

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 643-C

Case No. 89-2M/84-18F

(PUD - Brookings Institute)

May 23, 1995

By Z.C. Order No. 457, dated May 13, 1985, the Zoning Commission for the District of Columbia approved the application of the Brookings Institute for consolidated review and approval of a planned unit development (PUD) and map amendment, pursuant to the provisions of Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

Z.C. Order No. 457 provided for the construction of a mixed-use development consisting of an eight-story office component, a residential component that included three, three-story townhouses and an eight-story apartment building.

Z.C. Order No. 533, dated July 13, 1987 extended the validity of Z.C. Order No. 457 for two-years; that was to June 7, 1989. Z.C. Order No. 457-A dated June 12, 1989 approved an additional two-year extension of Z.C. Order Nos. 457 and 533; that was to June 7, 1991.

By Z.C. Order No. 643, dated November 13, 1989, the Zoning Commission approved with conditions, a modification to Z.C. Order Nos. 457, 533 and 457-A. The modifications affected the design and height of the project.

Z.C. Order No. 643 became final and effective on December 15, 1989, requiring the applicant, pursuant to 11 DCMR 2406.8 and 1406.9, to file an application for a building permit by December 15, 1991 and to begin construction by December 15, 1992.

Z.C. Order No. 643-B, dated November 16, 1992, extended the validity of Z.C. Order Nos. 457, 533, 457-A, 643 and 643-B for two years; that was to December 15, 1993 with construction beginning on or before December 15, 1994, pursuant to 11 DCMR 2406.8 and 1406.9.

By letter dated December 14, 1994, counsel for the applicant requested a two-year extension of Z.C. Order Nos. 643 and 643-B. The letter indicated that although the project developer, the Quadrangle Development Corporation (Quadrangle) filed and obtained a building permit within the required time frame, Quadrangle has been unable to proceed with construction for the following reasons:

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"The applicant has obtained and maintained a valid building permit for the project and they have identified a possible anchor office tenant. However, the applicant still cannot proceed with construction until a binding, written agreement has been entered into with this office tenant. A two-year extension is requested to allow adequate time to finalize negotiations with an anchor tenant and secure financing of this project."

The applicant certified that copies of the request were served on all parties in the case including Advisory Neighborhood Commission (ANC) 2B.

The Office of Zoning (OZ) by memorandum dated January 25, 1995, referred the extension request to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Map or Regulations, or to the Comprehensive Plan since the Zoning Commission initially decided the case will effect this request.

By a memorandum dated March 31, 1995, the OP stated that neither the Zoning Regulations and Map nor the Comprehensive Plan have changed since the Commission approved the subject PUD and map amendment. The OP also recommended that the Zoning Commission grant the request to extend the deadline for filing of a building permit application to December 15, 1995 and to extend the deadline for commencing construction to December 15, 1996.

Advisory Neighborhood Commission (ANC) 2B by letter dated February 22, 1995 indicated the following:

"... ANC-2B supports the request for a two-year extension of the approved Brookings's PUD. However, ANC-2B wishes to register its concern with the length of time it is taking to secure a lead tenant in the office/professional use segment of the PUD development and in securing the necessary financing for the overall PUD project.

The Residential Action Coalition (RAC) by letter dated February 15, 1995 indicated the following:

"As a party to the Brookings Planned Unit Development case, the Residential Action Coalition asks that you hold a hearing on the extension of the PUD. The Zoning Regulations have changed; conditions require that you have a hearing on this matter which is of great importance to the neighborhood."

The RAC letter also stated that the Dupont Circle Overlay passed by the Zoning Commission in the early 1990s prohibits this PUD, and RAC encouraged the Commission to address this new condition.

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By letter dated March 30, 1995, the applicant responded to the comments from RAC. The applicant stated that Section 2406.10 of the Zoning Regulations provides that the Commission may extend the expiration time frames for PUDs (which are provided for in Sections 2406.8 and 2406.9) "for good cause shown upon proper request of the Applicant ...". The applicant further stated that the Zoning Regulations do not require that the Commission hold a hearing on this issue before making a determination that the PUD should be extended.

At its monthly meeting on April 10, 1995, the Commission reviewed and considered the request for extension of time, the OZ memorandum, ANC-2B's letter, the RAC's letter, and the applicant's response to the RAC letter. The Commission indicated that Section 2406.10 of the Zoning Regulations provides that the Commission may extend the expiration timeframes for PUDs (which are provided for in Sections 2406.9) "for good cause shown upon proper request of the Applicant ...". The Commission further stated that the Zoning Regulations do not require that the Commission hold a hearing on this issue before making a determination that the PUD should be extended. Additionally, the Zoning Commission believes that the Brookings PUD substantially meets all of the requirements of the Dupont Circle Overlay District, even though the PUD was approved prior to the enactment of the overlay district.

Pursuant to 11 DCMR 2406.1 of the Zoning Regulations, the Commission believes that the applicant has shown good cause for the extension of time.

The Commission concurs with the applicant, OP and ANC-2B and believes that a two-year extension of the validity of the PUD is appropriate.

The Commission further believes that an extension of time, as requested by the applicant, is not unreasonable, that the rationale for granting approval for the PUD has not changed, and that no adverse consequences will result from approving the request.

The Commission determined that an extension of time, as requested by the applicant, 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.

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 Nos. 457, 457-A, 533, 643 and 643-B in Z.C. Case No. 89-2M/84-18F be **EXTENDED** for a period of two years; that is until December 15, 1995 with construction to begin on or before December 15, 1996, pursuant to 11 DCMR 2406.8 and 2406.9.

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Vote of the Commission taken at the monthly meeting on April 10, 1995: 4-0 (William L. Ensign, John G. Parsons, Maybelle Taylor Bennett and Jerrily R. Kress, to extend).

This order was adopted by the Zoning Commission at its public meeting on May 23, 1995 by a vote of 4-0: (Maybelle Taylor Bennett, William L. Ensign and Jerrily R. Kress to adopt; John G. Parsons, to adopt by absentee ballot).

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is on SEP 1 1995.



JERRILY R. KRESS
Chairperson
Zoning Commission



MADELIENE H. ROBINSON
Director
Office of Zoning

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