

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 556-C
Case No. 87-19C
(PUD @ 1001 New York Avenue, N.W.)
January 10, 1994

By Z.C. Order No. 556 dated January 11, 1988, the Zoning Commission for the District of Columbia granted approval to an application from the Hadid Development Corporation for a consolidated review of a planned unit development (PUD) for Lots 8, 7, 811, 812, and 826 through 828 in Square 343 located at 1001 New York Avenue, N.W., pursuant to the provisions of Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The PUD approval was for the construction of a 12-story retail/office building on various lots in Square 343, subject to certain guidelines, conditions, and standards. The PUD project would have a total gross floor area of 237,848 square feet, a maximum floor area ratio (FAR) of 9.3, a maximum height of 130 feet and a maximum lot occupancy of 91.7 percent. The project would provide on-site parking to accommodate 163 cars.

Z.C. Order No. 556 became final and effective on February 26, 1988. The validity of that order was for two years; that is, until February 26, 1990, provided that application for a building permit was filed within that period of time, after which construction would have to start by February 26, 1991.

By Z.C. Order No. 556-A dated September 11, 1989, the Zoning Commission granted modification of the PUD to permit design changes to the facade of the building. Z.C. Order No. 556-A became final and effective on October 6, 1989.

The validity of Z.C. Order No. 556-A was for two years; that is, until October 6, 1991, provided that, application for a building permit was filed within that period of time, after which construction would have to start within three years, that is October 6, 1992.

Pursuant to 11 DCMR 2406.10 of the Zoning Regulations, the Commission may extend the validity of the PUD approval for good cause shown upon a request made before the expiration of the approval.

Z.C. ORDER NO. 556-C
CASE NO. 87-19C
PAGE NO. 2

By Z.C. Order No. 556-B dated August 5, 1991, the Zoning Commission extended the validity of the PUD and Z.C. Order Nos. 556 and 556-A for two years; that is until October 6, 1993, provided that, application for a building permit was filed within that period of time, after which construction would have to start within three years; that is by October 6, 1994.

By letter dated October 5, 1993, counsel on behalf of the Federal Deposit Insurance Corporation (FDIC), owner of the PUD site, filed a request to extend the validity of the previously approved PUD for a period of two years.

This letter indicated that the basis for an extension of the validity of the PUD is as follows:

"The FDIC only recently obtained title to the subject property in August 1993 by means of a non-judicial foreclosure. The FDIC intends to liquidate and dispose of the property realizing as much value as possible. As is the case with all real estate assets which the FDIC has obtained as receiver for failed, Federally-insured banking institutions, the FDIC's goal is to liquidate the assets and, in so doing, help offset the costs incurred by the Federal government, and ultimately the taxpayers, of underwriting failed, Federally-insured banking institutions.

This extension is requested for the purpose of facilitating the sale of the property by the FDIC. By preserving the option of developing the subject property under the PUD, the requested PUD extension enhances the marketability of the property and, hence, makes the FDIC's job of disposing of it easier in this very difficult real estate climate. In granting numerous past extensions, the present adverse real estate market has served as good cause for PUD extensions."

By memorandum dated October 7, 1993, the District of Columbia Office of Zoning (OZ) referred this matter to the District of Columbia Office of Planning (OP) for an analysis of the effect of the request on any amendments to the Zoning Map or Regulations, or to the Comprehensive Plan for the National Capital, since the Zoning Commission initially decided the case.

By letter dated November 21, 1993, the Blagden Alley Association (BAA), party in the case, supported the PUD extension request, subject to the following corrections to the PUD amenities package, both of which are the result of a change in the boundaries of the affected Advisory Neighborhood Commission (ANC):

Z.C. ORDER NO. 556-C
CASE NO. 87-19C
PAGE NO. 4

applicant must satisfy the requirements of Z.C. Order No. 556 to produce off-site housing units within the boundaries of the former ANC-2C.

The Commission requested OZ to solicit advice from the Office of Corporation Counsel (OCC) about performance requirements between applicants and an ANC that experiences a change of its boundaries, and the question of which ANC has standing in this scenario.

On January 10, 1994 at its regular monthly meeting, the Zoning Commission considered the issue about the affected ANC and heard clarifying comments from the Director of OZ, who expressed the advice of OCC.

The Zoning Commission concurs with the OP, the applicant, and the BAA.

The Commission determined that it is the intent of the Commission to approve this PUD extension request based on the conditions and circumstances that existed at the time Z.C. Order No. 556 was adopted.

The Commission further determined that the benefits that flow from the development of the PUD project should apply to that portion of the city that constituted the geographic area of ANC-2C at the time Z.C. Order No. 556 was adopted; that is, on January 11, 1988.

The Commission notes that the boundaries of the former ANC-2C now include the boundaries of the existing ANCs-2F and 2C, and a portion of the existing ANC-6A.

The Commission is persuaded by the advice of OCC and hereby advises the applicant to revise its memorandum of understanding with the former ANC-2C to include the existing ANC-2F and the representatives of that portion of the existing ANC-6A which previously was located within the boundaries of the former ANC-2C.

The Commission also determined that an extension of time of the validity of this PUD 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.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders that the validity of Z.C. Order Nos. 556, 556-A and 556-B be **EXTENDED** for a period of two years; that is, until October 6, 1995, prior to the

Z.C. ORDER NO. 556-C
CASE NO. 87-19C
PAGE NO. 3

1. The applicant will enter into a Memorandum of Understanding with Advisory Neighborhood Commission 2F (ANC-2F) agreeing to work with ANC 2F residents and minority contractors and subcontractors in conjunction with development of the project.
2. The developer will produce 60 rehabilitated and/or new off-site housing units within the boundaries of ANC-2F and, in doing so, coordinate its efforts with ANC-2F.

In January 1993, many ANC boundaries in the District of Columbia were changed as a result of re-districting. ANC-2C was the affected ANC when the PUD project was first approved. However, at this time, the affected ANC is newly formed; that is, ANC-2F.

By memorandum dated November 30, 1993, OP recommended that the applicant's request be granted and believes that no purpose would be served in this instance by denying the request. OP indicated the following:

"The Comprehensive Plan has not changed since the Zoning Commission approved this application on January 11, 1988. The proposed PUD continues to be a mix of high density office and retail uses with the provision of nearby off-site residential development. Thus, the project continues to be not inconsistent with the Comprehensive Plan.

During the deliberations on the DD District regulations, the Zoning Commission was cognizant that the subject PUD (as well as others) was located within the area boundaries of the proposed DD District, and, accordingly, took this into consideration. Furthermore, the Commission approved a time extension for this project in 1991, notwithstanding the DD District regulations then in place. Finally, because this application was approved by the Zoning Commission prior to the enactment of the DD District regulations, the Office of Planning notes that the proposal can proceed as originally approved and would not be directly affected by the change in the Zoning Regulations."

The Zoning Commission received no additional comments on this matter from ANC-2F, ANC-2C, nor any other party or person.

On December 13, 1993 at its regular monthly meeting, the Zoning Commission considered the request of FDIC, the OP report, the letters from the BAA, and verbal comments from counsel for FDIC and the Secretary to the Commission about the affected ANC.

The Zoning Commission notes that a memorandum of understanding has been ratified between the applicant and the former ANC-2C, as required by Z.C. Order No. 556. The Commission also notes that the

