

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 538-A  
Case No. 86-32C  
(PUD Modification @ 26th and L Streets, N.W.)  
July 10, 1989

By Z.C. Order No. 538 dated July 23, 1987, the Zoning Commission for the District of Columbia approved an application of the 26th and L Limited Partnership for consolidated review and approval of a Planned Unit Development (PUD), pursuant to the provisions of section 2400 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The PUD approval was for a ten (10) story apartment building with limited commercial uses on the first and tenth floors and parking spaces for sixty-two cars. The project would be developed with up to sixty-two (62) apartments on floors 2-9. The tenth floor would be used for apartments, artist/design studios or art galleries. No more than 4,000 square feet of the floor area of the tenth floor would be used for offices of Richard A. Bennett, Jr., the general partner of the Applicant, or the offices of any subsequent owner of the building. No more than 2,947 square feet of the first floor would be used for commercial uses. That area would be devoted to any permitted use in the C-1 zone district, except restaurant, liquor store, or service commercial uses.

The project would be developed to a maximum floor area ratio (FAR) of 7.89, a maximum lot occupancy of 82.5, and a maximum height of 94.75 feet, excluding the roof structure.

Pursuant to 11 DCMR 3028, Z.C. Order No. 538 became final and effective upon publication in the D.C. Register on August 28, 1987 (34 DCR 5673).

11 DCMR 3029.5, in part, requires that a party in a proceeding file any motion for reconsideration no more than ten (10) days after an order becomes effective. Counsel for the applicant, by letter dated March 24, 1989, filed a motion for reconsideration of Z.C. Order No. 538.

The motion for reconsideration requested that the Zoning Commission waive its rules of practice and procedure to allow for consideration of the substance of the motion. The

motion requested that the Zoning Commission approve the following modifications to Z.C. Order No. 538:

1. A reduction in the number of floors from ten to nine and increase the floor to ceiling heights from 8'6" to 9'3". The overall height of the building would not change.
2. A reduction in the FAR for the building from 7.89 to 7.28 as a result of the elimination of one floor.
3. A reduction in the number of apartments from 62 to 23 (and in no event more than 32) in order to meet the market demand for larger units. Z.C. Order No. 538 permitted the applicant as a matter of right to decrease the number of apartments.
4. The addition of balconies to the apartments.
5. A change in the treatment of the eastern facade of the building from glass block to a manner consistent with the other sides of the building.
6. The inclusion of a fenestration on the western facade of the apartment building in order to accentuate its residential character.
7. The option of using a combination of high quality precast or limestone and brick on all facades of the building.
8. A change in the location of the rooftop penthouse from the northern portion of the building's roof (closest to Pennsylvania Avenue) to the center portion of the building's roof (further removed from Pennsylvania Avenue).
9. The creation of a new entrance to the project on 26th Street. The entrance on L Street will remain.
10. The inclusion on the ground floor a small cafe/art gallery with table service. Real estate advisers have informed the applicant that this service is a requirement for a superior quality apartment building. The cafe would be within the FAR previously approved by the Zoning Commission.
11. The provision of 1.5 parking spaces per apartment. It is expected there will be approximately 23 apartments but not more than 32.
12. The option to include a squash court and a swimming

pool. These facilities, if included, would be located on the first level below grade and would utilize the vault space along the 26th Street frontage.

On June 5, 1989, at a special public meeting, the Zoning Commission waived its rules of practice, and considered the applicant's motion for reconsideration and requests from various parties to the case, including ANC-2A, the Board of Directors of the Potowmac Overlook Condominium and the Bader Unit Owners Association, as well as a memorandum from the Zoning Secretariat.

On June 5, 1989, at its special public meeting, the Zoning Commission **decided** that with two exceptions, it concurs with the position of the applicant.

The Commission decided not to allow the proposed cafe use on the first floor. The Commission also believes that the use of the squash court and pool, if provided, should be limited to the residents and their guests.

The Commission believes that the modifications provide a superior design and adequately address the concerns of ANC 2A. The Zoning Commission believes that the modifications are reasonable, appropriate, and will not adversely affect the interest of neighboring property owners, the neighborhood, or ANC 2A.

The Zoning Commission further believes that the proposed modifications are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan for National Capital.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the modifications to the architectural plans and Z.C. Order No. 538, subject to the following guidelines, conditions, and standards:

1. Except as explicitly modified in this Order, the conditions and other provisions of Z.C. Order No. 538 shall remain in full force and effect.
2. The Planned Unit Development shall be constructed, as modified, in accordance with the plans prepared by Hartman-Cox Architects and marked as Exhibit No. 78 of the record.
3. The number of floors shall be reduced from ten to nine and the floor-to-ceiling heights shall be increased from 8'6" to 9'3". The overall height of the building shall not change.

4. The floor area ratio for the building shall not exceed 7.28.
5. There shall be at least 23 and no more than 32 apartments. Each apartment shall have a balcony.
6. The applicant shall change the eastern facade of the building from glass block to a manner consistent with the other sides of the building.
7. The applicant shall have the option of using a combination of high quality precast or limestone and brick on all facades of the building.
8. The location of the rooftop penthouse shall be changed from the northern portion of the building's roof (closest to Pennsylvania Avenue) to the center portion of the building's roof (further removed from Pennsylvania Avenue).
9. There shall be a new entrance to the project on 26th Street. The entrance on L Street shall remain,
10. There shall be an art gallery on the ground floor.
11. There shall be no gourmet cafe,
12. There shall be 1.5 parking spaces per apartment.
13. The applicant shall have the option to include a squash court and a swimming pool. These facilities, if included, shall be located on the first level below grade, limited to the residents and their guest, and shall utilize the vault space along the 26th Street frontage.
14. The selection of the color and type of brick shall be subject to the final approval of the Commission. The applicant shall submit brick samples to the Commission for approval prior to applying for a certificate of occupancy. No certificate of occupancy shall be issued until the Commission has approved the above-mentioned. This will not delay the applicant in obtaining the necessary District of Columbia approvals including, but not limited to, subdivision, building permits, or the like, or from beginning construction of the building.
15. The planned unit development approved by the Zoning Commission shall be valid for a period of two years from the effective date of Z.C. Order No. 538. Within such time, to continue the effectiveness of the approval, application must be filed for a building permit for the project, pursuant to 11 DCMR 2406.8.

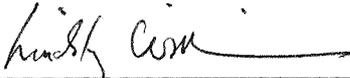
Construction shall start within three years of final approval of Z.C. Order No. 538,

16. No building permit shall be issued for this PUD until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use this property in accordance with Z.C. Order No. 538, this order, and any further amendments thereto, of the Zoning Commission. The covenant shall reference this order.
17. The Zoning Secretariat will not release the record of this case to the Zoning Division of the DCRA until the applicant has filed a certified copy of the required covenant in the records of the Zoning Commission.
18. Pursuant to D.C. Code sec. 1-2531 (1987), section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-35, as amended, codified as D.C. Code, Title I, Chapter 25 (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division/DCRA to approve permits, if the applicant fails to comply with any provision of D.C. Law 2-38, as amended,

Vote of the Zoning Commission taken at a special public meeting on June 5, 1989: 5 to 0 (Maybelle Taylor Bennett, John G. Parsons, Lindsley William, Lloyd D. Smith, and George M. White to approve).

This order as adopted by the Zoning Commission at its public meeting held on July 10, 1989 by a vote of 5 to 0 (John G. Parsons, Lindsley Williams, Maybelle Taylor Bennett and Lloyd D. Smith to approve as amended, George M. White to approve by proxy).

In accordance with the provision of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register specifically on AUG 11 1989.

  
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LINDSLEY WILLIAMS  
Chairman  
Zoning Commission

  
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EDWARD L. CURRY  
Executive Director  
Zoning Secretariat