Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 280
CASE NO. 78-19/76-14F
May 17, 1979

On April 12, 1979, the Zoning Commission adopted Order No. 274, which granted the application of George Washington University for final approval of a planned unit development for property located in the block bounded by 19th, 20th, "F" and "G" Streets, N. W. That order became final on April 16, 1979, pursuant to Section 2.611 of the Rules of Practice and Procedure before the Zoning Commission.

Subsequent to the filing of the application, but prior to the conclusion of the hearing on this application, the Zoning Commission adopted Order No. 251, which created a new process for planned unit development's. Paragraph 7501.92 of the new regulations reads as follows:

> A planned unit development which has already received preliminary approval or for which an application was filed before the effective date of this section may continue to be processed to completion in accordance with the regulations in effect at the time of filing, or may be processed in accordance with this revised section at the option of the applicant with the approval of the Zoning Commission.

By letter dated March 2, 1979, marked as Exhibit No. 52 of the record, and by request dated April 4, 1979, marked as Exhibit No. 62 of the record, the applicant requested the Commission to process this application under the revised PUD process, which would eliminate review of the application by the Board of Zoning Adjustment.

The Commission considered this request at its meeting of April 12, 1979, when it adopted the final order. The Commission reserved judgement on the request at that time, in order to receive responses from the other parties to the case and the Zoning Administrator to issues which were raised by the Commission in its discussion. By letters dated April 24, 1979, marked as Exhibit No. 69 of the record, the Commission

requested the two parties in opposition to review the adopted order and submit comments as to how the parties would be affected by the applicant's request to eliminate the BZA review. By memorandum dated April 23, 1979, marked as Exhibit No. 66 of the record, the Commission requested the Zoning Administrator to review condition No. 3 in the order and determine whether and how he would apply that condition to a building permit application without benefit of review of the Board of Zoning Adjustment.

By letter dated April 30, 1979, marked as Exhibit No. 71 of the record, Advisory Neighborhood Commission 2-A, one of the parties in opposition, submitted comments on the order. Don't Tear It Down, the other party, did not respond.

At the public meeting held on May 17, 1979, the Executive Director of the Zoning Commission reported to the Commission the results of a telephone conversation with the Zoning Administrator as to how the Zoning Administrator would apply the terms of condition No. 3 of the order. The Zoning Administrator requested clarification of whether another international agency would be required to be related to George Washington University. He also stated that he would not allow access driveways, pedestrain circulation areas including lobbies, or the World Bank public information office within the area reserved for retail and service uses along "F" Street.

Both parties in opposition also filed timely Motions for Reconsideration, marked as Exhibit Nos. 67 and 69 of the record, pursuant to Section 2.64 of the Rules of Practice and Procedure. The applicant filed a timely response to the motions, marked as Exhibit No. 72 of the record.

The Commission has carefully reviewed and evaluated the information before it on the two issues remaining in regard to this application, the request for processing under the revised PUD regulations and the motions for reconsideration. As to the request for processing under the revised PUD regulations, the Commission finds as follows:

1. The effect of the request is to allow the applicant to file directly for building permits without requiring review by the Board of Zoning Adjustment, as was previously the normal requirement.

2. The responsibility of the BZA is to implement the PUD as approved by the Commission, and the Board has a very limited jurisdiction over PUD's.

3. The Commission has expended considerable time and effort in reviewing and deliberating upon this case, and has received and evaluated considerable input in reaching a decision. The Commission believes that the final design which it has approved represents the best possible solution for development of the square, and that the design should be fixed by the Commission so that it cannot be changed.

4. The plans submitted by the applicant, when read in conjunction with this order and Order No. 274, are sufficiently detailed to enable review by the Zoning Administrator, without benefit of review by the BZA. No useful purpose would be served by requiring review by the Board of the same plans which the Commission has already reviewed and approved.

5. The terms of condition No. 3 can be easily revised to clarify the intent of the Commission and eliminate the questions raised by the Zoning Administrator.

6. The changes in the order requested by the ANC can, for the most part, be accommodated. Those changes do not require or directly relate to BZA review of the Case.

As to the motions for reconsideration, the Commission finds as follows:

1. Section 2.642 of the Rules of Practice and Procedure requires that a motion for reconsideration "state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the motion and the relief sought."

2. The motions essentially cite two bases for the request, that the decision does not fulfill the purposes of Article 75 and that the Commission has not been responsive to the issues and concerns of the ANC.

3. The plans finally approved by the Commission reflect a high quality of design and major public benefits, including preservation of landmark structures and approval of a design suitable to serve as a transition between the areas that border the site. The plans

clearly reflect that the project is consistent with the purposes of the PUD process as specified in Sub-section 7501.1.

4. Order No. 274 clearly and specifically cites all of the relevant issues and concerns of the ANC and indicates the Commission's response to those issues. The Commission is not required to and does not concur with all of the positions taken by the ANC. The Commission is required to and has clearly addressed those issues in its order.

Based on the foregoing findings and reasons, the Commission therefore hereby orders the following:

1. The Motions for Reconsideration are denied.

2. The findings of fact in Order No. 274 are amended as follows:

   a. The third sentence of Finding of Fact No. 3 shall be revised to read: "Additionally to the east is a ninety foot office building under construction."

   b. The last sentence of Finding of Fact No. 16 shall be revised to read: "The Commission finds that the revised plans submitted by the applicant reflect the kind of sensitivity to the Church which the Commission desired initially."

   c. The second sentence of Paragraph A in Finding of Fact No. 18 shall be revised to read: "The atrium and the dining areas could be lowered one story and have the same effect as in their present location, or the dining areas could be placed on the 6th floor and use the roof space."

   d. The first sentence of Paragraph D in Finding of Fact No. 18 shall be revised to read: "Option B as presented by the applicant should be modified to provide that the setback at the rear of the building continue across the entire west side."

   e. The first sentence of Paragraph E in Finding of Fact No. 18 shall be revised to read: "The new building should not extend into public space on any side."

f. Paragraph F of Finding of Fact No. 18 shall include a new sentence at the end to read: "The World Bank should fully use the space in this building and rent other office space it owns in its annex."

3. Condition No. 3 of Order No. 274 is amended to read as follows:

The new building on the site shall be restricted to use by the World Bank as office space and supporting accessory uses, including but not limited to library, cafeteria, or computer space. The building may also be used for a university-related purpose by George Washington University, for an international agency other than the World Bank, or for a chancery or other office of a foreign government. The street floor of the building, along the "G" Street frontage , as shown on the plans submitted by the applicant and marked as Exhibit No. 38 of the record, and along the "F" Street frontage for a minimum depth of thirty feet from the edge of the building at the street floor, shall be used for retail and service uses permitted in a C-2 District. Specifically as shown on Exhibit 38, driveways, corridors, lobbies, elevators, stairways, the publications and public information office of the World Bank and a security office are permitted within thirty feet of "F" Street.

4. The applicant's request to have the application processed under the new PUD regulations is granted. The applicant may therefore file an application for a building permit with the proper authorities of the District of Columbia. The Zoning Regulations Division of the Department of Housing and Community Development shall not approve such a permit application unless:

a. The plans conform in all respects to the plans approved by the Zoning Commission, as those plans may have been modified by any guidelines, conditions or standards which the Zoning Commission may have applied.

b. The applicant has recorded a covenant in the land records of the District of Columbia, between the owner or owners and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant

will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders or amendments thereof of the Zoning Commission.

5. The conditions contained in Order No. 274 are amended as follows:

   a. Condition No. 10 shall be revised to read: "All areas not devoted to buildings, structures, access drives and above ground parking shall be appropriately landscaped in accordance with the plan marked as Exhibit No. 49 of the record. The applicant shall also follow the landscape plans for the lower roof of the building, as shown on Exhibit No. 59 of the record, provided that the applicant shall provide for plant screening of both mechanical equipment penthouses on the lower roof.

   b. Condition No. 12 shall be deleted.

   c. Reference to the Board of Zoning Adjustment in condition No. 13 shall be deleted.

   d. Change the section number reference in Condition No. 14 from 7501.2 to 7501.812.

   e. Delete the first two sentences of Condition No. 15.

   f. Add the following new conditions:

      16. The Chief of the Zoning Regulations Division shall not have authority to approve any modifications to the development as specified in the conditions contained in Order No. 274 and this order.

      17. The final planned unit development approved by the Zoning Commission shall be valid for a period of two years, within which time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Regulations. Construction shall start within three years of the date of final approval. The Commission may extend those periods for good cause shown upon proper request of the applicant before

the expiration of the approval. If no application for permit is filed, construction has not started within the period specified or no extension is granted, the approval shall expire, the zoning shall revert to the pre-existing regulations and maps and the approval shall not be reinstated unless a new application is filed.

Vote of the Commission taken at its public meeting held on May 17, 1979: 4-0 (Theodore F. Mariani, Walter B. Lewis, Ruby B. McZier and John G. Parsons to deny reconsideration and approve the change of process, George M. White not present, not voting).

Ruby B. McZier
RUBY B. McZIER
Chairperson

Steven E. Sher
STEVEN E. SHER
Executive Director

In accordance with Section 2.6 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final on 3 JUL 1979.