(corrected 02-27-91)

Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 496-A
Case No. 85-19C
(St. Matthews Cathedral)
Januray 14, 1991)

On November 6, 1986, by Z.C. Order No. 496, the Zoning Commission approved the application of the Archdiocese of Washington, D.C., for a consolidated Planned Unit Development (PUD). The PUD site is located on the north side of Rhode Island Avenue, N.W., between 17th Street and Connecticut Avenue. The applicant proposed to revovate parts of four church-owned rowhouse structures, retain the St. Matthews Cathedral, and build a new office building on the site. Z.C. Order No. 496 approved the PUD project with certain conditions, guidelines, and standards.

One of the conditions in Z.C. Order No. 496 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, an application must be filed for the building permit, as specified in Paragraph 7501.81 of the Zoning Regulations. Construction shall start within 3 years of the effective date of this order."

Z.C. Order No. 496 became final and effective on January 10, 1987. The validity of that order was for two years, that is, until January 10, 1989.

On October 2, 1990, the applicant filed a request to extend the validity of Z.C. Order No. 496, pursuant to 11 DCMR 2406.10. The applicant requested an extension of time of two years, to allow construction to begin not later than April 8, 1993.

As the basis for the extension, the applicant cites the following:

> Z.C. Order No. 496 was appealed to the D.C. Court of Appeals. The appeals were finally resolved April 8, 1988.

- Before April 8, 1990, the applicant filed an application for a building permit.

  The Director of the Building and Land Regulation Administration ruled that Order No. 496 would remain effective until April 8, 1990.

- Applicant requires additional time to serve financing and office tenants.

The Commission understands that by memorandum dated December 14, 1977, the Principal Deputy Corporation Counsel concluded that the running of the six-month time limit for applying for a permit under a BZA decision is tolled by the filing of a petition for judicial review.

The Zoning Commission is not persuaded that the reasons that support tolling of the effectiveness of an order of the Board of Zoning Adjustment apply to an order of the Zoning Commission. The 6-month limit that applies to orders of the Board is a limit that the Board has no authority to waive or extend. The 2-year time limit that applies to PUD orders of the Zoning Commission is significantly longer and can be extended by the Commission upon timely application. Because of the Commission's authority to extend an order, it is most doubtful that the pendency of a judicial appeal creates a practical impediment that justifies a failure to request an extension from the Commission.

Accordingly, the Zoning Commission urges applicants in the future to request timely extensions from the Zoning Commission.

In this instance, the Commission finds sufficient ground to treat the request as if it were timely, and to decide it on the merits.

The Zoning Commission received no written comments from Advisory Neighborhood Commission 2B or the Office of Planning about this matter, and no timely written comments from any party to the case.

Pursuant to 11 DCMR 2406.10, the Commission believes that the applicant has shown good cause for the extension of time.

The Commission further believes that the extension of time, as requested by the applicant, is not unreasonable, that the rationale for granting approval of the PUD has not changed, and that no adverse consequences will result from the extension.

It is therefore ordered that the validity of Zoning Commission Order No. 496 is **EXTENDED** for a period of **two years**, that is, until April 8, 1992, and the period for beginning construction is similarly extended, that is, until April 8, 1993. Construction shall begin not later than April 8, 1993.

Vote of the Zoning Commission taken at the monthly meeting on October 15, 1990: 4-0 (Maybelle Taylor Bennett, Tersh Boasberg, John G. Parsons, and William Ensign, to extend; Lloyd D. Smith, not present, not voting).

This order was adopted by the Zoning Commission at the public meeeting on January 14, 1991, by a vote of 4-0 (Maybelle Taylor Bennett, John G. Parsons, William L. Ensign, & Tersh Boasberg to adopt as amended; Lloyd D. Smith not voting, not having participated.

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is, on

FEB 15 1991.

TERSH BOASBERG
Chairman
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

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