

Government of the District of Columbia  
ZONING COMMISSION



ZONING COMMISSION ORDER No. 466  
CASE No. 85-2M/80-12C  
AUGUST 1, 1985  
(MODIFICATION TO A PUD @ 2141 WISCONSIN AVE, N.W.)

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on June 20, 1985. At that hearing, the Zoning Commission considered an application for a modification to an approved Planned Unit Development (PUD) and a related map amendment, pursuant to Section 7501 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with the provisions of Chapter 6 of the Rules of Practice and Procedure before the Zoning Commission.

FINDINGS OF FACT

1. The application which was filed on March 8, 1985, requests a modification to Zoning Commission Order No. 342 dated May 14, 1981 and Zoning Commission Order No. 402 dated May 16, 1983,
2. Zoning Commission Order No. 342 granted approval of a consolidated Planned Unit Development (PUD) and related map amendment from R-I-B to C-2-A (formerly D/C-2-A) for Lot 917 in Square 1299 located at 23.41 Wisconsin Avenue, N.W.
3. The approval was for the construction of a two-tower residential/commercial structure with a maximum floor area ratio (FAR) of 3.0 including a maximum commercial floor area of 2,099 square feet, ninety-two maximum dwelling units, a maximum lot occupancy of 48.3 percent, a maximum height of six stories for one tower and eight stories for the other tower, and forty-four underground parking spaces.
4. Zoning Commission Order No. 402 granted an extension of the validity of Z.C. Order No. 342 for two years, until May 29, 1985. The applicant is also requested an extension of the validity of Z.C. Orders No. 342 and 402 until a final decision can be made on the subject application,

5. The subject application proposed to modify the building and landscape designs, the number of dwelling units, and the number of parking spaces that were approved in Z.C. Order No. 342, to achieve a more aesthetically pleasing and functional development.
6. The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5000 square feet,, a minimum lot width of fifty feet, a maximum lot occupancy of forty percent, and a maximum height of three-stories/forty feet.
7. The C-2-A District permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum FAR of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of fifty feet and a maximum lot occupancy of sixty percent for residential uses.
8. Pursuant to Section 7501, the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development, conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right development standards.
9. The PUD site is approximately ninety-one feet in width and 290 feet in depth. The eastern boundary of the site abuts the large U.S. Naval Observatory Circle property, which contains the U.S. Naval Observatory structures and the residence of the Vice President of the United States, The strip of the site abutting the Observatory Circle is zoned R-1-B for a depth of thirty feet. The property has a mild slope towards Observatory Circle,
10. To the immediate north, west, and south of the site is C-2-A zoning, To the east of the site is R-1-B zoning. To the distant north of the site is R-1-B zoning and to the distant west and south of the site is R-3 zoning.
11. The uses in the area are consistent with the zoning pattern. The site is on the east side of Wisconsin Avenue between Calvert and Whitehaven Streets, N.W. Wisconsin Avenue, in the vicinity of the site, is predominantly developed with buildings containing commercial offices, retail and services uses. To the south of the site is a five-story office/apartment building. The predominant heights of buildings on Wisconsin Avenue in the subject area are two-to-three and five-to-six stories. The predominant uses in the residential districts near the site are single-family residential uses.

12. The applicant proposes that the building be modified to incorporate the total development into a single tower that would extend from Wisconsin Avenue to the rear of the lot, The proposed building would still be set back ten feet from Wisconsin Avenue as previous. However, the new structure would not now span the total width of the lot at Wisconsin Avenue leaving space for a landscaped plaza that would be accessible from the street and lead to the core of the building at the center of the lot which contains lobby and elevators, etc. The eastern wing of the building projecting further from the central core to the rear of the lot would be generally similar in shape to the west wing projecting to Wisconsin Avenue. Both eastern and western wings would face an open court.
13. As a result of the previous approval by the Zoning Commission for planned unit development of this site, a number of issues have already been decided and remain unchanged by the requested modification. The appropriateness of this site for a Planned Unit Development with a change in zoning, the character of the proposed development, its compatibility with the surrounding neighborhood, and the public benefits it will provide are all issues which have been previously decided by the Commission.
14. The representative of the contract purchaser described the background of the purchase of the property and its interest in proceeding with residential development in light of favorable market conditions. As evidenced by a letter on file in the record of the case from a financial institution, financing is available for the construction of the proposed development.
15. The representative of the contract purchaser also testified that it had considered and rejected the previous PUD plans for a number of reasons, including inefficient design, inadequate parking and loading facilities, and inferior interior space. Given the optimal location of the site for residential development, the decision was made to request a modification to the PUD plans in order to improve the design and to enhance the marketability of the units,
16. Subsequently to the initial filing of the modification request, the contract purchaser restudied the plans and also met with residents of the community, As a result of this restudy and these meetings, two additional plans were developed which, together with the original modification plans, constituted three alternative plans for development. These plans were filed with the Commission as part of the applicant's prehearing

submission and were described by the architect at the public hearing.

17. As the applicant's architect testified, under all three alternatives, in addition to improving the living space for the occupants of the building, the modified plans significantly improve the visual appearance of the structure. By combining the two towers into a single structure, the width of the facade on Wisconsin Avenue is reduced from seventy-seven feet to thirty-six feet. This enables the developer to provide a landscaped formal garden on Wisconsin Avenue with a pedestrian walkway into the lobby of the building. Additional landscaping is provided at the north side of the site and at the circular driveway entrance to the building. Finally, the same total amount of recreation space as previously approved is provided at the rooftop levels.
18. Alternative One is the modification, as originally filed, which maintains the previously approved sixty-five feet in height, 3.0 FAR and 2,099 square feet of commercial space on the first floor. The commercial use would be limited to the uses previously approved by the Commission in Case No. 80-12C. The ten-foot setback on Wisconsin Avenue will remain and the building will step from a height of six stories at the Wisconsin frontage to a height of eight stories at the rear, containing a middle section at a height of seven stories. The total number of units will be reduced from ninety-two units to seventy-eight units and the number of underground garage parking spaces will be increased from forty-four spaces to fifty spaces.
19. Alternative Two would provide a residential development exclusively, with no commercial use. Under this alternative, eighty units would be provided with fifty parking spaces. Since the development is now proposed to be constructed as a single building, however, this design requires an additional three feet in height at the rear of the building. Without that additional three feet, the front portion of the building, in order to match floor-to-ceiling heights, would be sufficiently below grade as to preclude marketability for residential use. Additionally, the formal garden on Wisconsin Avenue would also be depressed, significantly diminishing its aesthetic impact.
20. Alternative Three was developed as a result of a meeting with residents of the neighborhood at which time concern was expressed over the adequacy of parking, even though the modified plans significantly improved the ratio previously approved by the

Commission. In response to the neighborhood's concern, the applicant restudied the project to determine if additional parking could be provided. That restudy resulted in an Alternative Plan Three that provides ten additional parking spaces, two additional spaces at the garage level and eight additional compact spaces at the first floor level.

21. As described by the architect, under Alternative Three, the eight spaces at the first floor level are in the area of the building fronting on Wisconsin Avenue previously approved for commercial use and would result in the loss of two residential units proposed for that space. In order to maintain a unit count of eighty and to make the project economically viable given the cost of providing this additional parking, it is proposed to relocate these units on top of the Wisconsin Avenue portion of the building, resulting in a seven-story facade. Although this would increase the height of the building at the Wisconsin Avenue frontage from six stories to seven stories, due to the building setback and the reduction in building width from seventy-seven feet to thirty-six feet, this modification would not significantly alter the street facade concept previously approved by the Commission.
22. The architect also testified that because eight of the ten spaces provided under Alternative Three are located at the first floor level, they are included in the FAR calculations for the project and result in an FAR increase of .06 FAR. Additionally, as with Alternative Two, the height of the building at the rear of the site will exceed the previously approved guideline of sixty-five feet by approximately three feet.
23. To further enhance the marketability and aesthetic appearance of the project, the developer is providing balconies for most units above grade. As part of this application, the option to enclose these balconies is requested and to either not have that enclosed space count in the overall FAR of the project or to request permission to exceed the FAR by an additional 0.19. The balcony space proposed would enhance the living space for the unit but is not included in the calculation of net saleable area.
24. The applicant's architect testified that, under the previous design, approximately half of the units had a view over an interior courtyard and thus facing the other tower. Under the modified plans, all units have superior views either over the park or over Wisconsin Avenue, unobstructed by a second tower.

25. The proposed modification also improves pedestrian and vehicular circulation. By reducing the the width of the building on Wisconsin Avenue, a pedestrian walkway is provided through a formal garden into the lobby of the building. Additionally, a circular drive is provided on the north side of the building for discharging occupants and guests.
26. The entrance to the parking area is relocated to the rear of the site and because of changes to the building design and column spacing, and additional sixteen parking spaces over the previously approved PUD are provided under Alternative Three. Loading facilities are provided at the rear of the site at grade, thus alleviating the need for the freight elevator required under the previous plan.
27. The applicant's traffic and transportation consultant testified that the requested PUD modification would have no adverse impact on traffic operating conditions in the area. The existing levels of service would remain after completion and occupancy of the proposed development. There would be no traffic generated through residential streets.
28. The traffic and transportation consultant also testified that the proposed parking ratio of sixty spaces for eighty units under Alternative Three would be more than adequate for the expected car ownership of future residents, as well as visitors of those residents. Additionally, based on the results of a parking survey conducted, there are over 1,000 parking spaces within 800 feet of the subject property,
29. On the basis of its proposal to provide sixty spaces on-site, the applicant requested removal of the condition imposed by the Commission in the previous PUD requiring the lease of off-site spaces for residents of the building.
30. The applicant also presented testimony at the public hearing demonstrating that the requested modification is fully consistent with the adopted District elements of the Comprehensive Plan for the National Capital known as the "District of Columbia Comprehensive Plan Act of 1984." The subject property is located within an area designated "low density commercial" in keeping with the existing C-2-A zoning on the major portion of the site. Further, the proposed PUD accords with the stated goals and objectives of the Plan in all respects including, most significantly, the goal of the District to provide adequate affordable housing in communities that have access to services and the goal to encourage residential development at locations adjacent to

downtown and adjacent to proposed employment centers and office areas,

31. As the representative of the contract purchaser testified, the market is conducive to residential development at this time and financing is available to home buyers needing mortgages., Present market conditions make this an extremely opportune and attractive time for home buyers given the level and availability of mortgage financing. The developer's economic and feasibility studies are extremely sensitive to the effects of timing both vis-a-vis interest, as well as inflation of costs. For this reason, expedited processing of this application had been requested.
32. The District of Columbia Office of Planning (OP), by memorandum dated June 7, 1985, recommended approval of the application , citing the improved design and indicating a preference for Alternative Two. The OP further stated that the project would provide much needed housing to the District and urged the Zoning Commission to have the applicant provide leasing of parking for residents from parking garages in the area, The OP, by testimony presented at the public hearing, did not object to Alternative Three.
33. The District of Columbia Department of Public Works (DPW), by report dated June 7, 1985, stated that the modified plans result in a better circulation system and improved parking supply, in addition to fully complying with the newly adopted parking and loading regulations.
34. Advisory Neighborhood Commission 3B, by letter dated June 6, 1985, voted to support the application but expressed a desire that all of the parking spaces be used for parking. ANC 3B had other concerns related to parking; namely, that parking spaces be sold with units and that other available parking spaces in the immediate area be leased for the occupants of the building.
35. There were no persons or parties in opposition to the proposal.
36. The Commission finds that the modified proposal, as amended, is a significant improvement over the previously approved PUD.
37. The Commission concurs with the recommendation, as amended, of the OP, and the findings of the DPW.
38. The Commission concurs with the position of ANC 3B and believes that it has addressed the concerns of the ANC

in its decision. The Commission notes that the applicant has provided a number of parking spaces that exceeds the required amount, The Commission also finds that there are an adequate number of parking spaces within 800 feet of the site and to compell the applicant to provide additional leased spaces would be overburdensome.

39. The Commission finds that, based on the testimony and evidence presented into the record, Alternative Three is preferable. Although this plan requires an additional three feet in height at the rear of the building and an additional 0.29 FAR, it allows for an exclusively residential development, which helps to improve the housing stock of the City. The Commission finds that the benefits provided to the community justifies the requested FAR increase.
40. The Commission finds that this slight increase in height will not adversely adversely impact on the Observatory. The distance from the rear building line to the existing Naval Observatory building is approximately 1,150 feet and is interrupted by heavy growth of large trees,
41. The Commission finds that the proposed development is not inconsistent with the Comprehensive Plan of the District of Columbia.
42. This application 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, by report dated August 1, 1985, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal interests in the National Capital nor 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 of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.
3. The development of this PUD carries out the purpose of Article 75 to encourage the development of a well-planned residential development which will offer more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.

4. Approval of the application would be consistent with the purposes of the Zoning Act (Act of June 20, 1938, 52 Stat. 797) by furthering the general public welfare and serving to stabilizing and improve the area.
5. Approval of this application is not inconsistent with the Comprehensive Plan of the District of Columbia.
6. The proposed application can be approved with conditions which would insure that development would not have an adverse affect on the surrounding community.
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 Maps of the District of Columbia.
8. The Zoning Commission has accorded Advisory Neighborhood Commission 3B the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders APPROVAL of a modification to Z.C. Orders No. 342 and 402 for a PUD and rezoning of lot 917 in Square 1299 from R-1-B to C-2-A. This approved modification is subject to the following conditions, guidelines, and standards, which shall replace the previously approved conditions in Z.C. Orders No. 342 and 402:

1. The Planned Unit Development (PUD) shall be developed in accordance with plans submitted to the Zoning Commission prepared by Holle, Lin & Shogren marked as Exhibit No. 24B, and Alternative Three of the fact sheet marked as Exhibit No, 40 of the record, except as such plans may be modified to conform to guidelines, conditions, and standards of this order.
2. The proposed development shall be for residential use.
3. The overall density of the PUD shall not exceed a floor area ratio of 3.29, which includes the enclosures of balcony areas and the two penthouses.
4. The number of residential dwelling units shall be eighty.
5. Sixty parking spaces shall be provided on-site to be available for purchase by the owners of the individual dwelling units on a first-come, first-served basis. At

the time of the initial sale of each dwelling unit, an owner shall have the opportunity to purchase no more than one parking space, until the supply of parking spaces is exhausted, All parking spaces shall be used exclusively for parking vehicles.

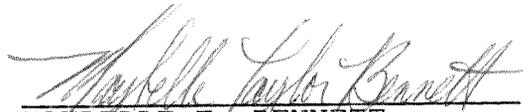
6. There shall be two loading berths provided at the east end of the structure; one measuring ten by twenty feet and the other measuring twelve by fifty-five feet in size.
7. The height of the development shall be fifty-nine feet three inches at the west end of the structure and shall be sixty-eight feet at the east end of the structure. The roof structures shall not exceed seventeen feet eleven inches above the roof upon which they are located.
8. The lot occupancy for the PUD shall be 42.4 percent.
9. The court yard at the west end of the PUD site and the open space at the east end of the PUD site shall be landscaped for recreational space as shown on Exhibit No. 24B of the record. The roof of the development may be used for additional recreational space.
10. Except as shown on Exhibit No. 24B for the court yard, the applicant shall use a species of tree, which requires less soil to thrive in a tree planter, in lieu of the proposed Willow Oak.
11. As to the balconies that front immediately on Wisconsin Avenue, the applicant shall either enclose all of them, or leave them all unenclosed. If said balconies are enclosed, the applicant shall use non-reflective glass,
12. As to the remaining balconies in the building, the applicant shall have the flexibility to enclose them or not.
13. Those balconies that are enclosed shall be enclosed with windows, sliding doors, or sliding windows. Grade-level terraces shall not be considered as balconies and may be left unenclosed. Grade-level terraces shall also have uniform glazing, materials, and character.
14. No heating or cooling systems shall be provided in the balcony areas. Electrical outlets may be installed to serve the balconies.
15. No dish antennas shall be permitted until the Commission adopts new regulations for antennas.

16. The change of zoning requested by the applicant from R-1-B to C-2-A (formely D/C-2-A) for a part of a Sot 917 in Square 1299 shall be effective upon recordation of the covenant required by Section 7501.8 of the Zoning Regulations.
17. Prior to the issuance of a building permit, the Superintendent of the Naval Observatory shall approve, in writing, the final building plans in order to minimize any skylighting which would detract from the quality of celestial observations at the Observatory.
18. No building permit shall be issued until the applicant has recorded a covenant in the land records of the District of Columbia, satisfactory to the Corporation Counsel and the Zoning Administrator which covenant shall bind the applicant 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. When the covenant is recorded, the applicant shall file a certified copy of that covenant with the records of the Zoning Commission.
19. This modification to a previously approved planned unit development by the Zoning Commission shall be valid for a period of one year, from the effective date of this order, within which time, application must be filed for a building permit, as specified in Paragraph 7501.81. Construction shall start within three years of the effective date of the order,

Vote of the Commission taken at the public hearing on June 20, 1985: 5-0 (Patricia N. Mathews, Lindsley Williams, Maybelle T. Bennett and George M. White, to approve with conditions, and John G. Parsons, to approve by proxy,

This order was adopted by the Zoning Commission at its public meeting held on August 1, 1985 by a vote of 5-0 (Lindsley Williams, John G. Parsons, Patricia N. Mathews, George M. White, and Maybelle T. Bennett, to adopt as amended).

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 30 AUG 1985.



MAYBELLE T. BENNETT  
Chairperson  
Zoning Commission



CECIL B. TUCKER  
Acting Executive Director  
Zoning Secretariat

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