

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 399 *

CASE NO. 82-15/81-15M

May 16, 1983

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on March 28, 1983. At that session, the Zoning Commission considered an application from Kalian, N.V. The application requests a modification to an approved Planned Unit Development (PUD) pursuant to Section 7501 of the Zoning Regulations of the District of Columbia. No zone change is requested. The hearing was conducted under the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application requested a modification to Z.C. Order No. 369 which was the decision of the Zoning Commission in Case No. 81-15C (Consolidated PUD and related Map Amendment from HR/SP-2 to HR/C-3-C for lot 50 in Square 517 at the 400 block of Massachusetts Avenue, N.W.) The approval allowed construction of a thirteen story hotel and an eleven story office building in a single building containing a gross floor area of approximately 362,450 square feet with an indoor garage to accommodate 186 automobiles. The height is to be approximately 124 feet.
2. Zoning Commission Order No. 369 dated March 11, 1982, granted approval to Case No. 81-15C subject to certain development conditions, guidelines and standards.
3. Condition No. 14 of the Order states that, "The entire planned unit development shall be constructed in one phase. No certificate of occupancy for the office portion of the building shall be issued until a building permit for the hotel portion of the building has been issued and construction on the hotel has commenced. If the hotel is not completed within six months after the Certificate of Occupancy for the office is issued, such certificate shall be revoked, and the occupancy of the offices shall be suspended until the hotel is completed."

4. Condition No. 17 states, "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 building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within three years of the effective date of the Order.
5. Those development conditions cited above which relate to the timing of the construction of the hotel in relation to the construction of the office building, are the subject of this request for modification.
6. The application requested permission to construct and operate the hotel component of the complex prior to the obtaining of a building permit for the office component.
7. At the public hearing, the representative for the applicant testified that economic conditions have resulted in a saturated office market in the Washington D.C. area. The applicant further testified that the financing package for the project is being structured in a manner such as to permit the hotel portion to be constructed in the initial phase with the office component to be constructed in the future.
8. The architect for the project testified about the importance of phasing the project. He also indicated that an interim site plan had been prepared that would allow the office tower to be constructed at a later date but not deter the hotel project or cause a major disruption to the site and surrounding areas during the office tower construction period.
9. The Office of Planning (OP), by memorandum dated March 18, 1983 and by testimony presented at the public hearing, supported the application and its interim use proposal. The OP noted that the height, bulk, zoning and development plans that were approved under Order No. 369 will remain the same. The OP was of the opinion that applicant in his interim proposal had satisfactorily demonstrated that it will ensure as smooth a construction period as possible for hotel guests and surrounding residents. The OP found that the proposed modification will be consistent with the development plans and policies of the District of Columbia. The subject site is located within the downtown area slated for revitalization. The OP further believed that the proposed construction of the hotel component of the project before the office component would work towards the accomplishment of the city's objective by putting in place one of the first newly constructed hotels in close proximity to the

Convention Center. The Zoning Commission concurs with the findings and recommendations of the Office of Planning.

10. Advisory Neighborhood Commission 2C did not file a written report or participate in the case.
11. There was no opposition to the application.
12. Vera Clifton, an interested citizen, testified that she had an interest in the project due to the fact that her mother and an elderly aunt reside in Judiciary House, located directly in back of the proposed building. She was concerned about the possibility of the obstruction of her relatives' view due to the construction of the office building. She did not object to the requested modifications which would result in delay of construction of the office building.
13. The Commission finds that the effect of the amendment is limited to the approved phasing of the construction of the project. The amendment will not undermine the integrity of Zoning Commission Order No. 369, and will allow for the construction of the hotel portion of the complex in the first phase, a result which will clearly support the city's goals for that area.
14. As to the concerns raised by Vera Clifton the Commission finds that the applicant has incorporated design techniques and construction schedules to ensure as smooth a transition as possible for the residents of the Judiciary House.
15. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the amendment would not adversely affect the Federal interest in the preservation and protection of Massachusetts Avenue, designated as a Special Street in the Urban Renewal Plan for the Downtown Urban Renewal Area, and a major element of the 1791-92 plan of the Federal city, its related open space around the intersection of 5th and I Streets and Massachusetts Avenue and the nearby Old Engine Company No. 6, a Category II Landmark of the National Capital, and other Federal interests in the National Capital and would not be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The subject application is properly processed as a modification to the previously approved PUD.

2. The Planned Unit Development process is an appropriate means of controlling development at the subject site.
3. Approval of this application to modify an approved PUD is appropriate because it would reinforce the intent of the original PUD approval and would result in a project that is consistent with the present character of the area and because it would encourage stability of the area.
4. The approval of the application would promote orderly development in conformity with the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.
5. The application can be approved with conditions which would ensure that development would not have an adverse effect on the surrounding area.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission orders APPROVAL of the following modifications to Order No. 369, the approved consolidated PUD and map amendment from HR/SP-2 to HR C-3-C for lot 50 in Square 517 at the 400 block of Massachusetts Avenue, N.W.:

- A. Delete existing Condition No. 14 and add a new condition No. 14 to read as follows:

"If the entire Planned Unit Development is constructed in one phase, then no certificate of occupancy for the office component of the building shall be issued until a building permit for the hotel component of the building has been issued and construction of the hotel has commenced. If the hotel is not completed within six months after the certificate of occupancy for the office is issued, such certificate shall be revoked, and occupancy of the offices shall be suspended until the hotel is completed. If the project is constructed in two phases, then a building permit may be issued for the hotel component of the building prior to the issuance of a building permit for the office component of the building and a certificate of occupancy may be issued for the hotel component of the building prior to the issuance of a certificate of occupancy for the office component of the building. In a two phase project, the applicant shall have until

March 27, 1987, to file for a building permit for the office component of the building and shall have one year from the date of the application for the permit to start construction."

- B. Delete the last two sentences of Condition No. 17 and add two new sentences to the end of Condition No. 17 to read as follows:

Within such time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Zoning Regulations, except as provided in Paragraph 14. Construction shall start within three years of the effective date of this order, except as provided in Paragraph 14.

- C. Add the following additional conditions:

18. In the event the project proceeds in two phases as described in Condition No. 14, the plaza and east facade shall be developed in the interim in accordance with the plans prepared by A.J. Rappatone, Architect, marked as Exhibit No. 4 of the record of the subject application.
19. Landscaping and planting shall be maintained in a healthy growing condition and shall be replaced as necessary.
20. The exterior design of planter boxes shall be as shown on Exhibit No. 27 of the record of the subject application.
21. The concrete deck upon which the planter boxes rest shall have a reddish tint color as described in Exhibit No. 27 of the record of the subject application.
22. The color of the exterior material of the proposed office building component, including the brick, glass and trim, shall be the same color as the exterior of the hotel component of the building.

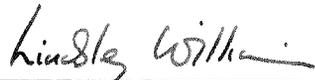
Vote of the Commission taken at the public meeting on April 18, 1983: 4-0 (Commissioners Lindsley Williams, Walter B. Lewis, John G. Parsons, and Maybelle T. Bennett to approve with conditions - George M. White, not present, not voting).

This order was adopted by the Zoning Commission at its

public meeting held on May 16, 1983 by a vote of 4-0 (Commissioners Lindsley Williams, Walter B. Lewis, John G. Parsons, and Maybelle T. Bennett, to adopt as amended - George M. White, not voting not having participated in the case).

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

JUN 10 1983



LINDSLEY WILLIAMS
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

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