Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 464
case No. 84-13C
(Soapstone II - PUD)
July 8, 1985

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on February 25 & 28, 1985. At those hearing sessions, the Zoning Commission considered an application from the Soapstone Valley Limited Partnership for consolidated review and approval of a Planned Unit Development (PUD) and related map amendment, pursuant to Sections 7501 and 9101, respectively, of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application, which was filed on July 18, 1984, requested consolidated review and approval of a PUD and related change of zoning from C-3-A to C-3-B for lot 1 in Square 2046.

2. The applicant proposes to construct a retail/office building.

3. The PUD site is zoned C-3-A and is located at 4401 Connecticut Avenue, which is at the northeast corner of the intersection of Connecticut Avenue and Windom Place, N.W.

4. The site comprises 20,753 square feet of land, and is improved with a one-story 1,672 square foot structure and a paved lot which was once used as a gasoline station. The property is presently being used as a used car lot by a Datsun dealership.

5. The C-3-A District permits matter-of-right development for major retail and office uses to a maximum height of sixty-five feet, a maximum floor area ratio (FAR) of 4.0 for residential and 2.5 for other permitted uses, and a maximum lot occupancy of seventy-five percent for residential uses.

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6. The C-3-B District permits major business and employment centers of medium density development, including office, retail, housing, and mixed uses to a maximum height of seventy feet/six stories, a maximum FAR of 5.0 for residential and 4.0 for other permitted uses, and a maximum lot occupancy of one hundred percent.

7. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above.

8. Existing zoning along both sides of Connecticut Avenue from Veazey Terrace to Albermarle Street is C-3-A with R-l-A and R-5-C to the east and R-l-B to the west. Large areas to the east and west are zoned R-1-B and developed with well maintained single-family residences.

9. To the north of the site is an undeveloped vacant lot followed by the WJLA building. To the south of the site across Windom Place is the Woodley Liquor Store and Van Ness Center. Immediately to the west, across Connecticut Avenue is an AMOCO gas station, a Safeway, The National Bank of Washington building, a motel, a Burger Ring and a car wash to the north, and the Van Ness Station office building and University of the District of Columbia campus buildings to the south.

10. The PUD site is constrained in that the National Park Service (NPS) has a fifty foot easement along the east side of the site. There is also a fifteen foot building restriction line running parallel to Windom Place. Given the NPS easement and the building restriction line, the applicant is limited to a 10,873 square foot area upon which a building can be placed.

11. The applicant has requested that the City Council remove the Windom Place building restriction line so that the buildable area would be increased to approximately 12,500 square feet. The project is designed on this basis. In as much as the fifty foot NPS easement portion of the site cannot be built upon, the applicant is proposing to extend underground parking into the vault area located in the rights-of-way of Connecticut Avenue and Windom Place.

12. The applicant proposes to construct a 90,298 square foot retail/office building with 10,595 square feet of floor area for retail use and 79,703 square feet of floor area for office use. The building would have a lot occupancy of 60.5 percent, a height of 80.5 feet,

an FAR of 3.95, seventy-two self-park parking spaces and one loading berth, both of which would be accessible from Windom Place, and 39.5 percent of the site devoted to open space.

13. On May 14, 1984, by Z.C. Order No. 428 in Case No. 84-2C (Soapstone I - PUD), the Zoning Commission denied without a hearing, a similar application from the applicant.

14. The development objective of that application was to construct an office/retail building with 9,755 square feet of floor area for retail use and 75,144 square feet of floor area for office use. The building would have had a lot occupancy of 60.5 percent, a height of 79.5 feet, an FAR of 4.095, seventy-two self-park spaces, one loading berth, and 39.5 percent of the site devoted to open space.

15. That denial was without prejudice to the filing of a new application. The Z.C. Rules of Practice and Procedure permit the refiling of an application so denied, or the filing of a new application at anytime. The subject application was filed two months later.

16. The subject application, Case No. 84-13C, represents a revision to the previous application, Case No. 84-2C. The subject application is different from the previous application in that:

    a. It provides a mini-park in public space at the southeastern corner of the site;

    b. It promises, by a proposed covenant to the city, to renovate and rehabilitate twenty dwelling units in an existing vacant apartment building at 3220 - 12th Street, N.E., as an off-site amenity to the PUD;

    c. It provides for an improved minority participation package; and

    d. It provides some design changes.

17. In addition to the development objectives that are identified in Findings No. 12 of this order, the applicant contends that the proposed amenities, as follows, are sufficiently worthy of permitting the construction of the project:

    a. The off-site provision of new housing units through the rehabilitation of a vacant building in a moderate-income neighborhood;

b. A commitment to the D.C. Minority Business Opportunity Commission to provide at least ten percent minority for the contracting construction of the project with a goal of twenty percent;

c. A pledge to use D.C. residents for apprentices needed to construct the proposed building working with existing programs;

d. Construction of a new mini-park adjacent to the proposed building;

e. A design superior to that which can be built as a matter-of-right;

f. An appropriate use for the site and the neighborhood; and

g. A significant enhancement of the streetscape.

18. On September 10, 1984, at its regular monthly meeting, the Zoning Commission determined that the subject application lacked sufficient merit to be set for public hearing, and by Z.C. Order No. 437, denied the application without a public hearing.

19. Subsequent to that denial of a public hearing, the applicant filed a motion requesting an opportunity to present its views, pursuant to Section 2.3a of the Z.C. Rules of Practice and Procedure.

20. Upon receipt of the motion, the Zoning Secretariat requested the Office of the Corporation Counsel to advise the Zoning Commission as to how it should address the matter.

21. On November 19, 1984, at its regular monthly meeting, upon the advice of the Office of the Corporation Counsel, the Zoning Commission rescinded Z.C. Order No. 437, permitted the applicant an opportunity to present its views, and redetermined whether a public hearing should be set for the application. Subsequently, by Z.C. Order No. 446, the Zoning Commission authorized the scheduling of a public hearing.

22. The building restriction line at Windom Place was placed by the District of Columbia on the subject property in 1927 to permit a planned widening and extension of Windom Place (then Yuma Street). That building restriction line was removed by legislation enacted by the City Council and signed by the Mayor on October 25, 1984; D.C. Bill 5-435. The removal of the building restriction line has increased the permissible building footprint to over 12,000 square feet.

23. Behind the one story structure, the eastern portion of the PUD site is undeveloped and drops sharply into Soapstone Valley Park. A fifty foot wide strip of land along the eastern property line of the site is subject to an easement which restricts development on the land without the consent of the National Park Service. The preceding property owner granted an easement to the Federal Government in 1930 in consideration for the Government's consent to the granting of the permit of the Commissioners of the District of Columbia for a gasoline station on the property. The purpose of the easement was to buffer the adjoining Federal park land from the gasoline station.

24. The applicant has indicated that the design of the building will enhance the streetscape of Connecticut Avenue and place special emphasis on the corner of Connecticut Avenue and Windom Place, by placing the main building entry at the corner, curving the facade, the use of glass materials, placing of a steel frame and glass awning over the entrance, and the modification of the sidewalk pattern to establish a visual link from the build to the public area. The height and bulk of the building are consistent with other buildings in the area.

25. The PUD site has unique characteristics in its limited buildable area due to the existence of the Park Service easement area, It also has a narrow depth on a major arterial street, and is of close proximity to Metro. The applicant has indicated that the predominantly commercial use and higher density (relative to the existing zoning) of the surrounding buildings and the superior design of the proposed project all justify the Commission's exceeding the applicable floor area ratio guideline for commercial use.

26. The applicant and its expert witnesses submitted testimony and evidence indicating that from land planning, marketing, and land development economic analysis perspectives, that the utilization of the site, either in part or entirely for residential purposes, was not feasible.

27. The applicant has indicated that the project is consistent with the intent and purpose of the PUD process, and has identified the following revised public amenities:

    a. A design superior to that which can be accomplished as a matter-of-right;

    b. The provision, off-site, of additional housing

units through rehabilitation of a vacant apartment building in a moderate income area;

c. The preservation of open space through creation of a mini-park on Windom Place;

d. Setting aside ten percent with a goal of twenty percent of the value of construction sub-contracts for minority businessmen, thus, contributing to the goals of MBOC; said criterion to be fifteen percent with a goal of twenty-five percent if the off-site housing amenity is not included; and

e. Involvement in existing training programs to utilize D.C. residents as apprentices in the construction of the project.

28. The applicant proposes, with the approval of the Department of Public Works, to create and maintain a mini-park along the north side of Windom Place just east of the proposed project. This mini-park will serve as an architectural punctuation of Windom Place as it turns toward the Van Ness apartments and will provide a visual transition to Soapstone Valley Park, The mini-park will be the only off-street public area from which citizens may sit and enjoy the view of Soapstone Valley Park.

29. The applicant has indicated that it seeks to develop the subject site as a PUD because the peculiarity of circumstances affecting the site are such that mixed residential/commercial use cannot be practically provided. The applicant has also indicated that the site does not permit an amount of commercial development which is appropriate for the site based on the predominantly commercial. character of surrounding development, nor is there any other process available by which the Zoning Commission may take into account the amenity package proposed by the applicant.

30. The applicant, through its traffic consultant, indicated that the proposed loading and parking facilities are adequate and that there would be no adverse impact on traffic operations in the area,

31, The applicant indicated that the project is consistent with the Comprehensive Plan. Significant among those goals of the Comprehensive Plan which are achieved are the following:

a. Overall economic development goals are met through providing minority contractor participation and the creation of job opportunity for District residents, including apprentice positions for D.C.

youth during the construction phase of the project. Economic development goals will also be met through the generation of over one million dollars in new public revenues to the City on an annual basis;

b. The PUD project will make more productive use of the location and close proximity to a Metro station;

C. The rehabilitation, as an off-site amenity, of a vacant building to provide approximately twenty units of housing:

d. Superior architectural design;

e. Provision of a mini-park on Windom Place;

f. A design which assures the traffic, noise and pollution do not threaten neighborhood quality and stability;

g. Provisions of office and retail use at a location near a Metro station, thereby encouraging ridership and a great return of the City's investment in Metro; and

h. Use of the PUD process to assure orderly growth, a compatible mix of uses, appropriate density, and good pedestrian and vehicular circulation,

32. The District of Columbia Office of Planning (OP), by memorandum dated February 25, 1985 and by testimony presented at the public hearing, recommended that the application be approved with conditions limiting development to the proposed plans for the PUD site. The OP noted the following:

> A particularly new element in this application for consideration is the inclusion of the rehabilitation of an apartment building at a different location as an amenity. The Zoning Regulations state that "'all the property included in a Planned Unit Development shall be continuous, except that such property may be separated only by a public street, alley or right-of-way". (Paragraph 7501.23). Historically, the amenities related to a PUD have been "on-site:. However, this application proposes an "off-site" amenity in reliance upon Paragraph 7501.11 of the Zoning Regulations which states that "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other

amenities are PUD objectives (emphasis added). The word "amenities" is not a defined term in the Zoning Regulations and is subject to judgement and interpretation. The Office of Planning agrees with the desirability of securing renovation of the apartments in Erookland. However, we question the desirability of linking planned unit development applications with properties in other parts of the city under current regulations.

33. The District of Columbia Department of Public Works (DPW), by memorandum dated February 15, 1985 by testimony presented at the public hearing, reported that its analysis of the intersection of Connecticut Avenue and Windom Place would operate at a traffic level of service "C" or better during the morning and evening peak hours. The DPW recommended that the proposed loading berth be increased to a depth of thirty feet, and that the trash compactor be relocated and removed from the loading area. The DPW indicated that the proposed development will have a minimal impact on the water and sewer system of the City.

34. Advisory Neighborhood Commission 3F, by letter dated September 28, 1984 and by testimony presented at the public hearing, did not vote in favor of the proposal nor opposed it. The ANC notes that its failure to oppose the application is the strongest form of support that the ANC would give to any commercial development in its boundaries, pursuant to ANC-3F policy.

35. The Executive Director of the Zoning Secretariat, by memorandum dated March 19, 1985, recommended that the Zoning Commission consider this application without reference to the off-site amenity and without relying upon a related proposed covenant. The Executive Director stated that:

> "The consideration of the off-site amenity raises policy considerations which I believe go beyond the scope of the present PUD regulations. I believe that the Commission has broad and far-reaching powers must be exercised within the framework of the Zoning Regulations, however those Regulations have been administered and applied, there is nothing to suggest that the notion of an off-site amenity is possible, appropriate or legal".

36. Two persons testified at the public hearing and six letters were received in support of the application for reasons that included the following:

a. Desire for economic development near Metrorail stations;

b. Asthetically pleasing and compatible design;

c. Mini-park;

d. Convenient access to, and additional. supportive commercial uses; and

e. Applicant's coorperation with the affected community in addressing its needs.

37. Three persons testified at the public hearing in opposition to the application for reasons that included the following:

a. The "canyonizing" of the streetscape of Connecticut Avenue;

b. Height; and

c. Loiterers that would be attracted to the mini-park.

38. On April 8, and May 13, 1985, at its regular monthly meetings, the Zoning Commission failed to dispose of the application, subsequent to lengthy discussions. However, at the Latter meeting, the Zoning Commission determined that it would reopen the record to permit the applicant an opportunity to identify additional amenities and/or to reduce the bulk and FAR of the project tc be commenserate with the proposed amenity package.

39. On May 24, 1985, the applicant filed a revised amenity package and modified design with the Zoning Secretariat in response to the reopening of the record.

40. Advisory Neighborhood Commission 3F, by Letter dated May 28, 1985, reiterated its non-opposition to the application and did not oppose the proposed size, height, or other features of the project. The ANC does not oppose the mini-park, subject to a guaranity of future maintenance.

41. The Commission finds that the revised amenity package that was filed by the applicant on May 24, 1985 demonstrates and justifies the public benefit and other meritorious aspects to be gained by exceeding the FAR

guidelines of Paragraph 7501.43 of the Zoning Regulations.

42. As a result of Finding No. 41 above, the Commission finds no need to consider the map amendment component of the application.

43. As to the concerns of ANC-3F, the Commission believes that, in its decision, it has adequately addressed those concerns.

44. The Commission concurs with the recommendations of the Office of Planning and the Department of Public Works.

45. As to the concern of the Executive Director of the Zoning Secretariat regarding the off-site amenity issue, the Commission concurs.

46. The Commission concurs with the position of the persons in support and finds that the design, compatibility, supportive and convenience commercial use, and the mini-park provide the area with the kind of ecomomic development that serves the area and the City well,

47. The Commission does not believe that the proposed height of this project helps to create a "canyon-like" affect along Connecticut Avenue, The Commission notes that the proposed height is less than many existing structures along Connecticut Avenue, within a few blocks of the PUD site. The Commission further notes that the proposed height is nearly ten feet less that the PUD height guidelines for the C-3-A Districts.

48. As to the concern regarding potential loiterers in the mini-park, the Commission finds that there had been such effective on-going coorperation between the applicant and the community, that any problems associated with the mini-park would be resolved mutually.

49. The Commission finds that the applicant has met the intent and purpose of the Zoning Regulations, and the Planned Unit Development process.

50. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated June 27, 1985, indicated that, subject to the guidelines, conditions and standards proposed by the Zoning Commission at its public meeting on June 10, 1985, the Planned Unit Development would not adversely affect the Federal

Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development of the subject site, because control of the use and site plan is essential to ensure compatibility with the neighborhood.

2. The development of this PUD carries out the purposes of Article 75 to encourage the development of well-planned residential, institutional, commercial and mixed use developments which will offer a variety of building types with more attractive and efficient overall planning, and design not achievable under matter-of-right development.

3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to enviromnmental protection and energy conservation,

4. Approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.

5. The approval of this PUD application is consistent with the purposes of the Zoning Act.

6. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and ensure neighborhood stability.

7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Map of the District of Columbia.

8. The Zoning Commission has accorded to the Advisory Neighborhood Commission 3F the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission of the District of Columbia hereby dismisses consideration of the C-3-B rezoning component of the application and orders APPROVAL of an application for consolidated review and approval of a Planned Unit Development for lot 1 in Square 2046 at 4401 Connecticut Avenue, N.W. The approval of this PUD is

subject to the following guidelines, conditions, and standards:

1. The planned unit development shall be developed in accordance with the plans marked as part of Exhibit No, 27A of the record, as modified by the guidelines, conditions and standards of this order.

2. The site shall be developed with a single building devoted to a mixture of office and retail uses as permitted in the C-3-A District.

3. The maximum floor area ratio for the entire project shall be 3.95.

4. The height of the project shall not exceed 80.5 feet inclusive of a decorative parapet wall, exclusive of roof structures.

5. The roof structure of the building shall not exceed 18.5 feet in height above the level of the roof upon which it is located. Nothing placed inside of or upon a roof structure shall project over the 18.5 foot limit. The floor area ratia for all roof structures shall not exceed 0.37.

6. Antennas may be located on the roof of the building. No antenna shall exceed a height of 18.5 feet above the level of the roof, or the height prescribed by any applicable portions of the Zoning Regulations at the time the antenna is to be installed, whichever is more restrictive, No antenna may be located on or on top of a roof structure.

7. The percentage of lot occupancy shall not exceed sixty percent.

8. The top floor of the building shall be set back from the east wall of the building a distance at least equal to the setback of that floor from the Connecticut Avenue wall of the building.

9. A minimum of ninety-six off-street parking spaces shall be provided. The location and size of those spaces shall be as shown on Exhibit No. 57. All spaces reserved for compact cars or for cars of handicapped persons shall be clearly marked and reserved for those vehicles.

10. The portion of the curb along the Windom Place side of the building shall be devoted to three metered parking spaces, subject to the approval of the Department of Public Work.

11. One loading berth shall be provided, as shown on Exhibit No. 55 of the record, The loading berth shall be a minimum of twelve feet wide and thirty feet deep. The loading berth shall be designed so that it is accessible by a truck that is 12.5 feet high and thirty feet long.

12. One service/delivery loading space shall be provided, as shown on Exhibit No. 57 of the record., The service/delivery loading space shall meet the requirements of Section 7302 of the Zoning Regulations.

13. A door shall be provided to screen the entrance to the loading area and the parking area when those areas are not in use,

14. Access to parking and loading facilities shall be from Windom Place as shown on Exhibit No. 27A.

15. The exterior design of the building shall be consistent with Exhibits No. 67C and 67J.

16. Landscaping shall be provided in accordance with Sheet M of Exhibit No. 27A. The applicant shall improve and maintain the public space adjacent to the building as shown on Sheets K and M of Exhibit No. 27A.

17. The applicant shall maintain the easement area free of refuse and debris in accordance with the procedures set forth in the easement.

18. Subject to the approval of the Department of Public Works, the applicant shall have an additional street lighting fixture installed on the Windom Place side of the project, to provide lighting for additional safety in the area of the mini-park.

19, All storm drainage from the site shall be diverted into the storm sewer system on Connecticut Avenue. No storm water shall be allowed to drain into the easement area or the adjacent parkland.

20. The building shall be constructed in such a manner that the easement area shall not be disturbed.

21. The applicant shall accomplish the following items as listed in the letter dated May 24, 1985, from Malasky Properties, Inc., marked as part of Exhibit No. 75 of the record:

    a. Improvements to the public right-of-way in front of the Kass property to the north of the subject property;

b. Construction and maintenance of public space improvements immediately adjacent to the subject property;

c. Improvements to the Forest Hills park and playground;

d. Provision of a community meeting room in the subject building;

e. Construction and maintenance of the mini-park area in public space adjacent to the subject property, as revised by item (a) on Page 5 in the letter dated May 24, 1985;

f. Apprenticeship training for at least two residents of the District of Columbia; and

g. Agreement with the D.C. Department of Employment Services (DOES) to use the DOES as the first source for recruitment, referral and placement for new hires or employees whose jobs are created by the PUD.

22. Prior to the issuance of a building permit for the subject building, the applicant shall certify to the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs that items F and G of Condition No. 21 have been accomplished. Prior to the issuance of a certificate of occupancy for the subject building, the applicant shall certify to the Zoning Regulations Division that items A, B, C, D and E of Condition No. 21 have been accomplished.

23. The applicant shall make a good faith effort to award at Least twenty-five percent (25%) of the construction related contracts for the project to Certified Minority Business Enterprises. The applicant shall award at least fifteen (15%) percent of construction related contracts to Certified Minority Business Enterprises., The applicant shall provide the Zoning Regulations Division with evidence, in the form of a letter from the District of Columbia Minority Business Opportunity Commission, that this condition has been met prior to the issuance of a certificate of occupancy for the subject building.

24. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall bind the applicant and

successors in title to construct on and use this property in accordance with this order, or amendments thereof, of the Zoning Commission. When the covenant is recorded, the applicant shall file a certified copy of that covenant with the records of the Zoning Commission.

25. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within three years of the effective date of this order.

Vote of the Zoning Commission taken at the public meeting on June 10, 1985: 4-O (George M. White, Patricia N. Mathews, John G. Parsons, and Lindsley Williams, to approve with conditions - Maybelle T. Bennett, not present not voting).

This order was adopted by the Zoning Commission at the public meeting on July 8, 1985 by a vote of 5-O (George M. White, John G. Parsons, Patricia N. Mathews, Lindsley Williams, and Maybelle T. Bennett, to adopt, as corrected).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the D.C. Register, specifically on -2 AUG 1985.

Maybelle Taylor Bennett
MAYBELLE T. BENNETT
Chairperson
Zoning Commission

Steven E. Sher
STEVEN E. SHER
Executive Director
Zoning Secretariat

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