

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 629-B
Case No. 88-16C
(PUD @ 901 New York Avenue, N.W.)
May 13, 1991

By Z.C. Order No. 629, dated September 11, 1989, the Zoning Commission for the District of Columbia approved an application of Jerome Golub Realty and the Willco Construction Company, pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The application was for consolidated review of a Planned Unit Development (PUD) for lots 18-20, 23, 27-31, 804-806, 816-819, 821, 823, 827-831, 835-837, and 840-852 in Square 372 located at 901 New York Avenue, N.W.

The PUD approval was for the construction of a mixed-use commercial building, containing office and retail uses, to a height of 130 feet, a floor area ratio (FAR) of 9.5, and a lot occupancy of eighty-six (86%) percent. The PUD project has yet to be constructed.

In addition to the previously-mentioned development standards, other conditions of approval were contained in Z.C. Order No. 629, including reference to the approved architectural drawings.

Pursuant to 11 DCMR 3028, Z.C. Order No. 629 became final and effective upon publication in the D.C. Register; that is, on October 13, 1989.

11 DCMR 3029.5, in part, requires that a party in a contested case proceeding file any motion for reconsideration no more than ten (10) days after an order becomes effective. Counsel for the applicants, by letter dated March 9, 1990, filed a motion for reconsideration of Z.C. Order No. 629.

The motion for reconsideration requested the Zoning Commission to waive applicable rules of practice and procedure to allow for consideration of the substance of the motion. The applicant requested the Zoning Commission to allow for certain design modifications to the project.

Z.C. Order No. 629-A was adopted by the Zoning Commission at its regular monthly meeting on June 11, 1990. In accordance with the provisions of 11 DCMR 3028, the order became final and effective

Z.C. ORDER NO. 629-B
CASE NO. 88-16C
PAGE NO. 2

upon publication in the D.C. Register; that is, on June 29, 1990.

Counsel for the applicant, by letter dated March 19, 1991, filed a motion for a two-year extension of time for Z.C. Orders No. 629 and 629-A, pursuant to Section 2406.10 of the Zoning Regulations.

Counsel for the applicant further contends that the request for a two-year extension is necessary because "under the current terms of Z.C. Order No. 629, which became effective upon publication in the D.C. Register on October 13, 1989, a building permit application with a complete set of plans must be filed within two (2) years; that is, by October 13, 1991. At this time, the applicant requests a two-year extension of the order to October 13, 1993 before plans must be filed for a building permit. Importantly, this extension is necessary because if it is not granted, the applicant will have only approximately 6 to 7 months to prepare and file, working drawings for the building permit.

The applicant also indicated that Advisory Neighborhood Commission (ANC) 2C, party to the case, were notified in writing of the extension request. By letter dated April 4, 1991, ANC-2C voted to support the applicant's request.

The Zoning Secretariat received a letter dated April 3, 1991, from the law firm of Dow, Lohnes and Albertson requesting the Zoning Commission for a waiver of its rules of practice to either grant party status to the firm's client or to allow a non-party to submit comments on the requested extension. The Zoning Secretariat by memorandum dated April 5, 1991 recommended that the Zoning Commission deny the waiver request.

By letter dated April 8, 1991, counsel on behalf of the applicant filed a letter in opposition to the request of Dow, Lohnes and Albertson stating that, "... procedurally it is not appropriate to admit new parties to an application after an order has been final for approximately a year and a half."

At the Zoning Commission's regular monthly meeting of April 8, 1991, the Commission concurred with the recommendation of the Zoning Secretariat and the position of the applicant and denied the above-mentioned request of Dow, Lohnes and Albertson by a vote of 3-0 (John G. Parsons, Maybelle Taylor Bennett and William L. Ensign, to deny - Tersh Boasberg, abstained and Lloyd D. Smith, not voting, not having participated in the case).

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

Z.C. ORDER NO. 629-B
CASE NO. 88-16C
PAGE NO. 3

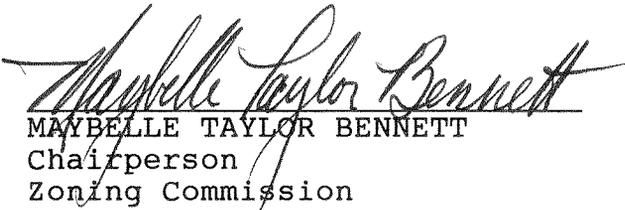
On April 8, 1991, at that same meeting, the Zoning Commission considered the request of the applicant dated March 19, 1991 and determined that an extension of time is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital, as amended.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia hereby orders that the validity of Z.C. Orders No. 629 and 629-A be **EXTENDED** for a period of **TWO YEARS**; that is, until October 13, 1993. Prior to the expiration of that time, the applicant shall file an application for a building permit, as specified in 11 DCMR 2406.8. Construction shall start within five (5) years of the final and effective date of Z.C. Order No. 629; that is, October 13, 1994.

Vote of the Zoning Commission taken at the monthly meeting on April 8, 1991: 3-0 (John G. Parsons, Maybelle Taylor Bennett, and William L. Ensign, to extend for two-years - Tersh Boasberg, abstained and Lloyd D. Smith, not voting, not having participated in the case).

This order was adopted by the Zoning Commission at the public meeting on May 13, 1991, by a vote of 3-0 (William Ensign and Maybelle Taylor Bennett, to approve, John G. Parsons to approve by proxy - Tersh Boasberg and Lloyd D. Smith, not present, not voting).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the District of Columbia Register; that is on MAY 31 1991.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat

zc629-B/LJP