

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 445-B
Case No. 96-14M/84-17C
(PUD Modification @ 2001 L Street, N.W. – Lafayette Centre)
March 9, 1998

At its public meeting on April 14, 1997, the Zoning Commission for the District of Columbia considered and approved an application from Mitsui Seimi America Corporation for minor modifications to an approved planned unit development (PUD) for property located at premises 2001 L Street, N.W., pursuant to Chapter 24 and the Consent Calendar Regulations of Chapter 30 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. Because the modifications were deemed minor, a public hearing was not conducted.

FINDINGS OF FACT

By Order No. 445-A, the Zoning Commission granted the application to allow minor modifications to the approved PUD involving the upgrading of the existing building lobby at 20th and L Streets, N.W. (Phase V of the Lafayette Center PUD) and the enclosure of the existing public arcade on the ground level of the building along 20th Street, N.W. Order No. 445-A, dated September 15, 1997, became final and effective upon its publication in the D.C. Register on October 3, 1997.

On October 14, 1997, the Zoning Commission received a Motion for Reconsideration of Order No. 445-A, submitted by Greenstein, DeLorme and Luchs, P.C., counsel for (A) 1120 20th Street Associates, (B) 1133 21st Street Associates and (C) Two Lafayette Centre Associates (the movants), owners of Phase I (1120 20th Street, N.W.), Phase II (1133 21st Street, N.W.), and Phase III (1155 20th Street, N.W.), respectively, of the Lafayette Centre PUD.

MOTION FOR RECONSIDERATION

In the Motion for Reconsideration of Zoning Commission Order No. 445-A, the movants requested that the Order be reconsidered and that a request for a public hearing be scheduled for the following reasons:

1. The application did not qualify as a “minor modification” or “technical correction” and should not have been placed on the Consent Calendar.

2. An application that does not qualify as a minor modification or technical correction must meet the requirements for and be processed as a second-stage application and must be subject to a public hearing, pursuant to Subsections 2409.9 and 2408.3 of 11 DCMR.
3. The written request for placement of the application on the Consent Calendar was not served by the applicant on all parties to the original proceeding in violation of Subsection 3030.6 of 11 DCMR. The movants (or their predecessors in interest) were parties to all the Zoning Commission proceedings involving all prior phases of the PUD (as applicants) and were specifically listed and identified as co-applicants in the original application (Case No. 84-17C). Furthermore, the Zoning Commission acknowledged in its final order that all of the movants or their predecessors in interest were the applicants in the case.
4. The movants have been denied due process of law because they, after having been notified of the filing of the application, were not notified of the request for consideration of the application without a public hearing. The movants thought that they would subsequently be notified of a public hearing and intended to participate and oppose the PUD modification request.

By letter dated October 21, 1997, the applicant, through counsel, expressed opposition to the motion for reconsideration for the following reasons:

1. The decision to place the modification application on the Consent Calendar was properly made by the Director of the Office of Zoning upon recommendation of the Office of Planning.
2. The application was correctly deemed to be a "minor modification."
3. The movants were not parties to the modification application and were not entitled to receive service of the modification application.
4. The movants were not denied due process of law as they had received the applicant's Notice of Intent to File a Modification to an Approved PUD and chose not to make the appropriate inquiries regarding the substance or status of the pending application.
5. The approval of the modification application was proper.
6. The requested modifications will not adversely affect access to the movants' properties or adversely affect the value of those properties.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the motion, and response thereto, the Zoning Commission concludes that movants received notification of the proposed modifications and did not indicate a desire to challenge them. Furthermore, the Zoning Commission believes that it was not inappropriate for the modification request to be treated under the Consent Calendar procedures. Finally, the Office of Planning had provided an affirmative opinion on the modification request prior to it being granted by the Zoning Commission.

DECISION

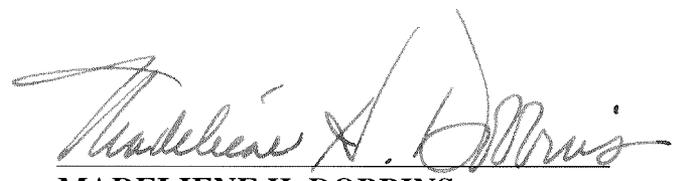
In consideration of the findings of fact and conclusions of law in this reconsideration of Order No. 445-A, the Zoning Commission for the District of Columbia hereby **ORDERS DENIAL** of the motion for reconsideration.

Vote of the Zoning Commission taken at its public meeting on November 10, 1997: 4-O: (Herbert M. Franklin, John G. Parsons, Maybelle Taylor Bennett, to deny; Jerrily R. Kress to deny by absentee vote).

This order was adopted by the Zoning Commission at its public meeting on March 9, 1998 by a vote of 4-O: (Jerrily R. Kress, Herbert M. Franklin, Maybelle Taylor Bennett, and John G. Parsons, to adopt).

In accordance with the provisions of 11 DCMR 3028.8, this order shall become final and effective upon publication in the D.C. Register; that is on MAR 27 1998


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. DOBBINS
Director
Office of Zoning