

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 490

Case No. 85-13M/83-17C

May 12, 1986

(Modification to Resources Conservation Center - PUD)

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on March 17, 1986, At that hearing session, the Zoning Commission considered an application from Resources for the Future, Inc., and the National Wildlife Federation Endowment, Inc. for a modification to an approved Planned Unit Development (PUD), 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 August 15, 1985, requests a modification to Zoning Commission Orders No. 431 and 442 dated August 16 and September 10, 1984, respectively. Z.C. Order No. 431 granted approval of a consolidated PUD for a site formerly known as Lots 859, 853, 811, 159, 89-91, 847, 94, 816-819, and 846 in Square 181. The PUD site is presently identified as Lot 165 in Square 181. Z.C. Order No. 442 granted a modification to the non-residential component of the project.
2. The subject application originally proposed a modification which included the following:
 - a. Addition of up to thirty-five parking spaces in the residential garage; and
 - b. A swimming pool behind the approved four-story apartment building on P Street.The applicants, by letter dated October 1, 1985, requested and the Commission accepted the withdrawal of the modification to the garage leaving the swimming pool as the only modification request,
3. The purpose of the modification is to include a

swimming pool in the residential portion of the project, between the approved four-story apartment house on P Street and the ninety-foot apartment house on 17th Street,

4. The area of the proposed modification was formerly identified on the approved site plan as an open grass area with trees, benches and play equipment. To the south of this open area is a fire lane and loading area, which are accessed from the public alley from 17th Street.
5. The applicants propose to construct a swimming pool and pool deck in the former open area. Trees will be located on the west side of the pool deck area, and several planters with vegetation will be located on the east side of the pool deck area. New paving material and landscaping treatment are proposed for the loading area and fire lane to the south of the pool area, as shown on the plans marked as Exhibit No. 44C of the record.
6. The residential component of the project will be constructed by the Presidential Development Corporation (PDC). The PDC did not become associated with the project until after the original PUD approval was granted. Based upon a review of the project, study of the residential real estate market and analysis of other similar residential projects in the District of Columbia, the PDC concluded that it was desirable to add a swimming pool in the project. The pool will provide a community focus for the project, will complement the large passive open park area fronting on O Street, and will help to ensure the success of the residential component in the marketplace.
7. The proposed pool is generally rectangular in shape, measuring approximately fifteen feet by thirty feet, with semi-circular steps at the west side of the pool, measuring 7.5 feet in diameter. The pool will be surrounded by a pool deck. There will be a light in the pool, and the pool area will be enclosed by a five foot high fence. The applicants stated that the pool is sited for maximum sunlight. The mechanical equipment for the pool will be enclosed to reduce noise. The applicants further stated that the final pool size and details of construction could be more appropriately developed to the particular specifications of a pool contractor.
8. The applicants stated that use of the pool will be generally limited from May through September during daylight hours.

9. The District of Columbia Office of Planning (OP), by report dated March 7, 1986, recommended approval of the application. The OP noted that, with the inclusion of the swimming pool in the project, there will still be sufficient room for passive recreation, because the large landscaped park fronting on O Street will be available to the residents of the project. The OP also noted that a swimming pool would enhance the economic viability of the project by improving its desirability to future residents. The OP concluded that the modifications do not alter the layout or other facts related to above ground or below ground structures, and the proposed pool is likely to enhance the desirability of the project without impacting it adversely.
10. There was no report from Advisory Neighborhood Commission - 2B relating to the merits of this modification request,
11. The Residential Action Coalition (RAC) appeared through a representative as a person in support of the application. RAC testified in favor of the inclusion of a swimming pool in the project. RAC also expressed concerns about access to the rear of the existing buildings along 17th Street, and about the height of the proposed apartment building for the project.
12. A resident of the Berkeley House apartment building at 17th and P Streets, adjacent to the project, appeared as a person in opposition to the application. He raised concerns about the shape of the apartment building, access to the Berkeley House for firefighting purposes, the sufficiency of the loading area for the proposed apartment building, noise generated from the pool area and the provision of parking on weekends to members of the neighborhood churches.
13. The president of the Bay State Tenants Association appeared as a person in opposition to the application. He testified that the project is too big and too tall.

The issue before the Commission is the proposed swimming pool. The height, bulk, density and scale of the entire PUD have been decided by the Commission in the original PUD approval and are not the subject of this amendment request,
14. The Zoning Commission concurs with the views expressed by the Office of Planning and RAC concerning the desirability of including the swimming pool in the project,

15. As to the concerns of RAC and the persons in opposition concerning matters not related to the swimming pool, the Commission finds as follows:
 - a. The only issue before the Zoning Commission for consideration in this modification application relates to inclusion of the swimming pool in the project;
 - b. The proposed swimming pool addition will not adversely affect alley access or fire-fighting access to the buildings along 17th Street;
 - c. The height of the proposed apartment building is not at issue in this case. That issue has already been addressed by the Commission in the original PUD approval;
 - d. There is sufficient area for the loading facilities in the project;
 - e. Parking for the area churches will be accommodated on a sharing basis in the nonresidential portion of the garage in this project: and
 - f. The pool will generally be available for use only from May through September during daylight hours and will therefore not generate any adverse noise, given the nature of the project and its Location in a downtown urban area.

16. The proposed action of the Zoning Commission to approve 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 May 7, 1986, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal Establishment or other 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.
 - a. The Zoning Commission could not accord Advisory Neighborhood Commission - 2B 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. Order No. 431 and 442 for a PUD on lot 165 in Square 181. This approved modification is subject to the following conditions, guidelines, and standards, which shall amend the previously approved conditions in Z.C. Order No. 431 regarding the area of the PUD described in this order:

1. The swimming pool area, and the loading dock and fire lane areas shall be developed generally in accordance with the plans marked as Exhibit No. 33 and 44c of the record except as may be modified by these conditions.
2. The pool dimensions may be changed so that the rectangular portion of the pool may be built up to a maximum of seventeen feet by thirty-five feet, with the semi-circular steps on the west side of the pool to measure 7.5 feet in diameter. Within these limits, the applicant is also given flexibility to alter details of the final design and configuration of the pool, and details of the pool construction and decking materials,

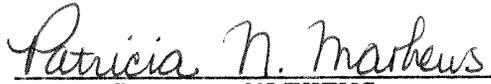
as required by the swimming pool contractor to be selected by the Applicant.

3. The swimming pool filtration and pump equipment shall be located as shown on Exhibit No. 33 and 44c and placed in an enclosure of appropriate dimensions sufficient to accommodate this equipment, in order to reduce noise from this equipment to the maximum extent practicable.
4. The pool shall be surrounded by a five foot high metal fence, substantially as shown on the plans submitted in this modification. The Applicant is granted flexibility in the final design details of the fence.
5. Landscaping of the pool area and the area adjacent to the loading dock and fire lane shall be in accordance with the plans marked as Exhibit No. 44c of the record.
6. Lighting shall be installed inside the pool to illuminate the pool bottom. The Applicant may install low level ground lighting for security in this area, in addition to lights mounted on the buildings for security* All lighting will be directed downward, so that lights do not shine or reflect onto neighboring properties. There shall be no direct overhead lighting of the pool area at night.
7. The pool shall be available for use only by residents of the project and their guests. The pool may be open for operation only from May through September during daylight hours.
8. No building permit shall be issued until the applicants have 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 applicants 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.
9. 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.
10. When the covenant is recorded, the applicants shall file a certified copy of that covenant with the records of the Zoning Commission.

Vote of the Commission taken. at the public hearing on March 17, 1986: 4-0 (Lindsley Williams, John G. Parsons, George M. White and Patricia N. Mathews to approve - Maybelle T. Bennett, not present not voting) .

The order was adopted by the Zoning Commission at its public meeting held on May 12, 1986 by a vote of 4-0 (John G. Parsons, Lindsley Williams, Patricia N. Mathews and George M. White, to adopt as amended - Maybelle T. Bennett, not present not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective upon publication in the D.C. Register, specifically on 23 MAY 1986.



PATRICIA N. MATHEWS
Chairperson
Zoning Secretariat



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat

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