

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 585

Case No. 88-13C

(15th & M Sts., N.W.)

September 15, 1988

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on July 21, 1988. At this hearing, the Zoning Commission considered an application from 1200 15th Street Limited Partnership, Joseph Rotwein and 1507 M Street Associates ("Applicants"), for consolidated review and approval of a Planned Unit Development ("PUD") and related map amendment, pursuant to Sections 2400 and 102 of the District of Columbia Municipal Regulations (:DCMR"), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of Chapter 30 of that title.

FINDINGS OF FACT

1. The application was filed on April 20, 1988 and requested consolidated review and approval of a Planned Unit Development ("PUD") for Lots 29, 37 and 831 in Square 196 and a related change in zoning for the property from SP-2 to C-4.
2. The applicant intends to construct an eleven-story structure which will contain a mixture of office, retail and arts/cultural uses. The building will be built at a height of 130 feet and contain 180,012 gross square feet and a total FAR of 10.5.
3. The PUD site is comprised of approximately 17,144 square feet and is presently improved by an eight-story office building, a building most recently operated as the former Dolley Madison Hotel which is now under demolition, and a parking lot.
4. Under the original proposal the building would contain 180,012 FAR square feet (approximately 168,000 FAR square feet of office space on floors two through eleven), of which 11,260 square feet of arts/cultural space on the ground floor would be a part. The applicants have proposed an alternate plan which would provide for a building containing 180,012 FAR square

- feet (approximately 168,000 FAR square feet of office space on floors two through eleven) plus 16,000 square feet of space on the first level below grade for arts/cultural use, with retail space on the ground floor and 10 floors of office use over the retail level. There will be three levels of underground parking with 145 parking spaces. The lot occupancy of the new building will be 98%.
5. The PUD site is located in a high-density commercial portion of the City. Directly to the south of the site is the Marshall B. Coyne commercial office building. That building is 130 feet in height and contains 10.0 FAR. The 13-story, 130 foot Madison Hotel is located at the southeast corner of 15th and M Streets, N.W. Directly to the west of the PUD site is the eight-story headquarters of the National Educational Association. That building fronts on 16th Street, N.W.
 6. The zoning pattern in the area includes: adjacent to the south, the C-4 District; to the east, the C-4 and SP-2 Districts; to the north, the SP-2 District; and to the west, the C-4 and SP-2 Districts. The PUD site is three blocks north of the McPherson Square Metrorail station located at 15th and Eye Streets, N.W. The PUD site is served by numerous Metrobus routes along both Massachusetts Avenue and 15th Street.
 7. The SP-2 District permits matter-of-right medium/high density development including all kinds of residential uses, with limited offices for non-profit organizations, trade associations and professional offices permitted as a special exception requiring approval of the BZA, to a maximum height of ninety feet, a maximum floor area ratio (FAR) of 6.0 for residential and 3.5 for other permitted uses, and a maximum lot occupancy of eighty percent for residential uses.
 8. The C-4 District is the downtown core comprising the retail and office centers for both the District of Columbia and the metropolitan area, and allows office, retail, housing and mixed uses to a maximum height of 110 or 130 feet, a maximum lot occupancy of one hundred percent, and a maximum floor area ratio (FAR) of 8.5 or 10.0, with the maximum height and FAR dependent upon the width of adjoining streets.
 9. Under the PUD regulations, the Zoning Commission has authority to impose development conditions, guidelines and standards which may exceed or may be less than the matter-of-right standards identified above. The Zoning Commission may also approve uses that are permitted as special exceptions by the Board of Zoning Adjustment

(BZA) or approve development variances that are required by the project design.

10. The General Land Use Map of the Land Use Element of the Comprehensive Plan shows the subject site in the high density commercial land use category, within the business and retail heart of the District and of the metropolitan area which includes a mix of employment, retail, office, and cultural centers. The site is located in the Central Employment Area on the Generalized Land Use Map and in the Zoning Regulations of the District of Columbia.
11. The architect for the applicant, by testimony presented at the public hearing indicated that the project is an eleven-story structure which will contain a mixture of office, retail and arts/cultural uses. He concluded that the PUD application responds to the requirements of the PUD regulations that PUDs be designed to facilitate well planned mixed-use projects that provide an economical use of land. He also noted that the building will exist within an attractive urban design setting and will provide amenities and benefits that will flow to the residents of the District of Columbia, which amenities include rent-free non-profit arts/cultural space.
12. The applicant's traffic consultant testified that traffic generated by the PUD will result in acceptable levels of service at all key intersections in the immediate vicinity of the site during peak hours; the number of parking spaces provided in the PUD plan is adequate, and vehicular circulation in and out of the PUD site will not adversely impact the roadnet and that the two loading berths and one service/delivery space will adequately serve the new building.
13. The applicants have proposed two plans for the configuration of the non-profit arts/cultural space. Under both, there will be 10 floors of office space above the ground floor. The "Original Proposal" involved the use of approximately 11,260 square feet on the ground floor of the building for arts/cultural use, rent free for 20 years. The remainder of the ground floor would be devoted to building service functions, entrance way, lobby, and parking and loading access.
14. The "Alternate Proposal" resulted from discussions with the Corcoran School of Art after the application was filed. The school expressed a need for a substantially larger amount of space than that originally contemplated, preferably in a contiguous pattern. Confirming the Corcoran School Arts space need is a letter to the applicant from the Corcoran School of Art

dated August 8, 1988, as well as a memorandum dated May 27, 1988 to the Office of Planning from Barbara R. Nicholson, Executive Director, D.C. Commission on the Arts and Humanities.

15. In an effort to meet the space needs of the Corcoran School of Art, under the alternate proposal, the applicants plan to build an entire floor for the arts/cultural use one level below the ground floor, with direct and private access to M Street. The school has indicated that natural light is not necessary for the programs that the school would locate at 15th & M Streets. In dialogue at the hearing, the applicants agreed that the slab to slab height for the arts/cultural use space will be 13 feet, with a floor to ceiling dimension of no less than 10 feet.
16. Under the alternative proposal the ground floor would be devoted to retail use. The applicants have agreed to rent to retail uses that are compatible with the arts/cultural activities and users in the building. The applicants also agreed to preclude incompatible retail uses.
17. The Corcoran prefers the alternate plan to the original proposal and the applicants have indicated a willingness to be bound by it. The Commission also prefers the Alternate Plan. The applicants have also accepted the Commission's suggestion that non-profit cultural institutions be eligible for use of the space, in addition to the non-profit arts institutions.
18. The arts/cultural space will be made available rent-free to non-profit arts and cultural institutions for a period of 20 years. The applicants will build out the space, at no cost to the institution, with HVAC, fixtures, drywall and other standard specifications. The applicant will select the arts/cultural institution to occupy the space and will select a substitute institution, if the original institution vacates during the 20 year period. As an enforcement measure, the applicant has agreed that no certificate of occupancy may be granted for the office space until after an agreement for occupancy is signed with a non-profit arts/cultural institution user.
19. 1200 15th Street Limited Partnership, which owns the office building known as 1200 15th Street, N.W., has offered to each and every minority tenant at 1200 15th Street, the opportunity to move into another office building, owned by a limited partnership in which Mr. Bennett is the general partner, of quality and location comparable or superior to 1200 15th Street. As an additional courtesy to all such tenants, 1200 15th

Street Limited Partnership has offered to pay all associated moving expenses, including indirect costs such as new telephone hook-up changes and the cost of new stationery to replace that which becomes obsolete. Lastly, each such tenant who so moves is being offered two additional months free rent, in addition to any free rent previously provided them when they moved into 1200 15th Street.

20. The applicants have indicated a willingness to allow the Chief of the Tree Maintenance Division of the Department of Public Works to determine whether, given the condition of the trees, it is preferable to save the existing trees. The applicants would retain an urban arborist-forester to consult with the Chief of the Tree Maintenance Division of DPW. The applicants said they would take all appropriate measures, including the removal, if desired, of the vault space on the first lower level of the 15th Street frontage of the property, in order to save the trees. The final determination regarding the adequacy of the tree preservation plan shall be approved by the Chief of the Tree Maintenance Division of the Department of Public Works.
21. The applicant shall enter into a First Source Agreement with the District of Columbia Department of Employment Services, thereby ensuring that District residents will have an opportunity to fill the jobs created by the development.
22. The Pastor of the Metropolitan African Methodist Episcopal Church on M Street near the PUD site, accompanied by the Ambassador of the Congregation, appeared in support of the application citing the attractive design of the new building. They testified that the new building will be compatible with their landmark church which is the National Cathedral of African Methodism, and is the last remaining black church in downtown. The Pastor and the Ambassador stated that the applicants had met with church leaders and had proffered several items for the benefit of the Church, including providing Sunday parking at no cost to the church members, assistance in determining the feasibility of an elevator in the Church, renovating certain church spaces and providing a cash contribution to the Church to use as it deems appropriate.
23. The District of Columbia Office of Planning (OP), by memorandum dated July 11, 1988, and by testimony presented at the public hearing, recommended that the application be approved with conditions. The Office of Planning stated that the application is in conformance with the Comprehensive Plan, and will provide needed

free space for non-profit arts/cultural institutions in the City. The Office of Planning also encouraged retail uses for the lobby level. In addition to the Office of Planning report supporting the project, the following favorable agency reports were placed in the record: Commission on the Arts and Humanities, Department of Finance and Revenue, Metropolitan Police Department, Department of Recreation, Minority Business Opportunity Commission and Department of Public Works.

24. The owner of the Madison Hotel at the southeast corner of 15th & M Streets and the Coyne Office Building at the southwest corner of 15th & M Streets, by letter dated July 7, 1988 urge the Commission to approve the PUD application. The owner of the mixed-use building at 1500 Massachusetts Avenue, by letter dated July 7, 1988 also urges the Commission to approve the PUD application.
25. Advisory Neighborhood Commission 2B, by letter dated July 1, 1988, confirmed that the ANC, by 5-2 vote, had voted to support the application and asked that the Zoning Order contain a covenant requiring the provision of non-profit arts space; asked the Applicants to adjust their basement space to protect trees on 15th Street, N.W. and to provide for new trees on M Street; and asked the applicants to reconsider residential housing in the building. ANC 2B offered no testimony and did not participate in the public hearing.
26. With respect to the concerns raised by the ANC, the Zoning Commission finds that the public benefits and amenities package submitted by the applicants is sufficient, given the applicants' development proposal. The Commission further finds that housing is not feasible in the building because, as the architect demonstrated at the hearing, the relatively small size of the site and the need for two cores for office and residential uses would render the building virtually unusable for office use.
27. There were no persons or parties in opposition to the application at the public hearing or of record.
28. The Commission finds that the applicants have met the intent and purpose of the Zoning Regulations and the Planned Unit Development process.
29. The Commission finds that the proposed development is not inconsistent with the Comprehensive Plan of the District of Columbia.
30. The Commission finds that there are sufficient public

benefits and amenities in the application, beyond that which could be obtained under matter-of-right development of the site.

31. The Commission finds that the height and density of the proposed new building are suitable for the site. The scale and design of the project are compatible with the project vicinity.
32. As to the request for design flexibility by the applicants, the Commission finds that such request is not unreasonable.
33. 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. The NCPC, by report dated September 12, 1988 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 Planned Unit Development process is an appropriate means of controlling the development of the subject site, because control of the use of the site is essential to assure compatibility with the neighborhood and achieve the goals and policies of the City.
2. The development of this PUD carries out the purposes of Article 75 to encourage the development of well-planned residential, institutional, commercial and mixed use developments, which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter of right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs and is sensitive to environmental protection and energy conservation.
4. The approval of this application is not inconsistent with the Comprehensive Plan for the National Capital and the purposes of the Zoning Act.
5. The proposed application can be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community, but will enhance the neighborhood and assure neighborhood stability.

6. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia Zone Plan as embodied in the text and map of the Zoning Regulations.
7. The Zoning Commission has accorded ANC 2B the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the District of Columbia Zoning Commission hereby orders APPROVAL of this application for consolidated review of a planned unit development and related map amendment from SP-2 to C-4 for Lots 29, 37 and 831 in Square 196 at the northwest corner of the intersection of 15th and N Streets, N.W. The approval of this planned unit development and change of zoning is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development ("PUD") shall be developed in accordance with the plans submitted by Hartman-Cox Architects, on July 20, 1988 and July 28, 1988 marked as Exhibit Numbers 44 & 45 as modified by the guidelines, conditions and standards of this Order.
2. The PUD site shall be developed as an eleven-story structure, which contains a mixture of office, retail and arts/cultural uses as permitted in the C-4 District, except those uses excluded in Condition 12 below.
3. The floor area ratio for the building shall not exceed 10.5.
4. The height of the building shall not exceed one hundred and thirty (130) feet as measured from 15th Street N.W.
5. The lot occupancy for the building shall not exceed 98%.
6. The applicants shall devote a portion of the building, the "arts/cultural space", for use by a non-profit arts/cultural institution. In locating the arts/cultural space within the building, the Applicant shall implement the Alternative Proposal consistent with and as set forth in the July 20 and 28 plans, Exhibit Numbers 44 & 45 of the record, which provides for the arts/cultural space in the building to be located on the first level below grade. The entire first level below grade shall be utilized for the arts/cultural space, with the exception of the space required, and shown on the plans, for the core required

for elevator and other building functions such as stairwells and garage ramps. The Alternative Proposal provides for compatible retail uses on the ground floor, as permitted in the C-4 District, with the exception of those retail uses prohibited in Condition No. 12 of this order.

7. The below grade arts/cultural space shall have a direct entrance on M Street and an appropriate external sign clearly and tastefully identifying the subject use. Additionally, in the private entry lobby for the arts/cultural space at the west end of the building on M Street an area shall be devoted for displaying art produced by students and faculty of the arts/cultural institution.
8. The below-grade arts/cultural space shall have a slab-to-slab dimension of not less than 13 feet, and a floor-to-ceiling height of not less than 10 feet.
9. The Applicants shall provide the arts/cultural space referenced in Condition No. 6 of this Order to a non-profit arts/cultural institution(s) for a period of twenty (20) years. The Applicants shall provide the arts/cultural space to the art/cultural institution(s) on a rent-free basis.
10. The Applicant shall complete the arts/cultural space, at no expense to the arts/cultural institution(s), with High Volume Air Conditioning (HVAC), fixtures, drywall, carpeting and other standard specifications.
11. The roof treatment of the building shall be as shown in Exhibit No. 45.
12. The following retail uses are prohibited in the building:
 - a. Frozen food locker for family or individual use only;
 - b. Gasoline service station;
 - c. Locksmith;
 - d. Radio or television repairs;
 - e. Automatic ice delivery station;
 - f. Automobile accessories sales;
 - g. Electric appliance store;
 - h. Hardware store;

- i. Billiard parlor or pool hall;
 - j. Bowling alley;
 - k. Dental laboratory;
 - l. Funeral, mortuary or undertaking establishment;
 - m. Plumbing or heating shop;
 - n. Radio or television studio and antenna tower;
 - o. Street car or bus passenger depot;
 - p. Veterinary hospital;
 - q. Automobile and truck sales;
 - r. Boat and other marine sales;
 - s. Home furnishings sales;
 - t. Drive-in type restaurant;
 - u. Motorcycle sales and repair; and
 - v. Sexually oriented businesses.
13. No antenna shall be permitted on the PUD site within six (6) months from the effective date of this order or until the construction of such antenna is in full compliance of the D.C. Zoning Regulations resulting from Case No. 84-10 or whichever comes first.
14. The building shall contain no less than 145 below-grade parking spaces.
15. Loading activity and trash removal shall take place in the location shown on the plans marked Exhibit No. 45.
16. An odor-free trash compactor system shall be provided in an enclosed portion of the loading area at the rear of the project, as shown on the plans marked as Exhibit No. 45.
17. Landscaping improvements shall be provided as shown on the plans marked Exhibit No. 45, as modified by Condition No. 18 below, or as otherwise required by District of Columbia street-scape standards.
18. The Applicant shall use its best efforts to save the elm trees along 15th Street N.W. adjacent to the PUD site. The Chief of the Tree Maintenance Division of the Department of Public Works with the assistance of

the applicant's urban arborist-forester must prepare an extensive written report for the Zoning Commission's review prior to construction to determine if the trees can or cannot be saved. In the event that the Chief of the Tree Maintenance Division of the Department of Public Works determines that, given the condition of the trees, the existing trees can be saved, the Applicant, based on consultations between the urban arborist-forester and the Chief of the Tree Maintenance Division, will take all appropriate measures, including the removal of the vault space on the first lower level on the 15th Street frontage of the property, in order to facilitate the saving of the trees. The final determination regarding the adequacy of the tree preservation plan shall be the responsibility of the Chief of the Tree Maintenance Division of the Department of Public Works.

If DPW determines that, given the condition of the trees, the trees cannot be saved, the applicant will replace the existing trees with six-inch caliper willow oak trees, approximately 25 feet in height, or with a tree of such other size and species as may be required by the District of Columbia streetscape standards.

19. The columns and cornices of the building shall be constructed of pre-cast concrete finished to match the color and texture of Indiana limestone. The building shall contain medium-gray factory-finish aluminum curtain wall with clear glass windows. The building shall also contain a copper dome.
20. The rear yard requirement for the building pursuant to 11 DCMR 774 shall be waived.
21. In the event the arts/cultural institution(s) occupying the arts/cultural space moves out of the building prior to the end of the twenty (20) year period, the Applicants shall use their best efforts to obtain a new arts/cultural institution(s) as a tenant under the terms of Condition #6 for the remainder of the twenty (20) year period.
22. No certificate of occupancy shall be issued for the office portion of the PUD project unless, at the time of application for said certificate of occupancy, the Applicant has entered into a written agreement with a non-profit arts/cultural institution(s) for the use of the arts/cultural space.
23. The applicant shall offer to each and every minority tenant at 1200 15th Street, the opportunity to move into another office building, owned by a limited partnership in which Mr. Richard A. Bennett is the

general partner, of quality and location comparable or superior to 1200 15th Street. As an additional courtesy to all such tenants, the Applicant shall offer to pay all associated moving expenses, including indirect costs such as new telephone hook-up charges and the cost of new stationery to replace that which becomes obsolete. Lastly, each such tenant who so moves shall be offered two additional months of free rent in addition to any free rent previously provided them when they moved into 1200 15th Street.

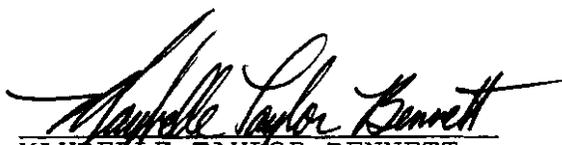
24. Prior to the issuance of the building permit for the building, the Applicant shall make the following contributions to the Metropolitan A.M.E. Church:
 - a. Repair and renovate two bathrooms in the Church;
 - b. Covenant in writing with the Church to provide 50 parking spaces free of charge to members of the church while attending services on Sundays;
 - c. Authorize and pay for a study by elevator consultants addressing how to effectuate the installation of an elevator in the Church and estimate cost of same;
 - d. Make a \$25,000 cash contribution to the Church to be used by the Church as it wishes; and
 - e. Applicant shall consult with the Church to minimize the impact of construction activities on Church services and other Church functions.
25. The Applicant shall implement a First Source Agreement with the Department of Employment Services with respect to employment opportunities within the applicant's control.
26. The Applicant shall enter into a Memorandum of Understanding with the Minority Business Opportunity Commission, which requires the Applicant to make a bona fide effort to provide at least thirty-five (35) percent of the construction-related contracts for the project to certified minority business enterprises.
27. The Applicant is granted flexibility in the final detailing of the building with respect to the following matters:
 - a. Varying the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, so long as the variations do not change the

- exterior configuration of the building, including the penthouse;
- b. Making minor adjustments in facade and window detailing;
 - c. Varying the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at time of construction;
 - d. Varying the arrangement of the parking spaces and modification to the below-grade space to provide the opportunity for storage and other space to serve the proposed users of the building, so long as such modification does not reduce below 145 the number of below-grade parking spaces to be provided; and
 - e. Allowing the flexibility permitted pursuant to the provisions of 11 DCMR, Chapter 24.
28. The change in zoning from SP-2 to C-4 shall be effective upon recordation of a covenant as required by Section 2407 of the Zoning Regulations.
29. No building permit shall be issued for this Planned Unit Development until the Applicant has recorded a covenant in the Land Records of the District of Columbia, between the Applicant and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations 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 each lot of record on the property, both in combination and severally, in accordance with this Order, or amendments thereof.
30. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division of the DCRA until the Applicant has filed a certified copy of said covenant with the records of the Zoning Commission.
31. 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 that time, application must be filed for a building permit, as specified in 11 DCMR 2407.2 and 2407.3. Construction shall start with three years of the effective date of this Order.

Vote of the Zoning Commission taken at the public meeting on August 8, 1988: 5-0 (Patricia N. Mathews, Lindsley Williams, Elliott Carroll, Maybelle Taylor Bennett and John G. Parsons, by proxy, to approve with conditions).

This order was adopted by the Zoning Commission at its public meeting on September 15, 1988 by a vote of 5-0 (Lindsley Williams, Elliott Carroll, Maybelle Taylor Bennett, John G. Parsons to adopt as amended Patricia N. Mathews to adopt by proxy).

In accordance with Title 11 DCMR Section 3028, this order is final and effective upon publication in the District of Columbia Register, specifically on 14 OCT 1988.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat