

Government of the District of Columbia  
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 494-A  
Case No. 85-18C  
(PUD Modification - One Judiciary Square)  
October 21, 1991

By Z.C. Order No. 494, dated July 14, 1986, the Zoning Commission for the District of Columbia granted consolidated approval of a Planned Unit Development (PUD) and related amendment to the Zoning Map, from unzoned property to C-3-C for all of Square 532. Z.C. Order No. 494 became final and effective on August 1, 1986, pursuant to 11 DCMR 3028.8.

The subject square is bounded by Third, Fourth, D, and E Streets, N.W., and measures 76,452 square feet in land area.

The PUD approval was for the construction of an office building, with the flexibility of some first floor retail uses. The PUD project, which has been constructed, does not exceed a height of 128 feet, a floor area ratio of 7.3 nor a lot occupancy of seventy-eight (78) percent. Underground parking is provided for approximately 482-489 cars.

On July 11, 1991, the Government of the District of Columbia purchased the PUB building, presently known as One Judiciary Square (OJS), to be used as the temporary offices of the Mayor, City Council and many other agencies until the proposed renovation of the District Building is completed.

By letter dated August 9, 1991, the District of Columbia Department of Administrative Services (DAS), on behalf of the City Government, requested the Zoning Commission to waive 11 DCMR 3029.5, which limits the time to ten (10) days after an order becomes effective, for parties to file a motion for reconsideration.

The latter contained the new applicant's (the City Government) motion for reconsideration of three conditions of approval of Z.C. Order No. 494. The applicant stated the following:

1. Condition No. 3 of the Order provides that the applicant has the flexibility, depending upon market conditions, to devote the first floor of the building to retail or service uses.
  - a. The C--3-C zoning district, which the subject property is not zoned pursuant to the PUD Order, permits as a matter-of-right below grade service and retail uses. The Zoning Administrator, however, has determined that the provision of such uses in the building is not permitted under the Order. To provide such uses below grade the Order must therefore be modified;

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- b. DAS requests that the Commission permit the District to utilize a portion of the space below grade level for commercial retail and service uses for the reason detailed below;
- c. At the time that the PUD was presented to the Zoning Commission, it was unknown that the District would purchase the building. Further, it was unknown that the building would be used to house temporarily the Mayor and legislative branches of the District. Because the Mayor and Council will be temporarily housed in this building, there are special space needs associated with the building that affect the first floor. Space that would have otherwise been available for commercial use on the first floor is required for other uses;
- d. The first floor has 24,000 square feet of space. The Council of the District of Columbia's space requirements include a provision for Council Chambers, which will be placed on the first floor of the building for the convenience of the public. The Council Chamber and support area will encompass approximately 6,000 square feet of space. Additionally, the District is required by law to provide space for a day care center within the building. The District has set aside 3,000 square feet of space on the first floor for the provision of a day care to children of District employees who are housed in the building. In addition, because the Mayor and the Council will be housed in the building, there is a heightened need for security on the first floor. The security service and mail room will require approximately 4,000 square feet of space. The lobby entrance also takes up approximately 3,300 square feet of space. Less than 8,000 square feet of space is therefore available for retail and service use. Insufficient space exists on the first floor to accommodate for instance a cafeteria style eating facility for the employees of the building;
- e. DAS is interested in providing an eating facility for the building employees as well as other amenities such as a convenience store, barber shop, small bank branch or bank machine, and gift shop. While much of the space below grade is allotted for office and storage uses, there is some available space which could be used for commercial purposes. The amount of available space has, however, not been determined yet; and
- f. DAS believes that a clarification of the order specifically permitting the use of lower level for

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commercial purpose is in the best interest of the District and does not prejudice the interests of anyone.

2. Condition No. 14 of the Order provides that the applicant shall commission an artist to create a mural for the lobby of the building with related expenditures of a maximum of \$100,000.00.

The applicant is committed to undertaking such mural, but requests flexibility as to its location within the building. Given that the building will not be used as a traditional private office building where the lobby is the primary public space, the applicant requests the flexibility to locate the mural(s) in an area other than the lobby (e.g., the Council Chambers). Such location will be generally accessible to the public and will meet the original intent of the Order.

3. Condition No. 17 of the Order provides that no signs for retail, service or office uses shall be permitted to front on Fourth Street.
  - a. Due to the fact that the office building will be occupied by the District of Columbia Government and will serve as the offices of the Mayor and the Council of the District of Columbia, as well as other agencies, appropriate signs identifying the building as a District of Columbia office building is required. We request that the Order be modified to permit such signage; and
  - b. Further, the District requests that the condition be modified to permit retail tenants of the building to have appropriate signage along Fourth Street.

The applicant further stated that: "Due to the important nature of this request, and given that buildout is set for the fall of 1991, we respectfully request that the Commission approve this motion for reconsideration and modification without requiring a public hearing, consistent with Section 3000.9 of the Zoning Regulations."

- a. There is no prejudice to any party to the prior proceeding by granting this modification request without the delay caused by a public hearing; and
- b. In the alternative, should the Zoning Commission determine that this request requires treatment as a modification of a PUD pursuant to 11 DCMR 2407.9, the applicant request that it be granted expeditious treatment, and that a public hearing be scheduled as quickly as possible.

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Pursuant to 11 DCMR 3003.5, the applicant certified that it served copies of its August 9, 1991 letter on the parties in the case; that is, Advisory Neighborhood Commission 2C and the First Trinity Lutheran Church (FTLC).

On September 5, 1991, in order to comply with the requirements of its alternative scenario, the applicant filed an application to modify Z.C. Order No 494, consistent with the aforementioned zoning relief (see Z.C. Case No. 91-11M/85-18C).

On September 10, 1991, the Zoning Commission considered the DAS August 9, 1991 letter and a letter dated August 20, 1991 from the FTLC. The FTLC requested the Commission to defer taking action on the DAS letter until FTLC received an administrative or legal ruling about Condition No. 19 of Z.C. Order No. 494. That condition addressed the issues of FTLC having the opportunity to lease space, at no cost, to park five (5) vans in the garage of the PUD building, subject to whether a tenant would lease more than 200,000 square feet of floor area.

After discussion, the Chairperson of the Commission ruled that the Commission would not consider the letter from FTLC because it was untimely filed and did not request the Commission to waive its rules of practice, pursuant to 11 DCMR 3029.5 and 11 DCMR 3000.9, respectively.

Neither ANC-2C nor the District of Columbia Office of Planning commented on the DAS request.

The Commission waived applicable rules of practice to consider the applicant's request, concurs with the applicant, and believes that no party is adversely affected by granting the motion for reconsideration.

The Commission further believes that its decision is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital, as amended.

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. NCPC, by report dated October 4, 1991, found no Federal interests in proposed Condition No. 3. However, Conditions No. 14 and 17, relating to a mural and signs do affect Federal historic interests at Judiciary Square. These conditions would not adversely affect the Federal Establishment or other Federal interests in the National Capital, or the "Plan for the Development of the Municipal Center - Judiciary Square," provided:

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the conditions require that:

1. The mural be located within the building; and
2. Any signs on the Fourth Street side of the building be limited to the ground floor arcade and be located at the back wall surface of the arcade.

The Commission also suggests that the proposed alternative language for Condition No. 17 be used, requiring final design and location of any signs to be subject to Zoning Commission approval.

On October 21, 1991, at its regular monthly meeting, the Zoning Commission considered draft Z.C. Order No. 494-A for final action and the aforementioned NCPC report. After discussion and hearing comments from a representative of NCPC, the Commission concurred with the concerns of NCPC, as clarified.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders a modification to Conditions No. 3, 14 and 17 of Z.C. Order No. 494, subject to the following guidelines, conditions and standards:

3. The applicant shall have the flexibility, depending on market conditions at the time of development to use the first floor and/or basement (first below-grade level) for office, retail and/or service commercial uses; and/or any permitted related accessory use; e.g., day care center, cafeteria, etc.).
14. The applicant shall commission an artist to create a mural for the building with related expenditures of a maximum of \$100,000.00. The applicant shall have the flexibility to locate the mural at any location within the subject building.
17. Signage that identifies the subject building as a municipal building shall be permitted. However, with the exception of the aforementioned, no signage shall be permitted to front on Fourth Street, unless the following are met:
  - a. Any signs on the Fourth Street side of the building shall be limited to the ground floor arcade and be located at the back wall surface of the arcade; and
  - b. Said signage shall be subject to final approval of the Zoning Commission. Such approval may be granted without a hearing, if the Zoning Commission determines to do so.

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Vote of the Zoning Commission taken at its September 10, 1991 monthly meeting: 5-0 (William L. Ensign, John G. Parsons, Tersh Boasberg and Maybelle Taylor Bennett, to modify, and Lloyd D. Smith, to modify by absentee vote).

This order was adopted by the Zoning Commission at its monthly meeting on October 21, 1991 by a vote of 3-0 (John G. Parsons, William L. Ensign and Tersh Boasberg, to adopt as amended - Lloyd D. Smith and Maybelle Taylor Bennett, not present, not voting).

In accordance with 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that is, on

NOV 15 1991

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE ROBINSON  
Acting Director  
Office of Zoning

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