

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 586

CASE NO. 88-2C

Wynmark Development Corporation PUD

August 8, 1988

Pursuant to notice, a public hearing of the Zoning Commission of the District of Columbia, was held on June 20, 1988. At this hearing, the Zoning Commission considered an application from Wynmark Development Corporation ("Applicant") for consolidated review and approval of a Planned Unit Development pursuant to Section 2400 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 original application was filed on January 22, 1988, requesting consolidated review and approval of a PUD for Lots 805, 806, 807 and 808 in Square 26. The application requested approval for a 9-story office building consisting of 1 floor of retail, 4 floors of office and 4 floors of residential. The total Floor Area Ratio ("FAR") for the project was 8.31, of which 4.68 was commercial and 3.63 residential.
2. The application was thereafter revised on March 10, 1988 in response to a suggestion by the Office of Planning ("OP") that one floor of commercial be converted to residential, thereby decreasing the commercial component from 4.68 to 3.72 FAR and increasing the residential component from 3.63 to 4.59 FAR.
3. At the hearing, the Applicant again revised its application, in response to concerns raised both by OP and by Advisory Neighborhood Commission ("ANC") 2A regarding the height of the building. The Applicant decreased the height from 102 feet to 90 feet, thereby reducing the total number of floors to 8. The project as revised, was to include one floor of retail, 4 floors of office and 3 floors of residential. The total FAR for the project was 7.32, of which 4.55 was non-residential and 2.77 was residential. The total

gross floor area of the project was 136,320 feet, with a height of 90 feet.

4. On June 24, 1988, in a post hearing filing, the Applicant again revised its application. The revised application proposes a total FAR of 7.66, of which 3.72 will be commercial and 3.94 will be residential. The gross floor area for the project will be 142,800 feet at a total height of 90 feet. The project will contain one floor of retail, 3 floors of office and 4 floors of residential. The Commission concurs with the Applicant's proposal and finds that it is consistent with the PUD Guidelines for the C-2-C zone and with the land use designations on the Generalized Land Use Map of the Comprehensive Plan for the National Capital.
5. The PUD site, which contains a total land area of 18,625 square feet, is currently used as a surface parking lot.
6. The PUD site is located in the West End/Foggy Bottom area of the District of Columbia. The square upon which the site is located is triangular in shape and is bounded by Pennsylvania Avenue on the south, L Street on the north, 25th Street on the west, and 24th Street on the east.
7. The PUD site is located entirely within the C-2-C zone district.
8. The area surrounding the PUD site contains a wide variety of uses, including residential, offices and hotel uses. The property located directly north of the site, on 24th Street, is the Columbia Hospital for Women. Directly east of the site on 24th Street, between L Street and Pennsylvania Avenue, are several rowhouses which have been designated as historic landmarks and approved for the construction of a 9-story office building behind the facade.
9. Immediately south of the PUD site on Pennsylvania Avenue between 24th and 25th Streets, are the Wyndom Bristol Hotel, and Apartment Building, the West End Market, and a medical office building.
10. To the southwest of the PUD site, on the corner of 25th Street and Pennsylvania Avenue, are the St. Stephens Martyr Catholic Church and Rectory, and the Guest Quarters Hotel.
11. To the northwest of the PUD site, between 25th and 26th Streets on Pennsylvania Avenue, are several small restaurants and the West Bridge Condominium building.

Street. The garage will consist of three levels of below grade parking and will contain 140 parking spaces, of which 4 will be handicapped spaces.

20. The applicants testified that the Wynmark Development Corporation determined that the site would be ideal for high quality, mixed-use development, given its location between Georgetown and downtown. It was further stated that development of the site under the matter-of-right zoning was not economically feasible without benefits of increased commercial FAR that could be gained through the PUD process.
21. The applicant requested that the Commission grant relief in the following areas:
  - a. An increase in the overall PUD guidelines for the C-2-C zone and an increase in the commercial FAR;
  - b. Flexibility to exercise the 2% increase in building height allowed in the PUD guidelines, in order to accommodate difficulties associated with the transition between the mechanical components of the residential and commercial portions of the building;
  - c. A waiver from the loading requirements for the project in order to reduce by one the number of required loading berths; and
  - d. Authority to construct the residential component on 97% of the property, rather than 80% as required by the Regulations.
22. The Applicant further testified that the project would result in numerous amenities to the City and to the community as follows:
  - a. Approximately 40 long-term residential units for the Foggy Botton/West End Community, which are subject to a long-term covenant restricting any transient occupancy of the residences;
  - b. 140 parking spaces for the PUD project, 66 spaces above that which is required; thirty-six (36) of the additional spaces, located in the vault area, will be available to the community on a first-come, first-serve basis;

- c. Retail services for the convenience of the tenants of the PUD project and residents in the surrounding community;
  - d. Superior architecture and design which will add prominence to this location on Pennsylvania Avenue;
  - e. Planting of 50 off-site street trees at a 3½" to 4½" caliper in the community surrounding the project;
  - f. \$25,000 financial contribution to the West End Public Library for landscaping and improvements;
  - g. Participation in the Adopt-A-Park Program to provide assistance to the National Park Service to maintain and improve the U.S. Park located along the western tip of Square 26;
  - h. Brick and granite sidewalk pavers on all three frontages of the projects;
  - i. Entry level job opportunities for District residents and entry into a First Source Agreement with the District of Columbia Department of Employment Services;
  - j. Increased tax revenues for the City, including real and personal property tax, parking and sales tax and income tax.
23. The Applicant's architect, testified that the proposed project integrates and arranges the retail office and residential elements in a logical and urban fashion. The ground floor will be appropriately dominated by an 11,340 square feet of retail space. The retail will consist of typical neighborhood services such as gourmet food shop, restaurant, bank, valet, gift and other shops. Additional retail space will be located just below grade and provide additional space for display, sales, and back-up housing support essential to successful retailing.
24. The architect further testified that the major feature of the PUD project is that it will have finished fronts on three sides, Pennsylvania Avenue, 24th Street and L Street. The cost of constructing a building with three fronts is significant and the additional commercial density requested by the Applicant will support this cost and other costs associated with the mixed-use development. He also stated that the ground floor of the PUD project will be used for retail space and the

2nd through 4th floors will be used for office space. The 5th through 8th floors will be used for residential dwelling units. The roof will feature a paved recreational deck area which will be accessible to all residents of the building.

25. The architect testified that the PUD project will provide 140 on-site parking spaces, of this number 80 will be standard size, 56 compact and 4 handicapped spaces. The applicant will provide 80 spaces within the property lines of the PUD project, while the extra spaces will be provided in the vault space.
26. The economic consultant for the project provided a report as to the marketing and economical feasibility of office space, sales and rental of the PUD site.
27. The Applicant's traffic consultant testified that the proposed development will not cause any adverse impact on the area due to the traffic circulation or parking. He further testified that the reduction in one loading berth will not adversely affect the project and that the applicant's other loading facilities are adequate to meet the needs of both the office and commercial uses. No loading facilities are required for the residential component.
28. The Applicant stated, in response to questions raised by the Zoning Commission, that the project costs would increase as a result of the increase in residential FAR. It was indicated that residential space is more costly to build, because the developer must finish the interiors of residential space such as bathrooms and kitchens, which are costly. With the office space, the tenants pay for most of the interior improvements of the building and thus developers' costs are lower.
29. The Applicant further indicated that as a result of the increased development costs, some project amenities would have to be eliminated. It would no longer be able to provide brick and granite sidewalk pavers along all three frontages of the property as originally proposed. Further, the number of off-street trees that will be planted, will be reduced from 50 to 25. The Applicant indicated that the other amenities proffered would remain the same.
30. In response to questions raised by Commissioner Parsons at the hearing, the Applicant indicated in its supplemental filing that it had corresponded with the U.S. Park Service regarding its interest in adopting U.S. Reservation 24, located at the western portion of the Square. The Superintendent of National Parks, Mr. William F. Ruback, in a letter dated January 14, 1988,

indicated that the Park Service would be interested in allowing the Applicant to adopt the U.S. Reservation. The Applicant further indicated that it would adopt the park for a period of 5 years, as requested by the Park Service.

31. OP by memorandum dated June 4, 1988 and through the testimony at the public hearing, testified that they were supportive of the project with its mixed-use development, but strongly recommended that the commercial density be decreased. They stated that the mix of uses as proposed by the Applicant at the hearing, was inconsistent with the PUD guidelines and with the land use designations on the Generalized Land Use Map of the Comprehensive Plan.
32. On cross examination by counsel for the Applicant, OP agreed that the medium-density land use designation on the Comprehensive Plan translated to a 3.0 to 4.5 FAR. OP further conceded that the proposed commercial FAR at that time, 4.5, was in fact consistent with the Comprehensive Plan.
33. In response to a question asked by the Zoning Commission, OP stated that it did not have a recommendation as to what the commercial density should be reduced to in order to be considered "in line" with the Comprehensive Plan.
34. OP in a memo dated June 24, 1988, recommended that the Zoning Commission approve the Applicant's revised plan also dated June 24, 1988, which converted one floor of office space into residential. OP stated that the reduced commercial FAR of 3.72 is more consistent with the Comprehensive Plan and the PUD guidelines.
35. The Department of Public Works ("DPW"), by memorandum dated June 9, 1988, addressed the transportation impact of the proposed project. DPW concluded that the volume of traffic generated would have no adverse impact on the adjacent street system.
36. However, DPW objected to the circular mid-block driveway proposed on Pennsylvania Avenue because it does not meet the minimum dimensions of DPW design standards for this type of driveway. DPW also recommended the elimination of the recessed bay proposed on 24th Street because it will present drainage and debris problems for the City. The Applicant indicated at the hearing, that it would be willing to eliminate both the circular drive and the 24th Street bay.
37. The ANC by letter dated June 2, 1988 from its Chairman,

Mr. Charles L. Clapp, recommended that the Zoning Commission approve the PUD project. The ANC indicated that they applauded the Applicant for the superior architecture of the building and indicated that they were pleased with the reduction in height. He further stated that the ANC would have preferred more residential space in the building than proposed under the revised hearing alternative.

38. The District of Columbia Fire Department, by memorandum dated April 22, 1988 stated that it had no objection to the development of the project, provided that the project complies with the high-rise fire protection provision of the new D.C. Construction Codes as listed in D.C. Law 6-216.
39. There were several letters from persons in support of the application included in the record of the case. Alfred E. Liu, owner of the property immediately adjacent to the PUD site at 2421 Pennsylvania Avenue, wrote a letter dated June 6, 1988 supporting the mixed-use project.
40. Councilmember John Wilson wrote a letter in support dated June 6, 1988.
41. There was testimony at the hearing from Marie Tyler, Commissioner of ANC 2A. Mrs. Tyler stated that she could not support the application because of the adverse impact that the project would have on traffic in the neighborhood and surrounding community. Mrs. Tyler stated that she believed that before any project could be developed, some measures had to be taken to reduce the severity of traffic in the neighborhood and that the Applicant should explore ways of reducing traffic or devising some type of traffic management system to mitigate the impact of existing traffic.
42. The Commission finds that the proposed PUD project as revised in the June 24, 1988 supplemental filing, will provide essential housing in the Foggy Bottom area. The retail component will also provide necessary retail services for the convenience of the residents of the PUD project and the surrounding community.
43. The Commission finds that the PUD project is in conformance with the Comprehensive Plan which designates the site for mixed-use high-density residential and medium-density commercial uses. The Commission finds that the increased FAR requested by the Applicant will ensure the development of the site for residential uses. The Commission has the authority to increase the FAR in exchange for the provisions of certain amenities.

44. The Commission concurs with ANC 2A that the proposed PUD project will provide needed residential housing and property tax revenue to the City, as well as sales and income tax revenues.
45. The Commission approves the 2% flexibility provided for under the PUD guidelines to increase the height of the project to 92 feet, if needed to accommodate mechanical equipment.
46. The Commission finds that the 140 parking spaces will adequately serve the commercial and residential components of the project. The Commission also finds it appropriate to provide the additional 60 spaces in the vault area.
47. The Commission concurs with the DPW regarding the adequacy of the proposed parking for the project. The Commission further agrees that the proposed project will not have an adverse impact upon the traffic network in the area.
48. The Commission believes that the loading facilities of the project are sufficient to service the building and that the elimination of one loading berth will not adversely affect the project.
49. The Commission concurs with the DPW and requests the Applicant to eliminate both the circular drive and the 24th Street bay.
50. The proposed action of the Zoning Commission to approve the application with the conditions was referred to the National Capital Planning Commission ("NCPC"), pursuant to the terms of the District of Columbia Self-Government and Governmental Reorganizational Act. The NCPC, by report dated August 2, 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 development of the subject site because control of the use of the site plan is essential to assure compatibility with the neighborhood and achieve the goals of the policy of the City.
2. The development of this PUD carries out the purposes of Chapter 24 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 the matter-of-right development.

3. The development of this PUD is compatible with city-wide goals, plans and programs and is sensitive to the Environmental Protection and Energy Conservation Act.
4. The approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.
5. The approval of this application is consistent with the purposes of the Zoning Act.
6. The proposed application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community, but will enhance the neighborhood and assure neighborhood stability.
7. 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 Zoning Regulations and Map of the District.
8. The Zoning Commission has accorded to the ANC 2A the "great weight" to which it is entitled.

#### DECISION

In consideration of the findings of fact and conclusions of law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of this application for consolidated review of a Planned Unit Development for Lots 805, 806, 807 and 808 in Square 26 for the site located on the northwest corner of Pennsylvania Avenue and 24th Street, N.W. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development ("PUD") shall be developed in accordance with the plans prepared by the architectural firm of Keyes, Condon and Florance, marked as Exhibits No. 5, 16B, 19B, 43, and 50 of the record and as modified by the guidelines, conditions and standards of this Order.
2. The PUD site shall be developed as a mixed-use building consisting of retail, office and residential.
3. The floor area ratio for the building shall not exceed 7.66.

4. The height of the building shall not exceed ninety-two (92) feet.
5. The lot occupancy of the residential component of the project shall not exceed 97%. The lot occupancy for the commercial component shall be 100%.
6. The project shall be developed with approximately forty (40) residential units on Floors 5 through 8.
7. The applicant may combine space in the units of the proposed development to create large apartments in response to market conditions.
8. The project shall be developed with office use on Floors 2 through 4. The ground floor shall be devoted to neighborhood serving retail uses permitted in the C-2-C zone district.
9. There shall be a minimum of 140 on-site parking spaces, provided that the applicant is permitted to use the vault space to locate the sixty (60) additional parking spaces, not required by the Regulations.
10. The applicant must include in each tenant's lease package information regarding a transportation management program such as ride sharing or other coordinated programs sponsored by the Council of Governments or the District of Columbia Government.
11. Recreation space shall be provided on the roof and penthouse of the building.
12. The applicant shall register the proposed development from its inception as a condominium building, but may lease the units if market conditions do not permit condominium sales.
13. If the units are leased, all leases shall be for a minimum of 12 months.
14. The subject property shall not be used for a hotel, motel, boarding house, inn, or tenement as defined in the District of Columbia Zoning Regulations.
15. The loading areas, driveways and walkways shall be located on the site. Five service delivery spaces measuring 10 x 20 feet shall be provided. Two loading berths measuring 12 x 30 feet shall be provided. Two loading platforms, each 100 square feet shall be provided.
16. The applicant shall improve and provide landscaping and streetscaping, pursuant to the requirements of the DPW.

17. The applicant shall have flexibility 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, provided that the variations do not change the exterior configuration of the building including the penthouse;
  - b. Making minor adjustments in the facade, window and balcony detailing, including the flexibility to shift the location of the doors to the retail uses on the ground floor and vary the type of paneling used on the retail frontage in order to accommodate the different types of retail uses;
  - c. Varying the location and type of exterior lighting fixtures;
  - d. Varying the species of plant materials;
  - e. Varying the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction; and
  - f. 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 74 the number of below-grade parking spaces to be provided.
  - g. Increase the minimum recreation space on the roof top in response to refinements to the mechanical penthouse plans.
18. The applicant shall contribute \$25,000 towards the landscaping and improvement of the West End Public Library at 24th and L Streets, N.W.
19. The applicant shall make application to enter into an agreement with the U.S. Park Service to improve and maintain the U.S. Reservation 24, located at the western portion of the Square, at 25th and L Streets, N.W.
20. The applicant shall coordinate with the Department of Public Works to plant twenty-five (25) off-site street trees at a 3½" to 4½" caliper in the community surrounding the project.

21. The applicant shall enter into an agreement with the Department of Employment Services, in connection with the development of the site, which will provide 270 construction jobs and 100 permanent jobs to be held by District residents. The applicant shall participate in the District's First Source Employment Program to fill entry level positions over which the applicant has direct control.
22. The applicant shall enter into a Memorandum of Understanding with the Minority Business Opportunity Commission, which provides for the Applicant to make a bona fide effort toward at least thirty-five (35) percent of the construction-related contracts for the project to certified minority business enterprises.
23. No building permit shall be issued for the site until the applicant has recorded a covenant in the land records of the District of Columbia between the owner and the District of Columbia satisfactory to the Office of Corporation Counsel and the Zoning Regulatory Divisions of the Department of Consumer Regulatory Affairs (DCRA). The covenant shall bind the owner and all successors in title to construction and use of the property in accordance with this Order and amendments thereto of the Zoning Commission.
24. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Divisions of the DCRA until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.
25. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, application must be filed for a building permit as specified in Subsection 2407.1 DCMR Title 11. Construction shall start within three years of the effective date of this Order.

Vote of the Zoning Commission taken at the public meeting on July 11, 1988: 4-0 (Elliott Carroll, John G. Parsons, Patricia N. Mathews, and Maybelle Taylor Bennett, to approve with conditions; Lindsley Williams, not voting not having participated in the case).

This order was adopted by the Zoning Commission at its public meeting on August 8, 1988 by a vote of 4-0: (Patricia N. Mathews, Maybelle Taylor Bennett and Elliott Carroll to adopt as amended, John G. Parsons to adopt by proxy and Lindsley Williams, abstained).

ZC. Order No. 586  
Case No. 88-2C  
Page 14

In accordance with the DCMR Title II Section 3028, this order is final and effective upon publication in the District of Columbia Register, specifically on 16 SEP 1988.

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
EDWARD L. CURRY  
Executive Director  
Zoning Secretariat

zcorder586/BJW31