

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 339 *
CASE NO. 80-11C
APRIL 9, 1981

Pursuant to notice, public hearings were held on December 8, 1980, January 5, 1981, January 26, 1981, and February 9, 1981. At these hearings, the Zoning Commission considered an application from the George Washington University for approval of a consolidated application for a Planned Unit Development (PUD) and related zone change.

FINDINGS OF FACT

1. This is an application for consolidated review and approval under Article 75 of the Zoning Regulations for a Planned Unit Development, located at and bounded by 20th, 21st, and I Streets and Pennsylvania Avenue, N.W. including lots 21, 25, 37-40, 45, 53, 57, 824, 827-828, 832-836, 843, 845, 853-855 and portions of public alleys proposed to be closed all in Square 101. The PUD site contains 66,242 square feet, of which 59,962 square feet is the proposed building site and 6,280 square feet is a common service area at the southwest corner of the building adjacent to 21st Street which will not be built upon.
2. The PUD site is presently split-zoned, with 42,865 square feet zoned C-3-C and 23,377 square feet zoned R-5-C. The applicant requests a change in zoning from R-5-C to C-3-C for 17,097 square feet within the building site. The remaining 6,280 square foot truck loading area is zoned R-5-C and will remain R-5-C. This area will provide access for trucks to the loading docks for the proposed project and will permit on-site turning for trucks to avoid vehicular backing movements onto 21st Street.
3. The application for a change in the Zoning Map is to change the zoning classification from R-5-C to C-3-C for lots 835, 836, 855, that portion of Lot 854 lying within 156.75 feet of the right-of-way of I Street and portions of public alleys proposed to be closed.

* NOTE: This order was amended by Z.C. Order No. 348 dated 8-13-81. (see pages 21, 22 & 23)

8. The subject site is located at the north end of The George Washington University Campus along the high-density office and retail corridor of Pennsylvania Avenue. The subject site is south of two triangular parks (Reservations 28 and 29) which are divided by Pennsylvania Avenue. The parks are owned and operated by the National Park Service.
9. The subject site forms the southern boundary of an urban square formed by 20th, 21st, H Street and I Street/Pennsylvania Avenue, N.W. That square is defined by the large office structures north of Pennsylvania Avenue and the large commercial structures east of 20th Street and west of 21st Street. This square is now bordered on three sides by buildings ranging up to 130 feet in height. The proposed buildings will complete the square yet retain on the I Street frontage the small scale and 19th Century character of the row buildings.
10. The applicant proposes to develop the property under a single lot of record. The applicant intends to own and operate the project upon its completion. The applicant will be responsible for all maintenance, site lighting, landscaping, repairs, trash collection and snow removal.
11. The applicant has applied to the D.C. Surveyor for the closing and transfer to the applicant of certain dedicated alleys within the PUD site. Following removal of these alleys, the applicant will apply for a subdivision of the property into a single lot of record in order to remove the existing platted lots which bear no relationship to the site plan involved in this application.
12. Behind the row buildings, the applicant proposes to develop an eleven story office structure with an additional two stories below grade for parking. Uses in the project will include 48,598 square feet of retail space, of which 8,800 square feet will be below grade, 334,667 square feet of office space all above grade, and 214 parking spaces below grade. The total area of the buildings including the cellar space will be 533,327 square feet. Of that total 417,346 square feet is gross floor area included in the FAR calculations. The balance is contained in below grade parking and retail uses, mechanical and storage areas and the penthouse.
13. The applicant proposes to develop a project that has a maximum FAR of 7.0 and a maximum height of 124.75 feet.

4. The C-3-C district permits the development of high-density employment and mixed uses for sites in and adjacent to the central business district. The C-3-C district normally permits a variety of commercial uses. The C-3-C district allows a maximum floor area ratio(FAR) of 6.5, a maximum building height of 90 feet and a maximum lot occupancy of 100 percent. Under Article 75 of the Zoning Regulations, the floor area ratio guideline for a PUD in a C-3-C district is 7.0 and the building height guideline is 130 feet.
5. The R-5-C district permits medium/high density residential uses as a matter-of-right, as well as parking garages, half-way houses, museums, hospitals or university buildings with Board of Zoning Adjustment approval. The District permits a building with a maximum FAR of 3.5, a maximum height of 90 feet and a maximum lot occupancy of 75 percent.
6. The applicant proposes to develop an office/retail project with a gross floor area of 419,730 square feet. The project has three main components:
 - a. The complete renovation and reconstruction of existing landmark row buildings on the site which face I Street and the construction of new infill buildings on lots not occupied by the landmark buildings to complete the streetscape in a bulk, height and architectural treatment compatible with the existing landmark buildings. The renovated and reconstructed landmark buildings and the infill buildings will be used for office and retail uses;
 - b. Construction of a new office building behind the row, with a large retail complex, a pedestrian passage-way to the campus and underground parking;
 - c. Creation of a glass covered galleria and skylight to facilitate pedestrian movement to the campus and the shopping areas within the project between the row buildings and the new office structure.
7. The PUD site is located in the northern portion of Square 101. The site is bounded by I Street and Pennsylvania Avenue on the north, 20th Street on the east, 21st Street on the west, an a public alley on the south. The majority of the site is currently devoted to surface parking. It also contains twelve row buildings which have been designated as a historic landmark by the Joint Committee of Landmarks of the National Capital. These buildings are currently vacant and dilapidated.

14. A total of 214 parking spaces will be provided on site for exclusive use of this commercial project. The applicant will designate thirty-nine of the parking spaces for short-term parking for visitors to the project. The Commission finds that the applicant's parking proposal is reasonable provided that these thirty-nine spaces are reserved as short-term spaces.
15. The parking garage entrance is to be located on 20th Street and it will be used exclusively by passenger automobiles. Access to the loading facilities will be from 21st Street at the rear of the proposed development. The loading area provides enough area to allow full length trucks to have complete on-site maneuverability.
16. Pedestrian access to the project will be through (a) each of the existing row buildings, (b) an entrance to the galleria located on I Street between 2034 I Street and 2040 I Street, (c) the University gateway, located at 2020 I Street which is proposed to be a three-story pedestrian passage through the center of the project which, with a "landscaped walkway in the southern half of the square, will permit pedestrian access to the University yard which is directly to the south of Square 101 across H Street, N.W., (d) the main office entrance located between 2008 and 2018 I Street, and (e) from an entrance to retail uses from 20th Street.
17. The project will be developed in one stage over a period of approximately three years. Construction will begin as soon as the necessary permits are issued.
18. Storm water runoff will be discharged onto surface drainage and will not be discharged into the existing combined sewer service at this location. Sewer and water service will utilize, and connect with, existing public facilities in I, 20th and 21st Streets. The Department of Environmental Services has stated that existing water and sewer services are adequate to serve the project. The Department has issued a water and sewer reservation for the project.
19. The 19th Century streetscape and the historic row buildings along I Street between 20th and 21st Streets, except for 2040 I Street which is not owned by the applicant and is not a part of this application, will be restored and reconstructed except for their rear additions, which will be removed to permit construction of the office building and the galleria.

20. The retail complex in the project will serve residents of the neighborhood, the University community, users of the office building and nearby office workers. The complex includes retail space at the first-floor level of the historic row buildings and the first floor of the new office structure. Between the row buildings and the office structure will be a glass covered, temperature controlled walking area to give access to the shops in the row buildings and the office buildings.
21. The project is of major importance to the city and the University because it would: (a) provide for historic landmark preservation and reuse of the existing landmark buildings; (b) improve the attractiveness of the area; (c) introduce a University gateway with pedestrian circulation through the complex to the University Yard; (d) provide retail services to the neighborhood; (e) protect the University's future in the City by providing a reserve of building space for future University operations; (f) provide income to the University to defray operational expenses; (g) generate more than \$1 million annually in tax revenues to the District of Columbia; and (h) create approximately 1850 permanent jobs and 250 construction jobs in the District of Columbia.
22. The project is consistent with the George Washington University Campus Plan which was approved by the Board of Zoning Adjustment in 1970. The Campus Plan calls for a high density commercial frontage along Pennsylvania Avenue between 19th Street and the University Medical Center at 23rd Street.
23. The Planned Unit Development will provide the following amenities for the District of Columbia:
 - a. The preservation and reconstruction of the landmark on the 2000 block of I Street;
 - b. The creation of a lively commercial center to serve the neighborhood, the office buildings in the area and the University community;
 - c. The retail galleria, which ties together the restored and rebuilt row buildings with the new office building and which will be a skylit, temperature controlled, pleasant environment for shoppers and visitors to the project;
 - d. The University gateway, which is an enclosed pedestrian way running the entire depth of the project from I Street to a landscaped pedestrian walkway to H Street in the University Yard;

- e. Superior landscaping and lighting provided by the project;
and
 - f. The design of the office building itself.
24. At the public hearing, the applicant submitted an alternative design as requested by the Zoning Commission. The alternative design did not change the basic aspects of the project, but altered the treatment of the new office element to make it more of a "back drop" for the row buildings as compared to the original design submitted by the applicant. The alternative design enhances the texture and form of the row buildings. The alternative design significantly reduces the apparent mass of the building by ample set backs and the use of reflective glass to give an open, airy feeling to the building. The alternative design is a softer statement of an office building and is a less active design as compared to the original proposal. The mass of the alternative design has two principle portions which are intended to be a back drop to the third mass which is the row buildings themselves. These two masses consist of a lower element which would be all glass which would reflect the light from the sky and be a back drop from the row buildings. Behind the lower element is a higher element which is set back twenty-five feet further than the original design in order that the building mass may be perceived as more distant from I Street.
25. Herman D. J. Spiegel, of Spiegel and Zamecnik, Inc., the structural engineers for the project, submitted a detail written report and presented oral testimony on the conditions that exist in the row building presently. Mr. Spiegel testified that the row buildings have severe structural defects including inadequate masonry walls, inadequate wood roofs and floor framing, lack of proper foundations, poor subsoil conditions, perched water table close to basement slabs, frost heave, damage from Metro construction close to 21st and I Streets, inadequate original construction, lack of maintenance over ninety to 150 years, errors and poor construction during alterations, and poor mortar in the masonry walls. Mr. Spiegel testified that eighty-one percent of the walls that comprise the row buildings are either structurally unsound or do not meet the D.C. Building Code. Mr. Spiegel testified that even if the loads were reduced in the row buildings to the very minimum required by the D.C. Building Code, approximately eighty percent of those walls would still be deficient. Mr. Spiegel concluded that the front facades represented most of the walls that could be saved due to better care in their construction and lack of exposure to the sun and other elements. His recommendation as a structural engineer was to remove all the deficient walls, restore what could be restored and reconstruct the remaining walls. The Commission concurs in the findings and recommendation of Mr. Spiegel.

26. The proposed alternative design complies fully with the District of Columbia Building Code requirements with regard to fire and life safety concepts. The applicants fire safety expert concluded that it is unlikely that the required fire resistance of the Building Code could be achieved without extensive rebuilding of the existing row buildings. He found the alternative design with the reconstruction of the row buildings to provide a superior fire protection system for the occupants and for fire fighters by increasing the fire resistance of the structures to that required by the Code and good engineering technique. The Commission agrees.
27. The total amount of space that can be supported in the project for retail uses will vary according to the size and mix of shops. However, at least 33,000 square feet of space can be supported.
28. Mr. Mallory Walker, President of Walker and Dunlop, a commercial real estate company that specializes in leasing and management of office structures, testified that the site is an excellent location for office and retail uses. He testified that there is a strong demand for well located office space and that he would expect to be able to prelease fifteen percent of the project during 1981, fifty percent in 1982 and the remainder in 1983. He concluded that the demand for both present and future office space remains very strong, especially in the immediate vicinity of the project. Mr. Walker also testified that it is an important element of an office building to establish a separate office building entrance that is different from the University gateway and galleria entrances. The Commission so finds.
29. Henry J. Browne, a registered architect with the firm of Grigg, Wood, Browne, Eichman and Dalgliesh, historic preservation consultants, testified that from a historic preservation perspective, restoring the facades and reconstructing the row buildings to their original foot print would be in keeping within the spirit of the landmark designation and his own evaluation. He found that general adaptive restoration of the spaces behind the facades would be economically difficult in view of the deteriorated condition of the framing, masonry walls, the varying floor levels, and the absence of compliance with the life safety and environmental requirements of the District of Columbia. He further stated that restoration would require replacement of much of the fabric of the buildings. He stated that the landmark status of the row is based on the row's contribution to the streetscape. Total restoration of the buildings, even if possible, is unwarranted. Further, he found the rear portion of the structures, bear no resemblance to the original rear

facades because of successive additions. The rear facades have been penetrated numerous times for convenience and leave little to be preserved. He further found that the rear facades are without historic or aesthetic value. He concluded that the new alternative design office building with its facade breaks and set backs from the row buildings, would not damage the historic streetscape. The Commission so finds.

30. The project plan will impose no significant traffic impact upon the street system, the parking requirements are adequate, and the loading requirements will be met without disruption to the traffic and pedestrian flow. The presence of nearby mass transportation will reduce the need for automobile commuting to the project.

31. Dr. Lewis Waters, the applicant's expert planning consultant, testified that the project conforms to all applicable public policies and plans. He said that the project will generate over 2100 jobs and 1.5 million dollars in public revenues to the City and that the project will have minimal impact on community services. He stated that retail shopping opportunities will be provided and mass transit use will be enhanced. He found no adverse impact on area land uses or the neighboring communities. Dr. Waters also testified that the project's relationship to the height and bulk of adjacent structures is consistent with the land uses and building character of the area. Dr. Waters concluded that the project meets or exceeds the benefits derived from a typical matter of right development which can be built on this site. He testified that there would be no adverse impact on water supply, sewer service, storm water flow, air quality, noise, and solid waste disposal to the District of Columbia. He stated that sound planning techniques justified the rezoning of the 17,100 square feet of R-5-C land to C-3-C. The rezoning would have no adverse impact on the area. He also indicated that no loss of future residential land will occur as a result of the rezoning since the University owns this land and would develop it in a University, non-housing use which is allowed in the R-5-C zoning. He found the application to comply with Article 75 of the Zoning Regulations and to meet the essential guidelines for approval of a Planned Unit Development. He found the increased height allowed under the PUD was justified by the set backs from the facades of the row buildings. He concluded that the many benefits to the City and community in the application justified its approval under the Planned Unit Development process. The Commission agrees with the findings and conclusions of the expert planning consultant.

32. M.O. Garfink, Vice President, Chief of the Pre-construction Services Department, Clark Enterprises, Inc., testified that the cost of incorporating the existing I Street facade and constructing the alternative design is estimated to be approximately \$29.1 million. A first class office building in Washington, D.C. conforming to the appropriate zoning but without the obligation to retain the existing structures would cost approximately \$24.1 million. We estimated. He further estimated that the University will spend approximately \$5 million for incorporating in the project the row house facades and for spatial configurations of the alternative design. The Commission so finds.
33. The Office of Planning and Development by a report dated November 28, 1980, approved the concept of a Planned Unit Development for the site with the provision that several elements identified in the report be resolved prior to final approval. The OPD stated that it had some reservations about the specifics of the project shown in the original application. The OPD acknowledged that it is the character of the facades of the structures which is the significant contributory factor to the urban streetscape. After submission by the applicant of the alternative design, by its testimony on February 9, 1981, the Office of Planning and Development recommended approval of the application as modified by the alternate design, subject to certain guidelines, conditions and standards set forth in its report. The Commission agrees with the OPD findings.
34. The D.C. Department of Transportation ("DOT") by memorandum to the Office of Planning and Development dated December 10, 1980, reported that DOT had coordinated the design of the loading facilities and the parking structure with the applicant. The Department of Transportation report noted that there is sufficient capacity in the area street network to accommodate traffic entering and leaving the project and that the applicant's truck loading design which permits on-site truck movement is an excellent means of avoiding traffic disruption associated with trucks backing out of a site onto public streets. The DOT report supports the PUD proposal for parking, specifically the reservation of 39 spaces for short-term and visitor parking, because of the excellent transit service in the area. The Commission concurs with the conclusions reached by DOT.
35. The Department of Environmental Services, in a memorandum to the Office of Planning and Development dated November 2, 1980, indicated that it concurs with the proposed PUD application.
36. The D.C. Fire Department, by memorandum dated November 7, 1980 to the Office of Planning and Development, indicated that the Department had reviewed the application and concluded

that the proposed development will have no adverse impact on the Fire Department.

37. The Superintendent of Schools, by memorandum dated October 31, 1980, to the Office of Planning and Development indicated that the proposed development's impact on the Public Schools will be negligible.
38. Advisory Neighborhood Commission 2A within which the property is located, by testimony presented at the public hearing and by written statement, opposed the original project design submitted by the applicant for the following reasons:
 - a. The ANC opposed the proposal by the University to permit the development rights of the common service area (Lot 854) to be transferred to another part of the Square.
 - b. The original portions of the each landmark building included in the project should be preserved in their entirety and the applicant proposed substantial reconstruction.
 - c. The architecture of the new building is incompatible with the scale of the row houses and its design is visually overbearing and forms a barrier to the University campus and the community.
 - d. The 8,025 square feet of galleria area and pedestrian way should be included in the FAR calculations of the project since the area is useable floor space.
 - e. There should be an entrance to each row building on I Street with an option to use an entrance at the rear of each row building into the galleria. The ANC stated that it is critical to retain an active street life on I Street and that separate individual entrances to the row houses is the best way to achieve that objective.
 - f. The proposed uses for the retail area should be more service-oriented.

At the public hearing, the ANC noted that its resolution entered into the record was based on the original design in the PUD application. The ANC indicated that it has not taken a formal position on the alternative design and was requested to do so by the Zoning Commission. The ANC subsequently held a meeting on March 3, 1981, and passed a resolution which modified its original position in several respects. The ANC's resolution reduced its opposition to the project to two issues:

- A. the height and bulk of the office building behind the row structures; and
- B. the extent of reconstruction versus restoration of the row buildings.

The ANC further recommended that if the Zoning Commission approved the PUD, it be approved only as the first stage of a two-stage process.

39. The Foggy Bottom Association, by its written statement and the oral testimony of its President, Mr. John L. Landgraf, at the public hearing opposed the application for the following reasons:

- a. Insufficient study has been made of the needs of Foggy Bottom residents for retail services. The area is ill-supplied with retail services. A list of general needs supplied by the ANC in January 1980 does not appear to have been carefully studied. Planning for services and amenities seems basically to have been directed toward University students and staff, and daytime office workers.
- b. While the Foggy Bottom Association recognizes the University's need in its "land bank" program for an income-producing building on the site, it questions the height and mass of the proposed office building.
- c. The Association desires more preservation of the existing row buildings rather than the amount of reconstruction proposed by the applicant.

40. Don't Tear It Down, Inc., ("DTID") by the written testimony and oral statement of Mr. Peter H. Smith and a professional engineer, Mr. James Plowden, opposed the application for the following reasons:

- a. The preservation of the landmark buildings should not be considered an acceptable public benefit that would warrant increased FAR under a PUD. An objective of a PUD under Article 75 is to encourage historic preservation. DTID believed that increased revenue from a new office building with an FAR greater than that allowed as a matter of right is more than is needed to rehabilitate the row buildings.
- b. DTID opposed the exclusion of the galleria and pedestrian passageway from FAR calculations because it contends that these passageways are being built only to service the project.

- c. DTID opposed the reservation of FAR for the area that is known as the common service area.
 - d. DTID contended that the parking garage jeopardizes some of the landmark row buildings and should be readjusted to be built under the common service area.
 - e. DTID believed that the University's architects should have moved the building back further, or reduced its height, to lessen impact on the row buildings.
 - f. The applicant should consider planning the entire square in relationship to this project.
 - g. DTID questioned the structural analysis submitted by the applicant's structural engineer. Specifically, DTID recommended that the question of reconstruction or preservation of the landmarks be referred to the Mayor's Agent under provisions of D.C. Law 2-144.
 - h. DTID opposed two main entrances on I Street (the gateway and the office entry) because such entrances break up the cohesiveness of the row.
41. Mr. Theodore Scheve, an adjacent property owner and a party in opposition to this application, did not make an oral or written statement at the public hearing.
42. The Zoning Commission received the testimony of one person in support of the application and several letters from other persons in support of application are in the record.
43. The Joint Committee on Landmarks of the National Capital by a resolution dated January 22, 1981, found the alternative design to be an improvement over the original design with respect to: (1) retention of the basic footprint of the landmark buildings and redesign of the rear elevations in a manner consistent with the original character; (2) redesign of the galleria as a series of separate elements responding to the architectural presence of the landmarks rather than as a continuous membrane relating the landmark facades to the proposed office building in a superficial, decorative manner; and (3) simplification of the articulation of the principal facade of the office building slab in a manner more compatible with the visual richness of the historic buildings. However, the Committee found that the alternative design was not consistent with the purposes of D.C. Law 2-144 as set forth in Section 2 (b) because:
- a. the project still calls for the demolition of major portions of the buildings, all of which contribute

to the character of the historic landmark; and

- b. although the design of the office building has been further simplified, it is still not compatible with the historic landmark.

The Committee determined that the building's height and mass still visually encroach upon the historic buildings, overwhelming them and destroying the architectural integrity of the row of landmark buildings. The Committee recommended that: (1) the main blocks of the landmark buildings be retained in their entirety and rehabilitated; and (2) the height and bulk of the office buildings be further reduced. The applicant indicated at the public hearing that it intends to appeal the Joint Committee's decision to the Mayor's Agent, as provided for in D.C. Law 2-144.

- 44. The Commission has given serious consideration and "great weight" to issues raised by the Advisory Neighborhood Commission. As to those issues, the Commission finds as follows:

- A. As to the ANC's concern that the common service area development rights will be transferred to a lot elsewhere in the square, the Commission notes that the application has been modified, so that the land area of the common service area is not included in the FAR calculations of the building. Accordingly, the existing R-5-C development rights will remain with the common service area lot and are not transferred. The Commission will further limit the use of that floor area to a University use. If the University should in the future combine the common service area with an adjacent parcel for a project consistent with the University's Campus Plan, the floor area of the common service area could be utilized in such a project, if approved by the Board of Zoning Adjustment, provided that the common service area remains available for truck service movements as proposed by the applicant.
- B. As to the preservation of the historic landmark and the ANC's concern that the original portions of each of the landmark buildings be saved, the Commission finds that the alternative design addresses this concern and that the University is willing to preserve those portions of the landmarks that can be preserved and still meet structural and safety requirements of the District. The Commission further will leave to the discretion and final resolution of the Joint Committee and the Mayor's Agent the detailed decision on how much of the buildings must be preserved.

- C. As to ANC 2A's concern about the exclusion from FAR calculations of the 8,025 square feet of galleria area pedestrian way, the Commission finds that the reduced building size of the alternate design makes it unnecessary for this exclusion to be addressed.
 - D. As to the ANC's concern that there should be a primary entrance to each row building on I Street, the Commission finds that the University has addressed this issue and has provided, in its alternative design, access to each row building from I Street.
 - E. As to the ANC's concern that the proposed uses for the retail area should be more service oriented, the Commission finds that the proposed retail mix generally meets this concern while still maintaining a viable rentable retail project. The Commission further finds that there is no overall consistency to the ANC's list of acceptable retail uses, and finds that the uses permitted in the C-3-C District are reasonably for the subject site.
 - F. As to the ANC concern that the architecture of the new building is incompatible with the scale of the row buildings, is visually overbearing and forms a barrier to the University campus and the community, the Commission finds that the setbacks provided from the row buildings, the materials and design of the alternative design and the articulations of the alternative design render the building design compatible with the row buildings and surrounding structures.
 - G. As to the recommendation that the application be approved only as the first stage of a two-stage process, the Commission finds that nothing would be gained by such an action. All of the information necessary to decide the application is available as well in a consolidated process as in a two-stage process.
45. As to the concerns raised by the Foggy Bottom Association, the Zoning Commission finds that the applicant did consider the needs of the Foggy Bottom residents in its retail program and that the height and mass of the proposed office building with the proposed set backs enhances the row buildings. Further, the Commission finds that based on the report of the University's structural engineer, the University intends to preserve the row buildings where such preservation can be accomplished, given the structural conditions of the row buildings.

46. As to the concerns raised by Don't Tear It Down, Inc., the Commission finds that:
- a. the benefits provided by this application, namely the preservation and restoration of the row buildings, the set backs from the row buildings, the increased revenues to the city from additional taxes, the provision of retail services for the community, the pedestrian access from H Street to I Street through the project, the provision of a galleria, the location and design of the underground parking garage and loading facilities, and the provision of the 250 construction jobs and 1850 permanent jobs upon completion meet the requirements of the Zoning Regulations for a Planned Unit Development;
 - b. regarding exclusion of the galleria from FAR calculations, such exclusion is no longer necessary since the applicant has reduced the size of the building and the proposed FAR is within the PUD guidelines;
 - c. the concern with transfer of FAR in connection with the common service area is eliminated by the applicant's modified request to preserve the FAR of the site for future uses but without transfer to another lot in its application;
 - d. as to concern about the parking garage, the Commission finds that the parking can be located as proposed by the applicant without effecting the character of the row buildings;
 - e. the Commission finds that the proposed alternative design helps to complete an appropriate urban square by filling out the south side of the square;
 - f. the Commission does not have jurisdiction to require an applicant to expand its site, including purchasing additional properties. The Zoning Commission can only review the application before it;
 - g. the Commission finds that the applicant's structural engineer adequately demonstrated to the Commission that the row buildings have serious structural deficiencies and that the University proposes to preserve the fabric of the row buildings, rebuilding where necessary;
 - h. the Commission finds that the row on I Street, as designed, is cohesive and that there is no adverse effect on the row created by the existence of the separate University Gateway and office building entrance.

47. 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. The NCPC reported that the proposed approval of the application is inconsistent with the Comprehensive Plan for the National Capital, and would have an adverse impact on the Federal interest in the preservation, protection and enhancement of historic landmarks. The NCPC reported that:
- A. The National Capital Planning Act of 1952, as amended, charges the Planning Commission with the preservation of "important natural and historical features of the National Capital". The proposed planned unit development includes the south side of the 2000 block of Eye Street, N.W. (Red Lion Row), a Category II landmark of the National Capital on the National Register of Historic Places, and is adjacent to open space defined by the north line of Eye Street, east line of 20th Street, south line of Eye Street, and west line of 21st Street, including U.S. Reservations 28 and 29 (James Monroe Park), which open space is one of the major elements of the 1791-1792 plan of the Federal City, a Category I landmark of the National Capital. The preservation, protection and enhancement of these landmarks and Federal parks are Federal interests.
 - B. The Comprehensive Plan for the National Capital has among its goals increased "awareness of, and access to, facilities, places and activities essential to residents' and visitors' understanding of their history and culture" and among its policies "the preservation and enhancement of places and events which most importantly contribute to neighborhood identity" and "the continued identification, preservation and use of significant....historic....districts and sites".
 - C. The proposed planned unit development provides for a mirrored glass and masonry office building with a height of 125 feet immediately to the rear of and attached to Red Lion Row paralleling its entire length. The Joint Committee on Landmarks of the National Capital has determined that the design of the office building is not compatible with Red Lion Row because its height and mass visually encroach upon the historic buildings, overwhelming them and destroying their architectural integrity. The Commission concurs with the Joint Committee and also finds that the office building would fail to enhance the adjacent open space.

The NCPC further recommended that the Zoning Commission obtain specific design guidance from the Joint Committee which would assure compatibility of the new construction with the historic structures.

48. In addressing the concerns of the NCPC regarding the Comprehensive Plan, the Zoning Commission finds as follows:

- A. The issue of historic preservation has been one of the primary factors considered in the record of the subject application. The Commission has previously set forth in other orders, in great detail, its view on the relationship between zoning and the historic preservation protection processes established by D.C. Law 2-144. Briefly stated, the primary mechanisms for historic preservation in the District is D.C. Law 2-144. The NCPC's conclusion that approval of the proposed Planned Unit Development and rezoning would be "inconsistent with the Comprehensive Plan" ignores the reality of D.C. Law 2-144. Section 8(f) of that Law allows the Mayor's agent to deny the issuance of a building permit for new construction on the site of a historic landmark "if the design of the building and the character of the historic district or historic landmark are incompatible." Further, Section 5(e) provides that no demolition permit for a historic landmark may be issued "unless the Mayor finds that issuance of the permit is necessary in the public interest, or that failure to issue a permit will result in unreasonable economic hardship to the owner." If D.C. Law 2-144 is properly administered, there can be no contravention of the intent of the Comprehensive Plan.
- B. The weight of all the testimony and evidence in the record of the proceeding establishes that, contrary to the report of the NCPC, approval of the application will further the goals and policies concerning historic preservation. The applicant is preserving the scale and character of the landmark. The Commission will leave for final resolution by the Joint Committee on Landmarks and the Mayor's Agent the detailed decision on how much of the buildings must be preserved intact, and how much may be rebuilt. The Commission finds that the testimony and report of the applicant's structural engineer, cited in Finding of Fact No. 25, establish that it is unlikely that much of the original buildings can be retained for modern commercial occupancy. However, adaptive

reuse of historic landmarks requires flexibility to fit the requirements of modern codes and ordinances.

- C. The NCPC further failed to recognize that in evaluating and applying the Goals and Policies element, all of the goals and policies must be considered. The NCPC cites two sections of the District of Columbia Comprehensive Plan Goals and Policies Act of 1978. Sections 451 and 452 are both from the portion of the element dealing with "History and Culture." The NCPC made no reference to any other portion of the Goals and Policies element, even though the element has sixty-four other sections dealing with such topics as land use, transportation, economic performance and urban design. The element as a whole constitutes the goals and policies for the District of Columbia. To seize upon one goal or policy to the exclusion of all the others is to the detriment of the city. The NCPC did not cite such other policies of the element as "to encourage the retention of existing businesses, the attraction of new businesses and appropriate business expansion" (Section 502(a)), "to promote a broadened public revenue base for the District, using all available resources" (Section 542 (c)), "to have a productive vital and attractive downtown"(Section 571), "to promote appropriate commercial, industrial and related development to serve the economic needs of the city and its neighborhoods" (Section 702(b)), "to promote the use of vacant land for the maximum benefit of the city and adjacent neighborhoods"(Section 702(f)), "to promote land uses which most effectively support efficient transportation systems"(Section 802(g)) and "to promote the maximum possible use of public transit for trips within the city "(Section 802(a)). In determining whether an action is inconsistent or not inconsistent with the Comprehensive Plan, the Zoning Commission must take into account the entire Goals and Policies element. Further, the Commission must balance what are often competing goals and policies. To accept the view of the NCPC and to reject the rezoning would be to take an action that is more inconsistent with the Plan than the action to be taken herein. The balance, of all the goals and policies, to be reached clearly favors the proposed action.

49. In addressing the concerns of the NCPC regarding the adverse impact on the Federal interest, the Commission finds that the NCPC has again singled out a small portion of what might be considered to be the Federal Interest. The District of Columbia is the national capital. From that viewpoint, any

action taken by the Zoning Commission which affects the District of Columbia might be said to affect the Federal Interest. However, in establishing the principle of home rule, and the dichotomy of authority between the District and Federal governments, the Congress clearly intended that the interests of the District would prevail over other interests in some circumstances. The power of the District is not unchecked. The Congress retains disapproval power over all legislative actions of the City Council, and further retains ultimate authority over the District. In assessing whether a proposed action would have an adverse impact on the Federal interest, the Commission must consider all the ramifications of such action and strike the appropriate balance of Federal and local concerns. The Zoning Commission believes that the issue of historic preservation is primarily a local issue. The preservation of historic districts is accomplished through local legislation and controls. The goals and policies for historic preservation cited by the NCPC are from a District element of the Comprehensive Plan. The Commission believes that the mere fact that a historic landmark is listed on the National Register of Historic Places is not sufficient to accept the assertion that protection of that district is a Federal interest. The Commission notes however that even if the NCPC's argument is correct, its conclusions that there will be an adverse impact on that interest is not correct. The Commission has stated its findings on the question of historic preservation previously in this order. It is not necessary to state them again.

50. As to the concerns of the NCPC concerning adverse impact on U.S. Reservations 28 and 29, the Commission finds no significant adverse impact will occur. The Commission notes the position of the NCPC concerning both Judiciary Square and Mount Vernon Square, both major, existing, formal elements of the Federal presence in the District of Columbia. In regard to both those squares, the NCPC found no negative impact in allowing buildings to have a height of ninety feet directly facing on the square, and to go to even greater heights with a one-to-one setback above ninety feet. In the present case, the retention of the three-story rowhouse element provides a mass with a height of approximately thirty-five feet for a depth of approximately fifty feet. There is a reflective glass element approximately eighty feet in height, and the final height in excess of 120 feet is not reached until a depth of approximately sixty-five feet from the I Street right-of-way. The Commission finds that the proposed design of the building will not have an adverse impact on the U.S. Reservations.

51. As to the recommendation of the NCPC that the Commission seek specific design guidance from the Joint Committee, the Commission finds that no useful purpose would be served by delaying final action on the application at this point. The Commission is cognizant of the position taken by the Joint Committee, as set forth in Finding of Fact No. 43. The Commission further recognizes that there is a legitimate statutory role for the Joint Committee and the Mayor's Agent in exercising authority pursuant to D.C. Law 2-144. There is sufficient flexibility in the guidelines, conditions and standards set forth in this order, especially when taken in conjunction with the modifications permitted by Sub-section 7501.8 of the Regulations, to allow for modifications to the project to meet design criteria imposed through the landmarks process. If substantive changes to the approval are required, the Commission will consider them upon receipt of an appropriate request to do so.

CONCLUSIONS OF LAW

1. The proposed Planned Unit Development meets the minimum area requirements of Sub-section 7501.2 of the Zoning Regulations.
2. The Planned Unit Development process is an appropriate means of controlling development of the subject site.
3. Approval of this consolidated PUD application is appropriate, because the application is generally consistent with the present character of the area and because it would encourage stability of the area.
4. The Zoning Commission is not bound to accept the report of the National Capital Planning Commission if it finds valid reasons not to be so bound. The Commission has given serious attention and consideration to the issues and concerns raised by the NCPC.
5. The Planned Unit Development and change of zoning is consistent with the adopted elements of the Comprehensive Plan for the National Capital.

6. The Commission takes notes of the position of Advisory Neighborhood Commission - 2A, and in its decision has accorded to the ANC the "great weight" to which it is entitled.
7. 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.
8. The application can be approved with conditions which would insure that the proposed development would not have an adverse effect on the surrounding area.

DECISION

In consideration of the Findings of Fact and the Conclusions of Law, herein, the Commission hereby orders approval of the Consolidated application for a Planned Unit Development for Lots 21, 25, 37-40, 45, 53, 57, 824, 827-828, 832-836, 843, 845, 853-854, 855 and portions of public alleys proposed to be closed in Square 101, located at "I" Street between 20th and 21st Street, N.W., containing 66,242 square feet. The Commission further hereby Orders approval of a change of zoning from R-5-C to C-3-C for lots 835, 836, 855, that portion of lot 854 lying within 156.75 feet of the right-of-way of I Street and portions of public alleys proposed to be closed, all as shown on the plat marked as Exhibit No. 118 of the record. The approval of the PUD and the change of zoning are both subject to the following guidelines, conditions and standards:

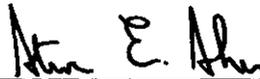
- * 1. The Planned Unit Development shall be developed in accordance with plans dated January 26, 1981, prepared by Hellmuth, Obata and Kassabaum/John Carl Warnecke, Joint Venture Architects and marked as Exhibit No. 66 of the record, except for Drawing 3-1A which is not approved by this Order. Such plans may be modified to conform to the guidelines, standards and conditions of this Order.
2. The Planned Unit Development shall be developed under the PUD standards of the C-3-C District except for the "common service area" described in Condition No. 3 of this Order.
3. The "common service area" as shown on Exhibit No. 116 of the record shall remain in the R-5-C District. Such area shall provide loading and service facilities for the planned unit development and may be used for these purposes in conjunction with future development by George Washington University in Square 101 south of the planned unit development. The amount of gross floor area calculated from the 6,280 square feet of land included in the "common service area" is not included in the gross floor area permitted in this planned unit development. The amount of gross floor area calculated from the "common service area" may be included in the future development of adjacent property which includes the "common service area" only if the development is for a University use in accordance with the approved campus plan for George Washington University.

4. The existing and proposed structures in the Planned Unit Development may be used for any of the uses permitted in the C-3-C District.
5. The maximum FAR of the Planned Unit Development shall be 7.0. The maximum gross floor area of the planned unit development shall not exceed 419,736 square feet, of which a minimum of 33,000 square feet shall be devoted to retail and/or service uses.
6. The maximum height of the Planned Unit Development shall not exceed 124.75 feet exclusive of roof structures. A roof structure may be erected to a height not to exceed 18'6" above the roof upon which it is located.
7. The roof structure of the proposed building shall comply with the requirements of Section 3308 and Paragraph 5201.24 of the Zoning Regulations.
8. The Planned Unit Development shall provide a minimum of 214 parking spaces of which not less than 39 shall be reserved for short-term use at all times. Access to the parking garage shall be from 20th Street, N.W.
9. The location of all entrances, parking areas, and loading areas shall be as shown on the plans submitted to the record, dated January 26, 1981 and marked as Exhibit No. 66 of the record.
10. Landscaping of the public and private spaces shall be as shown on Drawings 1-2 and 2-3 of Exhibit No. 66 of the record.
- * 11. The facade materials of the proposed 11 story structure shall consist of limestone or limestone colored precast concrete. Glazing for all sides of the main portion of the proposed 11 story structure shall consist of mirrored glass. The mirrored glass shall be either gray or green tint. The proposed facade material of the lower element of the north facade of the proposed 11 story structure, marked in red on Drawing 3-1 of Exhibit No. 66 of the record, shall consist entirely of gray or green tinted mirrored glass.
12. The new Eye Street office entrance designated as 2000 Pennsylvania Avenue, the proposed University Gateway, and the proposed infill buildings designated as 2036 and 2038 Eye Street shall be constructed as shown on Drawing 3-1 of Exhibit No. 66 of the record. The design of these buildings and structures may be modified to conform to any requirements imposed by the Mayor's Agent for D.C. Law 2-144.
13. The twelve landmark row structures shall be restored and/or reconstructed in accordance with the decision of the Mayor's Agent for D.C. Law 2-144.
14. The design of the "Galleria" and internal pedestrian circulation space shall be as shown on Exhibit No. 66 of the record.
15. No building permit shall be issued until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant shall 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.
16. 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 Commission taken at the public meeting of March 23, 1981: 4-1(Theodore F. Mariani, Ruby B. McZier, Walter B. Lewis, and George M. White to approve with conditions, John G. Parsons opposed).



WALTER B. LEWIS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on April 9, 1981 by a vote of 4-1 (Ruby B. McZier, Theodore F. Mariani, Walter B. Lewis, and George M. White to adopt, John G. Parsons opposed).

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 ~~1 MAY 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.

* NOTE: Conditions #1 and #11 were amended by Z.C. Order No. 348 dated 8-13-81, (see pages 21 & 22).