

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 642
Case No. 89-8C
(PUD & Map @ North Capitol Plaza)
December 11, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on July 27, 1989. At that hearing session, the Zoning Commission considered an application from the District of Columbia Department of Housing and Community Development, and the North Capitol Plaza Limited Partnership. The application requested consolidated review and approval of a Planned Unit Development (PUD) and a related amendment to the District of Columbia Zoning Map, pursuant to Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on February 7, 1989, requested consolidated review and approval of a PUD and related change of zoning from C-2-A and C-M-3 to C-3-C or, in the alternative from C-2-A to C-M-3 for lot 245 in Square 672.
2. The applicants propose to develop the PUD site with an eight-story mixed-use building containing office, retail and service uses including a day-care facility for children.
3. The PUD site is located on North Capitol Street, between N and Patterson Street, N.E. The PUD site is known as Parcel One in Northeast I Urban Renewal Area, comprises approximately 42,252 square feet of land area, and is currently unimproved.
4. On June 1, 1989, at a special meeting, the Zoning Commission approved, for the purpose of advertising, the applicants' Design Alternatives #1 and #3, as contained in Exhibit No. 34 of the case record. The Zoning Commission indicated that it would also consider, at the public hearing, any alternative

design proposal that represented a reasonable deviation from, a modification to, or a nexus between the applicants' Design Alternatives #1 and #3.

5. The C-2-A District permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum FAR of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of fifty feet, and a maximum lot occupancy of sixty percent for residential uses.
6. The C-3-C District permits matter-of-right major business and employment centers of medium/low density development, including office, retail, housing, and mixed uses to a maximum height of ninety feet, a maximum FAR of 6.5 for residential and other permitted uses, and a maximum lot occupancy of one-hundred percent.
7. The C-M-3 District permits high bulk commercial and light manufacturing uses, to a maximum FAR of 6.0 and a maximum height of ninety-feet with new residential uses prohibited.
8. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a First-stage PUD. The Commission may also impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified above for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as a special exception and would otherwise require approval by the Board of Zoning Adjustment (BZA).
9. The District of Columbia Generalized Land Use Map Element of the Comprehensive Plan for the North Capitol designates the PUD site as part of the Northeast No. 1/Eckington Yards Special Treatment Area. Within the Special Treatment Area, the Plan emphasizes production and technical employment as well as medium density commercial uses.
10. The area surrounding the subject site contains a mix of land uses. Among these are warehousing, storages facilities,, commercial retail, office and some residential structures, especially to the west and north. The areas to the north, along New York Avenue and North Capitol Street, contain neighborhood convenience retail stores. To the east, there are primarily storage and warehouse

facilities and some office uses. South of the site, toward Union Station there are several newly constructed office buildings. The Department of Housing and Community Development, which is housed in a converted warehouse, is located two blocks to the south of the subject property along North Capitol Street. To the west, across North Capitol Street, there is a public housing complex.

11. At the public hearing, the applicants presented a revised proposal to construct an eight-story, mixed-use building containing office and retail uses, and a child care facility. The project will have 350,489 square feet of floor area, a gross floor area of 253,514 square feet (approximately 230,000 sq. ft. for office/retail use, approximately 3,000 sq. ft. for child care use), and the following:
 - a. The first floor will contain 10,000 square feet of retail space, of which 2,000 square feet will be devoted to PSI retail use and 8,000 square feet devoted to general retail use; and
 - b. The project will have a floor area ratio (FAR) of 6.0, a height of 90 feet, a lot occupancy of 85 percent, and 166 parking spaces.
 12. The PUD project will house the headquarters of PSI Associates, Inc., a day-treatment rehabilitation program operator for deinstitutionalized persons who were formerly residents of Forest Haven and St. Elizabeth's. The project will accommodate over 500 clients and 100 staff. The clients will continue to receive a minimum of 5 hours of treatment services daily. Almost 100 percent of the clients in the PSI day treatment programs are wards of the city. As such, the District is responsible for transportation to and from day treatment. Consequently, off-street loading and unloading of passenger vans and buses near the barrier-free entrance are essential. Parking is required for approximately one-half (45-50) PSI staff. These design features have been built into the PUD project design.
 13. The PUD project will enable PSI to expand its eatery, a carry-out and catering service, which employs persons with mental and emotional handicaps. Working under the direct supervision of PSI dietitians and therapists, handicapped persons prepare, cook and package all Eatery items. The new eatery will continue to offer a
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daily carry-out luncheon service for the general public at reasonable prices. The eatery will also continue to market its catering services, preparing hot and cold party platters and special desserts. In anticipation of this, PSI has submitted architectural specifications establishing a commercial kitchen for the eatery in the project.

14. The PUD project will provide the first commercial outlet for the Creative Expressions Gift Shop. PSI clients have mastered several crafts and developed product lines. PSI products are all made by clients working in wood, ceramics, as well as crafts, sewing, and weaving. Presently products are sold at PSI fairs, church bazaars, and District events. The Gift Shop will enable permanent display of these crafts for continual sales. The staff for the gift shop comes from the day treatment program.
15. The PUD project will enable PSI to open a child care center for approximately 40 infants and preschool children, and 12 staff. Since 1979, PSI has operated child care programs for development delayed and emotionally disturbed preschool children. PSI provides after-school programs, parent training workshops, preschool newsletters, and teacher training for 23 District child care centers. The project includes a child care center for children 6 months of age and older, with extended hours and emergency drop-in services. The child care center will be marketed to area workers and residents, and will be operated by PSI. PSI has developed preliminary specifications for such a child care center in the project.
16. The applicants, by hearing statement marked as Exhibit No. 48 of the record and by testimony presented at the public hearing, indicated that the following amenities package would apply:
 - a. Creation of a well designed mixed use building;
 - b. Retail uses to serve area residents and project employees;
 - c. Day-care facility for children to serve area residents and project employees;
 - d. Furthering the goals of the Northeast I Urban Renewal Plan;

- e. Creation of approximately 1500 construction and permanent jobs;
 - f. Generator of approximately \$2,280,000.00 to the annual tax revenues of the city;
 - g. Contribution of \$750,000.00 to establish an endowment fund, to be administered through the Community Foundation of Greater Washington, the earnings of which will go toward day care, youth employment, job training, recreation and cultural enrichment, crisis and prevention, and senior citizens services;
 - h. Implementation of a First Source Agreement with the District of Columbia Department of Employment Services to provide for jobs and the hiring of city residents;
 - i. Implementation of a Memorandum of Understanding with ANC-2C to make a bona fide effort to hire 51 percent residents of ANC-2C for temporary and permanent jobs; and
 - j. Implementation of an agreement with the U.S. National Park Service to participate in its Adopt-A-Park Program.
17. The applicants, by testimony presented at the public hearing, indicated that the proposed project complies with the provisions of the Northeast Urban Renewal Plan. The proposed office retail and child care uses are permitted in the industrial and commercial use areas under the Urban Renewal Plan. The Plan permits a maximum height of 90' and requires a minimum height of 40' within 65' of North Capitol Street. The Plan establishes a total FAR of 6.0 with a 15 foot set back from North Capitol Street. The proposed project meets all of these specifications.
18. The applicants, through their expert in architecture and planning, indicated that the proposed project fosters and promotes all applicable elements of the Comprehensive Plan, in particular, the following goals:
- a. Target the Northeast No. 1 area for a new, secondary lower rent office district;

- b. Encourage well-designed developments in areas that are vacant and under-used or deteriorated;
- c. Utilize large-scale development or capital improvement projects as opportunities for establishing a positive image or redirection in deteriorated areas;
- d. Establish a new physical identity in areas having a strong negative image and where the surrounding areas lack character; and
- e. Use extensive landscaping in areas without character to present a more positive image.

The project encourages key policies of the Draft Ward 2 Plan. The project will "provide construction in Development Opportunity Areas, especially in the North Capitol Street area . . . ". It will help increase office development in Ward 2 by the year 2000, it will "undertake coordinated mixed use development in the east side of the North Capitol Street area extending from Union Station to New York Avenue." The proposed project also encourages the goals of the Northeast Urban Renewal Plan. It stimulates revitalization of the area and promotes mixed-use development. It will also serve as a catalyst for achieving other favorable development in the area.

19. The applicants requested that flexibility be granted in the final design of the PUD project for the following:

- a. Reduction of the required number of parking spaces from 277 to 166, since the majority of PSI's clients will not drive to the site and a high sub-grade water level limits deep excavation;
- b. Reduction in the minimum dimension of the loading platform and number of service delivery spaces; and
- c. Final detailing of a few design features;

20. The applicants, through their traffic engineer and transportation planner, indicated that PSI needs approximately 45-50 parking spaces and that the clients of PSI because of their handicap will be transported to the PUD site by buses, or vans and do not use any of the provided parking spaces. The transportation planner concluded that the PUD project provides adequate parking and loading

needs and that no dangerous or objectionable traffic condition would be created.

21. The District of Columbia Office of Planning (OP), by memorandum dated July 17, 1989 and by testimony presented at the public hearing, recommended that the application be approved with conditions related to construction and amenities.
22. OP indicated that the subject site is located in the vicinity of Union Station and that the redevelopment of Union Station has stimulated considerable development interest in this area. The proposed building will complement the emerging commercial office land use pattern in this area. This pattern is consistent with the provisions of the Northeast No. I Urban Renewal Plan and the Comprehensive Plan.
23. The District of Columbia Department of Public Works (DPW), by memorandum dated July 14, 1989, concluded or recommended the following:
 - a. That the anticipated traffic generated by the PUD project would not adversely affect the surrounding transportation system;
 - b. That the applicants provide a detailed mode-of-transportation statement for patients traveling to and from the PUD site;
 - c. That the applicants re-design the loading area to make it functionally better, and so that all loading platforms are located contiguous to and with unobstructed access to an entrance to the building;
 - d. That the applicants provide four 30 foot-deep loading berths; and
 - e. That the water and sewer service for the site are adequate.
24. DPW, by supplemental memorandum dated July 27, 1989, indicated that its concerns regarding the facilities, the number of parking spaces, and a semi-circular driveway concept have been resolved. DPW no longer objects to the proposal.
25. The District of Columbia Metropolitan Police Department, by letter dated July, 1989, does not oppose the proposed development.

26. The District of Columbia Department of Finance and Revenue (DFR), by memorandum dated July 11, 1989, indicated that the planned use for the area in question would represent a positive addition to the area and should be allowed to proceed.
27. Advisory Neighborhood Commission (ANC) 2C, by letter dated July 25, 1989 and by testimony presented at the public hearing, supported the application and indicated that its major concerns as follows, were addressed:
 - a. The degree of proposed minority participation in the project; and
 - b. Community benefits associated with the project.
28. Five persons testified at the public hearing in support of the application largely because of the benefits to the community and city.
29. No opposition to the proposal was received by letter nor heard by testimony.
30. The Zoning Commission concurs with the position or recommendation of the applicants, OP, ANC-2C, DPW and others, and believes that the PUD proposal is an appropriate development for the site.
31. 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-Governmental and Government Reorganization Act. The NCPC, by report dated September 7, 1989, indicated that the proposed action of the Zoning Commission would not adversely affect the Federal establishment or other Federal interests in the National Capital or be inconsistent with the Comprehensive Plan for the National Capital.
32. On November 13, 1989, at its regular monthly meeting, the Zoning Commission considered the case for final action but determined that it needed additional information regarding floor area devoted to general retail and PSI retail uses.
33. The applicants, by letter dated December 6, 1989, responded to the concern of the Commission regarding the amount of floor area devoted to retail uses. The applicant also requested flexibility to use the floor area devoted to

general retail use for general office or PSI office use.

34. ANC-2C, by letter dated December 7, 1989, waived the time period provided to parties to comment on the aforementioned letter of the applicant, pursuant to 11 DCMR 3024.2
35. The Commission finds that the flexibility for which it has provided the applicants is reasonable and appropriate.
36. The Commission finds that the applicants have met the intent and purpose of the Zoning Regulations and further finds that the proposal is suitable for the site, and that the design, height, density, and scale are compatible with the subject neighborhood.

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 and site plan is essential to ensure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Chapter 24 to encourage the development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planned 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. 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. This 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 ensure 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 of Columbia.
8. This application is consistent with the Northeast I Urban Renewal Plan.
9. The Zoning Commission has accorded to the Advisory Neighborhood Commission 2C the "great weight" consideration to which it is entitled.
10. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

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 ("PUD") and change of zoning for lot 245 in Square 672 located at the southeast corner of the intersection of North Capitol and N Streets, N.E. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development (PUD) and Map Amendment approved herein shall be developed in accordance with the architectural drawings of Vlastimil Koubek, AIA, marked as Exhibits No. 48 and 56B of the record.
2. The site shall be developed with a mixture of general office, retail and child care facility uses, as permitted in the C-3-C Zone District, and the headquarters of PSI Associates, Inc.
3. The project shall also contain facilities for rehabilitation and rehabilitation evaluation and treatment services for persons of all ages and ranges of mental and physical handicapping conditions, including pre-vocational, vocational (including production and technical employment skills), life and social-recreational skills development; organizational and staff development; human services; and/or administrative and office use.
4. The project shall contain office, retail and PSI uses on the first floor (which may include child care uses), PSI uses only on the second floor (which also may include child care uses), and office uses on the remaining floors above.

5. Subject to Condition No. 17(h) of this order, the first floor of the project shall have 10,000 square feet of floor area devoted to retail use, of which 2,000 square feet shall be devoted to PSI retail use and 8,000 square feet devoted to general retail use.
6. The entire structure and garage shall have a complete sprinkler system that is designed and installed per NFPA Standard No. 13, 1987 edition.
7. The floor area ratio for the building on the site shall not exceed 6.0 FAR.
8. The height of the building shall not exceed 90 feet.
9. The lot occupancy shall not exceed 85%.
10. The development shall include a parking garage containing a minimum of 166 spaces, consisting of full size, compact and handicapped spaces. The parking garage may be marketed for use by persons other than the occupants of the project.
11. The applicants shall participate in the regional ride-sharing program through "D.C. Ride." On-site activities for this program shall be established as a responsibility of the staff of the management office for the building. These activities shall include distributing ride-share information to all building tenants, acting in accordance with D.C. Ride and, in general, encouraging and facilitating ride-share activities.
12. The loading activity for the project shall be in accordance with the plans marked as Exhibit No. 56B.
13. The facade of the 8th floor and the two-story base of the building shall be precast concrete.
14. All exterior signage shall be limited to a sign band with 12" high (maximum) letters in any style appropriate to the retail establishment. The letters shall either be back lighted or internally illuminated. Individual signage may also be provided by the retail tenants behind the storefront glass with the stipulation that it shall not occupy greater than 25% of the storefront glazed area.
15. The glazing of the project shall be clear glass at the retail base and gray-tinted glass for the remaining floors above, as included in Exhibit No. 56A (Section D).
16. At least one elevator bank shall open at and provide

service to all floors of the PUD project.

17. The applicants 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, so long as the variations do not change the exterior configuration of the building including the penthouse;
 - b. Making minor adjustments in the facade window 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 frontages in order to accommodate the different type of retail uses;
 - c. Varying the location and type of exterior lighting fixtures;
 - d. Varying the species but not the size of plant materials;
 - e. Providing attendant parking or valet service;
 - 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 166 the number of below-grade parking spaces to be provided;
 - g. Varying the layout of the first cellar to allow for an increase in the number of parking spaces, if necessary; vault space may be used for additional parking;
 - h. Varying the amount of total retail space by not more than 15%. Said percentage may be exceeded, provided that the applicants shall request such approval from the Zoning Commission which may determine to grant without a further public hearing;
 - i. Varying the layout of the elevator shaft so as to permit access to each floor by at least one of the elevator banks; and

- j. 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, provided that the applicants shall submit the aforementioned to the Zoning Commission for final approval which the Commission may determine to grant without having a further public hearing.
18. The Zoning Commission reserves the discretion to determine the proceedings by which it will consider any matter submitted to it, pursuant to Conditions No. 17(h) and 17(j) of this order.
19. Prior to the issuance of a certificate of occupancy, the applicants shall negotiate an agreement with the U.S. Park Service for the beautification, enhancement and maintenance of the federally-owned park immediately north of the project site at the intersections of North Capitol Street, New York Avenue and N Street, N.E. (U.S. Reservation #183) for a period of not less than 5 years.
20. The applicants shall contribute \$750,000.00 toward the establishment of a Community Endowment Fund to benefit the community within the boundaries of ANC 2C. The fund will be administered by the Community Foundation of Greater Washington, an established 501(c) corporation which administers several other endowment funds in the District. The fund will be controlled by a Board consisting of representatives of community organizations and North Capitol Plaza Limited Partnership. Earnings from the Fund provide such community resources as day care, youth employment, recreation, cultural enrichment, crisis and drug prevention and senior citizen services in the community. The fund will have the flexibility to address new concerns and problems that the community faces in the future. North Capitol Plaza Limited Partnership shall pay \$400,000.00 to the fund upon receipt of construction financing for the project with the balance up to \$750,000.00 paid in twelve regular monthly installments of approximately \$29,166.00 each. Copies of payment documents shall be submitted by North Capitol Plaza Limited Partnership to the Office of Planning and Zoning Administrator at the time the \$400,000.00 and the subsequent monthly payments are made.
21. No building permit shall be issued until the applicants have filed evidence with the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA) that the terms of Condition No. 20 of this order have been implemented and satisfied.

22. The applicants shall enter into a Memorandum of Understanding with the Minority Business Opportunity Commission, that requires 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. The applicants shall enter into a Memorandum of Understanding with Advisory Neighborhood Commission 2C that provides that the applicant will consult with ANC 2C residents and minority contractors and subcontractors in conjunction with development of the project.
24. The change of zoning from C-2-A and C-M-3 to C-3-C for lot 245 in Square 672 shall be effective upon recordation of a PUD covenant, as required by 11 DCMR 2407.
25. No building permit shall be issued for the PUD project until the applicants have 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 Zoning Regulations Division of DCRA. The covenant shall bind the owner and all successors in title to construct on and use of the property in accordance with this Order and amendments thereto of the Zoning Commission.
26. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division of DCRA until the applicants have filed a certified copy of said covenant with the records of the Zoning Commission.
27. 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 Subsections 2407.1 and 2406.8 DCMR Title 11. Construction shall start within three years of the effective date of this Order.
28. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicants are required to comply fully with the provisions of D.C. Law 2038, as amended, codified as D.C. Code, Title 1, Chapter 25, (1987), and this Order is conditioned upon full compliance with those provisions. Nothing in this Order shall be understood to require the Zoning Regulations Division /DCRA to approve permits, if the applicants fail to comply with any provisions of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public hearing on July 27, 1989: 4-0 (John G. Parsons, Lloyd D. Smith, William L. Ensign and Lindsley Williams, to approve with conditions - Maybelle Taylor Bennett, not voting, having departed before the conclusion of the hearing).

The guidelines, conditions and standards were approved by the Zoning Commission at its public meeting on August 7, 1989.

This order was adopted by the Zoning Commission at the public meeting on December 11, 1989 by a vote of 4-0 (John G. Parsons, Lloyd D. Smith, William L. Ensign, and Maybelle Taylor Bennett, to adopt as amended- Tersh Boasberg, not present not voting).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is on

FEB - 2 1990


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat