

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 637-B

Case No. 88-33C

(PUD & Map @ Massachusetts Ave., 13th & L Sts., N.W.)

November 15, 1993

On October 16, 1989 and by Z.C. Order No. 637, the Zoning Commission for the District of Columbia granted approval for an application from 247 Associates, (District of Columbia Limited Partnership). The application called for the consolidated review and approval of a planned unit development (PUD) and related zoning change from HR/SP-2 to C-4 for Square 247, Lots 853, 867, 836, 839, 840, 843, 852, 857, 862 and 863. The change of zoning was requested for all the Lots, except Lots 853 and 867.

The PUD site has two parcels, designated Parcel A and Parcel B in the PUD application, separated by a public alley. Parcel A with premises address of 1312 Massachusetts Avenue, N.W. fronts on Massachusetts Avenue and encompasses a land area of 18,072 square feet. Parcel B with premises address of 1301 L Street, N.W. fronts on both 13th and L Streets and encompasses a land area of 28,654 square feet. The entire PUD site, excluding the public alley which is to remain open, consists of a total land area of 47,726 square feet.

Z.C. Order No. 637 approved the construction of a 90-foot apartment building on Parcel A and the construction of a 130-foot office building on Parcel B. A substantial portion of the ground floor of the office building is to be used for service and retail commercial uses and a community room. The approval of this PUD and change of zoning were subject to certain guidelines, conditions and standards specified in Order No. 637.

By Z.C. Order No. 637-A, dated August 5, 1991 the Commission extended the validity of Z.C. Order No. 637 for a period of two years; that is, until November 10, 1993, for the applicant to file for a building permit, as specified in 11 DCMR 2406.8, with construction to begin not later than November 10, 1994.

On January 7, 1993, the applicant filed an application for the modification of Z.C. Order Nos. 637 and 637-A, (Z.C. Case No. 93-1M/88-33C). The public hearing for the modification to this previously approved PUD was scheduled for September 20, 1993. The extension granted under Z.C. Order No. 637-A was until November 10, 1993, for filing for a building permit.

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On July 22, 1993, counsel for the applicant filed a request for extension of Z.C. Order No. 637-A for two years. The applicant acknowledged that the instant request for extension of the validity of Z.C. Order No. 637-A is to overcome severe time constraints in complying with permit filing and construction deadlines of Order No. 637-A. The applicant acknowledged that the length of time required by the Commission to dispose of the pending modification application (Case No. 93-1M/88-33C) is not certain and also cited unfavorable economic conditions as additional factors for the extension request.

The following excerpts from the applicant's letter summarize the rationale for the extension request.

1. The subject request for extension of the validity period of Order No. 637-A is being sought to overcome severe time constraints which would be placed on the Applicant in trying to comply with the permit filing and construction deadline given the date (September 20, 1993) of the hearing on the modification. As mentioned above, Order No. 637-A requires the applicant to file for the building permit by November 10, 1993. Construction would be required to start by November 10, 1994.
2. The deadline for filing the building permit would fall less than two months after the public hearing on the modification request. It normally takes another two months after the hearing before the NCPC review and final action occurs. This situation leaves the Applicant with no final ruling on its modification request until after the PUD has expired. The applicant desires to have knowledge of the validity of the present PUD prior to its expiration in November so that appropriate plans may be made.
3. Since the Zoning Commission approval of the PUD, the applicant has been actively seeking financing for the construction of both phases of the PUD and has actively marketed the property for major tenants. To date, the applicant has been unable to secure both a lead tenant and construction financing.
4. The applicant in proceeding with this project has incurred substantial costs to date, as reflected in the attached affidavit. Site preparation costs and environmental clean-up costs to date have totaled approximately \$1,000,000. The Applicant has also paid approximately \$1,350,000 in real estate taxes since July of 1990.

The applicant, by an attachment to its letter, certified that Advisory Neighborhood Commission (ANC) 2F in whose jurisdiction

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the PUD is located, and all other parties in the case were served a copy of the extension request on July 22, 1993.

The District of Columbia Office of Planning (OP), by memorandum dated October 14, 1993, indicated that the Zoning of the site has changed from SP-2 and HR/SP-2 since the Commission approved this application on November 10, 1989. The Comprehensive Plan, however, has not changed because this application was approved by the Zoning Commission prior to the enactment of the Downtown District regulations, the OP noted that the proposal can proceed as originally approved without being directly affected by the changes in the Zoning Regulations.

The OP also noted that given the time required for the applicant to secure financing and a major tenant for the project and given that the Zoning Commission will not have taken final action on (to approve or deny) the pending application for modification before the PUD would otherwise expire, the OP recommends that the Commission grant the applicant's request to extend the deadline for the filing of a building permit application to November 10, 1995 and to extend the deadline for commencing construction to November 10, 1996.

The Zoning Commission did not receive comments on this matter from ANC-2F and other parties.

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.

On October 18, 1993, at its regular monthly meeting, the Zoning Commission considered the applicant's request and the recommendation of the OP. The Commission concurred with the recommendation and position of OP and determined that an extension of time, as requested by the applicant, is reasonable and would not adversely affect any party or persons.

The Commission noted that extension of the validity of Z.C. Order Nos. 637 and 637-A while the Commission continues to consider the applicant's application for the modification of the PUD in Case No. 93-1M/88-33C is appropriate. Nevertheless, the Commission determined that a two-year extension is unnecessary in this case and approved a one-year extension for the PUD instead of the two-year extension requested by the applicant.

The Commission believes that its proposed action to grant the extension is in the best interest of the District Zoning Regulations, and the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

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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 No. 637 and 637-A be **EXTENDED** for a period of **ONE** year; that is, until November 10, 1994 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 begin not later than November 10, 1995.

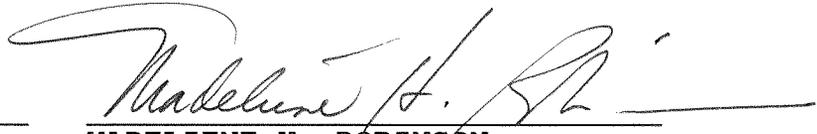
Vote of the Zoning Commission taken at the monthly meeting on October 18, 1993: 5-0 (John G. Parsons, William B. Johnson, Jerrily R. Kress, and Maybelle Taylor Bennett, to extend for one year, William L. Ensign, to extend for one year, by absentee vote).

This order was adopted by the Zoning Commission at the public meeting on November 15, 1993 by a vote of 5-0 (John G. Parsons, William B. Johnson, William L. Ensign, Jerrily R. Kress and Maybelle Taylor Bennett, to adopt as corrected).

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

DEC 10 1993

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. ROBINSON  
Director  
Office of Zoning

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