the proposed traffic calming measures approved by the DDOT shall be accomplished by the Applicant or at the Applicant's expense.
- ~~14.15.~~ The Project shall include a raised pedestrian crosswalk across the new curb cut and shall provide a stop sign at the entrance approach to Western Avenue to enhance operational efficiency and safety of this driveway.
- ~~15.16.~~ The Applicant shall implement a Transportation Management Plan. To the extent that modifications must be made to the Transportation Management Plan, the Applicant shall obtain 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 in the Project.
- ~~16.17.~~ Prior to the issuance of the building permit for the Project's residential building, the Applicant shall contribute \$75,000 to the non-profit Friends of Chevy Chase Park for use in making improvements to Chevy Chase Park.

17-18. The Revised Construction Management Plan filed as Exhibit 212, as supplemented by Exhibit 223, shall be amended to include the following conditions:

(a) The Applicant shall contract for construction monitoring services during the course of sheeting/shoring, dewatering, excavation, installation of building foundations and below-grade walls. Additionally, the Applicant shall monitor vibrations during its operations and implement a program to evaluate the structural settlement of Surveyed Homes to assure that potentially damaging impacts do not extend to adjacent residential properties. Driving of piles shall be prohibited.

(b) Additionally, prior to the commencement of any blasting at the site, the Applicant shall have the firm selected to perform the Pre-Construction Surveys perform front-line vibration monitoring by placing vibration monitors on the ground adjacent to the closest structure within the 150-foot monitoring radius, in-line with the blast area, and also at 4228 Military Road, N.W. and at 4211 Military Road, N.W. Monitoring shall be observed in real time and, to the extent warranted, immediate action will be taken to avoid damage to these and other nearby homes.

(c) At least 24 hours prior to any blasting operations on any part of the site, and with as much prior notice as is practicable, the Applicant shall deliver written notice to the following 17 addresses:

5343 43rd Street, N.W.
5347 43rd Street, N.W.
5358 43rd Street, N.W.
5360 43rd Street, N.W.
5362 43rd Street, N.W.
5364 43rd Street, N.W.
5366 43rd Street, N.W.
5368 43rd Street, N.W.
4205 Military Road, N.W.
4208 Military Road, N.W.
4211 Military Road, N.W.
4224 Military Road, N.W.
4228 Military Road, N.W.
5360 42nd Place, N.W.
5358 42nd Place, N.W.
5354 42nd Place, N.W.
5339 42nd Place, N.W.

18-19. 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 as determined by DDOT.

19-20. 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 ACCESSIBLE parking spaces per unit plus four (4) parking spaces for the Day Care Center AND EIGHT (8) ADDITIONAL VISITOR PARKING SPACES;
- 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; and
- 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.

~~20-21.~~ No building permit shall be issued for this PUD, nor shall the PUD-related Zoning Map Amendment take effect, 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 successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

~~21-22.~~ 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.

~~22-23.~~ The PUD approved by the Zoning Commission shall be valid for a period of two (2) 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 (3) years of the effective date of this order.

24. 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.

MEMORANDUM

Date: January 12, 2004 (UPDATED 1/20)

To: Julie Wagner, Ellen McCarthy, Steve Cochran, Charlie Richman, Anita Hairston

From: Barry Miller

Re: Method for mapping the “gap” between zoning and Comp Plan land use designations

Per our meeting last Wednesday, I’ve developed this memo to lay out an approach to comparing zoning densities to Comp Plan densities—and then comparing existing development to “potential” development in a few test areas. This exercise will help guide density bonus discussions related to Inclusionary Zoning.

There are three major steps in this analysis:

- ✓ Refine (and reprint) the draft map of Zoning/Comp Plan inconsistencies
- ✓ Prepare a new map showing areas where zoning is below the maximum density allowed by the Comp Plan
- ✓ Do a more focused analysis of one or more test areas (as identified by DC Agenda) to compare actual land uses with what is allowed by the Comp Plan and zoning.

STEP ONE: REFINE MAP OF ZONING/COMP PLAN INCONSISTENCIES

This will require the following:

- Barry adjusts the Comp Plan/Zoning correspondence table to filter out anomalies (e.g, R-5-A should be shown as compatible with Institutions). *DONE*
- Charlie redoes the ArcView map using the updated Comp Plan Layer and revised correspondence table. *IN PROGRESS*
- Anita (and Barry) review the new map to further refine as needed. Reprint map when done.
- Filter out additional anomalies manually and reprint map (Anita)

The map will continue to show areas as either “not consistent,” “potentially consistent” and “consistent.”

Timeframe: Complete by 1/30

STEP TWO: PREPARE MAP OF “UNDERZONED” LAND

This will require the following:

- Develop a correspondence table identifying those zoning districts that are below the most intense compatible zoning district in each Comp Plan land use category where housing is allowed. *DONE*
- Do a GIS Map showing the spatial extent of these areas (Anita/John/Charlie)
- Refine the map as needed to address anomalies and reprint

To make this map more useful, the correspondence table has been structured to distinguish:

- Land zoned at the maximum density that is consistent with the Comp Plan (e.g. R-5-B in Residential Moderate)
- Land zoned below the maximum but within the range defined by the Comp Plan (e.g. R-3, R-4, and R-5-A in Residential Moderate); and
- Land zoned below the range defined by the Comp Plan (R-1-A, R-1-B, and R-2 in Residential Moderate).

This map should also filter out government lands, institutions, parks, and other areas where housing is not permitted (I suggest showing all these areas with a gray screen).

Timeframe: Complete by 2/6.

STEP THREE

The more focused “test case” analysis of development potential would initially be performed for one area only and repeated in other areas as time allows (DC Agenda suggested four areas). Georgia Avenue/Petworth would be a good place to start, since its redevelopment is not as far along as Shaw or Columbia Heights, and since it’s a TOD area where future upzoning could be considered. (We can also use this area to test our methodology for preparing a citywide existing land use layer, since an inventory of existing uses would help with this analysis).

This analysis will require:

- Preparing a base map of the area defined by DC Agenda
- Mapping existing land uses based on tax data, ortho photos, pictometry, and a field visit
- Identifying vacant sites
- Identifying underutilized sites (we can start with the 30% I/L ratio definition, and refine the list of properties through the field visit)
- Filtering out approved projects
- Calculating the development capacity of the remaining vacant and underutilized sites based on current zoning
- Calculating the development capacity of the vacant and underutilized sites based on the maximum zoning that would be consistent with the Comp Plan
- Calculating the incremental difference (e.g., density bonus potential)
- Highlighting a few sites within this area to illustrate the magnitude of density bonus that might be provided if a residential project were proposed.

Depending on the findings and time, we could do this analysis in the other areas suggested by DC Agenda. My hunch is we may not be able to devote that much time to this, given other pressing assignments.

Timeframe: Complete by 2/20/03 (sooner if time allows)

Attachments:

- (1) correspondence table, Comp Plan and zoning*
- (2) correspondence table to identify potentially underzoned land*