

Government of the District of Columbia  
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 331  
CASE NO. 80-8/78-6F  
FEBRUARY 12, 1981

Pursuant to notice a public hearing of the District of Columbia Zoning Commission was held on November 17, 1980 to consider the final application for a Planned Unit Development and related zone change filed by the American Trucking Associations, Inc.

FINDINGS OF FACT

1. This is an application for final approval under Article 75 of the Zoning Regulations for a Planned Unit Development, in Square 181, Lots 816-819, 846, 847, 89, 90, 91, 94 and 159. A zoning map amendment is also requested from R-5-D and SP-1 to SP-2 for Lots 846, 159, 89, 90 and 91, in Square 181.

2. On February 8, 1979, the Zoning Commission adopted Order No. 251, which amended the Planned Unit Development process as contained in Section 7501. Paragraph 7501.92 of the new regulations provides:

"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."

This application has been and is being processed under the Regulations in effect on the date the case was originally filed, not the new Regulations adopted by Commission Order No. 251. The application will therefore be further reviewed by the D.C. Board of Zoning Adjustment after approval by this Commission.

3. The subject site is bounded by P, O and 17th Streets, N.W. The site is located on the south side of "P" Street, extending through the block to "O" Street and to the northeast corner of the intersection of 17th and "O" Streets, N.W. The site contains approximately 55,000 square feet.

4. The American Trucking Association occupies an existing six story office building located at 1616 "P" Street. The building is the National Headquarters of the ATA. The remainder of the site is currently used for a variety of purposes, including surface parking, a one-story auto repair shop, a liquor store on the ground floor of a residential-type building, a pair of semi-detached houses and two townhouses used for offices of the ATA.

5. The planned unit development proposes the expansion of the American Trucking Association's national headquarters facilities. An addition is proposed for the existing office building on "P" Street at the same height of seventy-two feet. An apartment house is proposed on the corner of 17th and D Streets.

6. Application for preliminary approval of a planned unit development and rezoning of the subject property from R-5-D and SP-1 to SP-2 was filed on August 9, 1979. The Commission approved the first stage planned unit development application in order no. 290, subject to the guidelines and conditions contained in that order.

7. In evaluation the proposed development in relation to the guidelines, conditions and standards set forth in order no. 290, the Zoning Commission finds the following:

- a. An application for a map amendment, marked as Exhibit No. 13 in the record, from R-5-D and SP-1 to SP-2 for Lots 89,90,91,159 and a portion of lot 846 in Square 181 was filed with the application for final approval of the planned unit development on July 31, 1980. The application as submitted omitted the portion of Lot 846 now zoned SP-1, to be changed to SP-2. That omission was corrected by the staff of the Zoning Secretariat. The notice of filing, order to hear and notice of public hearing issued by the Zoning Commission all properly stated the complete property included in the application and the property proposed to be rezoned.
- b. The proposed floor area ratio for the entire project is 5.18, as shown on Exhibit No. 43 of the record. The Commission allowed for a maximum FAR of 6.0.

- c. The gross floor area devoted to office and support space in the proposed addition to the building is a total of 113,200 square feet, as shown on Exhibit No. 43 of the record. This amount of space was permitted by Order No. 290.
- d. All office and support space will be exclusively used by the American Trucking Association and its associated organizations and conferences. The final PUD covenant will contain language to this effect.
- e. The proposed addition to the office building will not exceed 72 feet in height, not including roof structures, in accordance with the requirements set forth by the Commission in order no. 290.
- f. The roof structure on the office addition will be 18' 6" above the level of the roof upon which it is located, as shown on Sheet 8 of exhibit no. 16 of the record. The Commission set 18'6" as the limit in its order no. 290.
- g. The western wall of the office addition will be set back forty feet from the east wall of the Berkley House, as shown on sheet 2 of exhibit no. 16 of the record. The Commission required that a minimum setback of thirty feet be provided in Commission Order no. 290.
- h. The building facade, material types and design of the existing building, will be extended to include the same treatment for the new annex along "P" Street. The applicant also submitted additional design details of the treatment of the existing entrance way as shown on exhibit no. 46 of the record. The design of the office addition will be harmonious with the design of the existing building.
- i. The proposed gross floor area of the residential component of the project is 81,279 square feet, as shown on exhibit no. 43 of the record. The Commission required a minimum of 70,000 square feet of gross floor area for residential use in order no. 290.
- j. The height of the residential component is ninety feet, as shown on sheet 10 of exhibit no. 11. The Commission set the maximum height of ninety feet in order no. 290.
- k. The height of the residential roof structure will not exceed 18'6" as shown on exhibit no. 16 of the record. Commission order no. 290 set a maximum height of 18'6" for the residential roof structure.

- l. The plans provide for 12,724 square feet of residential recreation space, equivalent to 15.65 per cent of the gross floor area devoted to residential use. Eighty-eight percent of the residential recreation space is open to the sky, which exceeds the requirement of seventy percent set by the Commission in order no. 290.
- m. The development includes 220 parking spaces for employees of and visitors to the ATA, as shown on sheet 2 of Exhibit No. 16. Commission Order No. 290 permitted no more than 150 employee parking spaces and 70 parking spaces for visitors.
- n. There will be eighty-six residential parking spaces provided, a level of one space per dwelling unit, as required by the Commission in its order no. 290.
- o. All parking spaces provided for in the plan are covered or underground, as shown on exhibit no. 16 of the record, meeting the requirements of order no. 290.
- p. The applicant submitted a parking management plan as part of the final application, marked as exhibit no. 5. Commission order no. 290 calls for such a plan.
- q. The "O" Street facade has been redesigned to eliminate any adverse effects on the streetscape of adjoining property, as set forth in exhibit 49A and as shown on exhibit no. 49C of the record and as ordered by the Commission in order no. 290.

8. At the public hearing held on November 17, 1980, the Commission requested further detail as to the applicant's proposed landscaping plan. In compliance therewith, the applicant provided a detailed landscaping plan, marked as sheet 4L of Exhibit No. 49C which the Commission finds acceptable and will refer to the Board of Zoning Adjustment for implementation pursuant to Sub-paragraph 7501.41(d) of the Zoning Regulations.

9. At the public hearing of November 17, 1980, the Commission requested further refinement of the treatment of the "O" Street facade of the proposed development. In compliance therewith, the applicant provided a re-designed plan, marked as Exhibit 49C of the record calling for a terraced landscape treatment of the O Street facade and a more definitive separation of the first floor plaza from O Street to enhance security. The plans also provide properly screened garage entrances. The applicant also revised its plan to eliminate the proposed courtyard in the interior of the addition, which in turn will allow an increased setback for the first two floors of the new six-story addition. The Commission

finds these changes acceptable and will refer them to the Board of Zoning Adjustment for implementation.

10. The Commission finds the final application to be in harmony with the intent and purpose of the zoning map and regulations in as much as it complies with or exceeds all of the guidelines, standards and conditions proposed by the Commission in its order of preliminary approval, in order to ensure that development of the site would be in harmony with the overall plan for the community and the city.

11. The Office of Planning and Development by report dated January 2, 1981, recommended that the application be approved. The OPD reported that the applicant had complied with all of the terms of Commission order no. 290, which granted preliminary approval to the application. The OPD in its report also indicated that the Fire, Police, Environmental Services, and Transportation Departments have indicated no adverse impact and that they can provide proper service to the proposed building. The Commission accepts the findings and recommendation of the OPD and the other departments.

12. Advisory Neighborhood Commission 2C, by statement dated November 17, 1980 opposed the application. The ANC noted the following issues and concerns in opposition:

- A. The PUD contains no amenities for either the community on the future residents of the proposed office building and condominium.
- B. The housing component of the project is on residentially zoned land and could be constructed as a matter-of-right without PUD approval.
- C. The rezoning proposed would be spot zoning and the approval of the PUD would be a give-away, without adequate return for the city.
- D. Residential use of the entire site would more greatly add to the tax base and population base than would office use.
- E. The current parking management plan would exacerbate traffic congestion in the area.
- F. The total of 306 parking spaces for the project is inappropriate, given the existing traffic in the area and the excellent public transportation metrorail.
- G. The application is defective because it failed to request rezoning of lot 846.

H. The extra height and bulk granted to the developer yields no gains for the community.

13. The Dupont Circle Citizens Association appeared in opposition to the application for the following reasons:

A. The entire plan could be accomplished under existing zoning.

B. The Association prefers residential development on the entire site.

C. The proposed buildings are too high; the residential building is actually 100 feet, not 90 feet.

D. This case would be spot zoning, if approved, and conflicts with the decision in Case No. 76-24.

E. The recreational plaza is not for the exclusive use of the residents, and plantings there will not grow well.

F. The parking should not be free.

G. The Association opposes PUDs in general and this one in particular.

14. The Bay State Tenants Association, by testimony of its president at the public hearing, opposed the application on the grounds that approval of the application would increase pollution and congestion in the area, would alter the residential character and quality of the area, and would reduce the amount of land availability for residential development.

15. As to the issues raised by the ANC and the parties and persons in opposition, the Commission finds as follows:

A. This application is an application for final approval of a Planned Unit Development pursuant to Section 7501 of the Zoning Regulations in effect prior to February 8, 1979. The processing of final application is set forth in Paragraph 7501.39. Basically, the final application is to be a more refined design of the general concept of the project approved by the Zoning Commission in the preliminary application.

B. It is clear from the record of the case that the application conforms in all respects to the preliminary approval granted by the Commission in Order No. 290. The Commission set forth a detailed review and findings on each of those issues in Finding of Fact No. 7. The report of the Office of Planning and Development reached

the same conclusion.

- C. Many of the issues raised by the ANC and other parties in opposition to this application have been disposed of by the Commission in its order granting preliminary approval. In responding to contested issues in that order, the Commission found as follows:
- "A. The Commission concurs that a substantial housing component should be included in the proposed development. The Commission does not concur that the entire site should be used for housing, and notes that the existing office building was built in 1957, and that the continued use and expansion of that building is appropriate.
- B. The testimony presented by the applicant's traffic witness and the Department of Transportation reveal that there will be a very minimal increase in traffic as a result of this development.
- C. The evidence submitted by the ANC on pollution fails to demonstrate that this particular development will have any direct impact on pollution. To the contrary, the Department of Environmental Services reported that there will be no long term negative noise or air pollution impacts.
- D. By conditions to be imposed on the approval of the applications, the Commission will insure adequate light and air for the adjoining residential properties to the west.
- E. There is no need for additional commercial zoning in this area.
- F. The applicant did present sufficient evidence to show that the proposed development is consistent with the intent and purposes of Section 7501. "

These findings continue to be relevant to positions restated by the parties in opposition. In its conclusions of law set forth in Order No. 290, the Commission concluded as follows:

- "1. The planned unit development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure 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 and institutional developments which will offer a variety of building types with more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.
3. Approval of the application would be consistent with the purposes of the Zoning Act.
4. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding community.
5. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Maps of the District of Columbia.
6. The Zoning Commission has accorded to the Advisory Neighborhood Commission the great weight to which it is entitled."

The District of Columbia Court of Appeals ruled favorably on the Commission's approval of the preliminary application, in the case of Dupont Circle Citizens Association v. District of Columbia Zoning Commission (No. 79-922, decided January 5, 1981).

- D. The rezoning of a portion of the property to SP-2 does not conflict with the decision in Case No. 76-24. In that case, the Commission conducted a rulemaking proceeding to consider the appropriate zoning for the entire Dupont Circle area. At the time the Commission was deliberating upon that case, it was aware that the subject PUD had been filed by the applicant. The Commission recognized that final resolution of the rezoning issues for the ATA property would be decided in the context of a contested case focusing on the specific property, rather than in the overall rulemaking context.
- E. As to the spot zoning argument, the D.C. Court of Appeals set forth the criteria for determining whether an action is spot zoning:

'To constitute illegal spot zoning, the Commission's action (1) must pertain to a single parcel or a limited area - primarily for the benefit of a particular property owner or specially interested party - and (2) must

be inconsistent with the city's comprehensive plan or if there is none, with the character and zoning of the surrounding area, or the purposes of zoning regulation, i.e., the public health, safety, and general welfare."

[Citizens Association of Georgetown v. District of Columbia Zoning Commission, D.C. App., 402 A.2d 36,39-40 (1979)]

The subject application relates to a number of parcels in one ownership. However, the uses, height and bulk permitted are completely consistent with the character of the surrounding area, which character was fully discussed and reviewed in the proceedings in the preliminary application.

- F. A contention was raised in opposition that since the R-5-D District permits residential use the proposed apartment complex could be built as a matter-of-right with no PUD. The Commission agrees that such a building could be built. The Commission finds however that other uses are also permitted as a matter of right in R-5-D. The decision of the Commission in approving the PUD as a whole will require that the apartment house be built if the office component is also to go forward. The construction and occupancy of an apartment house in this project is a definite benefit to the city, one which might not be achieved in the same time frame or at all if the PUD were not approved. The total development thus will add tax base and residents to the area over the present situation.
- G. The failure of the application form to request rezoning of all of lot 846 has been dealt with earlier.
- H. The height of the apartment house is 90 feet as shown on the plans marked as Exhibit No. 16 of the record.

16. The proposed action was referred to the National Capital Planning Commission under the terms of the District of Columbia Self-Government and Governmental Reorganization Act and the National Capital Planning Commission reported that final approval of a planned unit development and related change of zoning from R-5-D and SP-1 to SP-2 of various lots in Square 181, subject to the guidelines, conditions, and standards, as proposed by the Zoning Commission at its meeting on January 8, 1981, will not have an adverse impact on the functions of the Federal Establishment or other Federal interests in the National Capital.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development at the subject site.
2. Approval of this final PUD application is appropriate because it is generally consistent with the present character of the area and because it would encourage stability of the area.
3. The Commission, in its decision, has accorded to the ANC the "great weight" to which it is entitled.
4. The approval of the application would 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.
5. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding area.
6. Rezoning a portion of the subject property to SP-2 does not constitute spot zoning and can be approved as consistent with the purposes of the Zoning Act.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby Orders approval of the final planned unit development, in Square 181, Lots 816-819, 846,847,89,90,91,94 and 159, and a zoning map amendment from R-5-D and SP-1 to SP-2 for Lots 846,159,89,90 and 91 also in Square 181. The application is subject to the following guidelines, conditions and standards:

1. The final design of the project shall be based on the plans presented to the Zoning Commission marked as Exhibits No. 16 and 49C of the record, except as such plans may be modified to conform to the conditions of this order.
2. The total floor area ratio for the entire project shall not exceed 6.0.

3. The development shall include no more than 97,200 square feet of gross floor area for office space and 16,000 square feet of gross floor area for support space, both in addition to the 76,600 square feet of gross floor area in the existing building at 1616 "P" Street. All such office and support space shall be for the exclusive use of the American Trucking Association and its associated organizations and conferences.
4. The buildings for office and support space shall not exceed seventy-two feet in height, exclusive of roof structures, which shall not exceed eighteen feet, six inches in height above the level of the roof upon which they are located.
5. The western wall of the proposed office building addition for lot 846 shall be no closer than forty feet from the nearest wall of the Berkley House apartment building, located on Lot 820.
6. The facades of the existing office building and the addition along P Street shall be constructed as indicated on Sheet No. 8 of Exhibit 49C of the record. The base of the new building shall be faced with granite matching the existing building, and the upper floors shall utilize materials matching the upper floors of the existing building.
7. The development shall include an apartment house at the southwest corner of Square 181, on Lots 94, 847, and 816 through 819. The height of the apartment house shall not exceed 90 feet to the top of the parapet wall, exclusive of roof structures, which shall not exceed eighteen feet six inches in height above the level of the roof upon which they are located. The apartment house shall include approximately 81,000 square feet of gross floor area.
8. Residential recreation space totalling approximately 12,000 square feet shall be provided for the occupants of the apartment house. This space shall include roof top recreation space, the community room to be located on level one of the building, and the passive recreational plaza to the east of the apartment house.

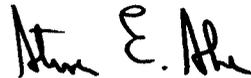
9. The development may include no more than 150 off-street parking spaces for employees of the American Trucking Association and no more than seventy off-street parking spaces for visitors to the ATA. The development shall provide a minimum of one parking space for each dwelling unit. All such parking spaces shall be either underground or covered. The parking spaces for the dwelling units shall be self-contained and separate from the office parking and shall not be used for commercial purposes. The applicant shall manage the parking area so as to insure that no more than 150 spaces will be used for employee parking. The parking facility shall be managed and operated in accordance with the parking management plan submitted as Exhibit No. 5 of the record.
10. Construction shall proceed in accordance with the Construction Staging Plan submitted as Exhibit No. 4 of the record including the provision that the office building and the apartment house will be constructed at the same time. No Certificate of Occupancy for the addition to the office building shall be issued until a building permit has been issued for the apartment house and construction on the apartment house has commenced. If the apartment house is not completed within eighteen months after the Certificate of Occupancy for the office additions is issued, such certificate shall be revoked, and occupancy of the addition shall be suspended until the apartment house is completed.
11. Landscaping shall be provided as indicated on the "Landscaped Plan," marked as sheet 4L of Exhibit No. 49C, which enumerates the type, size and location of planting to be made.
12. No site grading excavation or other change in the existing character of the property, including removal of existing trees or vegetation, shall take place prior to approval of the detailed site plan by the Board of Zoning Adjustment.
13. The treatment of the O Street facade of the office building shall be as indicated on Exhibit No. 49C.
14. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.

15. The change of zoning shall not be effective until the recordation of the covenant required by Sub-section 7501.2 and completion of the Planned Unit Development process.
16. The applicant shall process the project through the Board of Zoning Adjustment in one stage. The Board shall specify any further appropriate time limits on the execution of the development. The PUD covenant applicable to the entire property shall be recorded prior to the issuance of permits for the first stage of the development.
17. The final planned unit development shall be valid for a period of two years from the final date of this order. In order to implement the PUD, within such period, the applicant shall file an application for further processing of the PUD with the Board of Zoning Adjustment, as provided by Sub-section 7501.4 of the Regulations governing this application.

Vote of the Zoning Commission taken at the public meeting held on January 8, 1981: (Commissioners Theodore F. Mariani, Walter B. Lewis, Ruby B. McZier, and John G. Parsons to APPROVE WITH CONDITIONS, Commissioner George M. White, not present not voting).



THEODORE F. MARIANI  
Chairman  
Zoning Commission



STEVEN E. SHER  
Executive Director  
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on February 12, 1981 by a vote of 4-0 (Ruby B. McZier, Walter B. Lewis and Theodore F. Mariani to adopt, John G. Parsons to adopt by proxy, George M. White not present not voting).

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 on 27 FEB 1981. The amendment to the Zoning Map shall not be effective until the required covenant is filed in the land records of the District of Columbia.