Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 644
Case No. 89-7C
(PUD & Map @ Franklin Plaza)
November 13, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on July 13, 1989. At that hearing session, the Zoning Commission considered an application of Franklin Plaza Limited Partnership, pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, for consolidated approval of a Planned Unit Development (PUD) and rezoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The original application which was filed on January 25, 1989, requested consolidated review and approval of a PUD for Lots 20, 33, 34, 37, 46, 809-811 and 821 in Square 285, located at the southwest corner of the intersection of 12th and K Streets, N.W. The application also requested a change of zoning from HR/C-3-C to C-4.

2. The applicant proposed the construction of a 130 foot building for general office and retail use with a gross floor area of approximately 373,000 square feet and a floor area ratio (FAR) of approximately 11.1. The office building was to be connected to the adjacent Franklin School building, located to the west of the PUD site at 13th and K Streets, N.W.

3. In the prehearing statement dated May 18, 1989, the applicant notified the Zoning Commission of revisions to the PUD application. The revised PUD continued to include a rezoning from HR/C-3-C to C-4, and proposed an office and retail building of 375,300 gross square feet and 11.17 FAR with a maximum height of 130 feet. The applicant no longer proposed a connection to the landmark Franklin School building.

4. The PUD site is generally bounded by K Street to the north, 12th Street to the east, a 30 foot wide public alley and the remainder of Square 285 to the south, and the Franklin School and 13th Street to the west. The

site encompasses an area of approximately 33,601 square feet. The subject property is currently occupied as a rental car facility, parking garage, a furniture store and a copy center.

5. The C-3-C District permits matter-of-right major business and employment centers of medium/high 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.

6. The C-4 District is the downtown core, comprising the retail and office centers for both the District of Columbia and the metropolitan area, and allows office, retail, housing and mixed uses to a maximum height of 110 or 130 feet, a maximum lot occupancy of one hundred percent, and a maximum FAR of 8.5 or 10.0, with the maximum height and FAR dependent upon the width of adjoining streets.

7. The Hotel Residential (HR) Incentive District permits development incentives for residential and hotel uses only, to a maximum FAR of 8.5 and the maximum height permitted by the "Act to Regulate the Height of Buildings, June 1, 1910, as amended", which would allow 130 feet on the subject site. The HR District is mapped in combination with other Districts.

8. Under the PUD process of the Zoning Regulations, Chapter 24 of 11 DCMR, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be lesser than the matter-of-right standards identified above. The Zoning Commission may also approve uses that are permitted as a special exception and would not otherwise require approval by the Board of Zoning Adjustment (BZA).

9. The District of Columbia Generalized Land Use Map of the Comprehensive Plan for the National Capital shows the area of the subject PUD as within an area designated for high density commercial and high density residential land use.

10. Land uses surrounding the site are as follows:

    a. To the west is the landmark Franklin School building, and an office building to be known as One Franklin Square to be constructed on the north side of K Street.

    b. To the north is the Days Inn Hotel at 1201 K Street and an office building at 1275 K Street.

c. To the east is a rental car facility, a two story building at 1108 K Street, and a vacant lot at the southeast corner of 12th and K Streets.

d. To the south is the 30 foot wide public alley, the Akridge PUD site at 1215 I Street, and an office building at 1225 I Street, N.W.

11. The present zoning of the subject property is HR/C-3-C. The remainder of the square, excluding the School property which is unzoned, is zoned C-4. Beyond square 285 and to the immediate northwest, west, southwest and south is C-4 zoning. To the immediate east, northeast and north is HR/C-3-C.

12. The proposed building on the PUD site will have on-site parking to accommodate 241 cars, a lot occupancy of one hundred (100) percent, approximately 367,400 square feet devote to office use, and approximately 7900 square feet devoted to retail use. The Zoning Regulation for the C-4 District would normally require a minimum of 203 on-site parking spaces.

13, The applicants, through testimony presented at the public hearing, indicated that the District of Columbia and specifically the immediate neighborhood will realize significant public benefits from the proposed PUD. The project provides a number of special amenities including:

a. Historic Preservation: The applicant proposes to restore the exterior of the historic landmark Franklin School building. The building has been left in disrepair for the past several years and is in desperate need of structural and cosmetic refurbishing. The exterior restoration will be undertaken by the Applicant at its sole cost, and with the expert technical services of Oehrlein & Associates. The restoration of the historic Franklin School will complete the refurbishment and beautification of the Franklin Park area, a vital office development area whose growth and success will provide a substantial tax base for the City. The costs associated with the restoration are expected to be approximately $3.8 million

b. Housing: The applicant proposes to provide for the comprehensive modification and rehabilitation of housing units under the control of the Department of Public and Assisted Housing (DPAH). The applicant will make every effort to complete the maximum number of units. The DPAH has tentatively identified the Ellen Wilson Project as the low income project with the highest priority for

rehabilitation at this time. The applicant has agreed to rehabilitate 10 public housing units within the boundaries of Advisory Neighborhood Commission 2C. All of these units are owned and managed by the City, and are awaiting rehabilitation. The applicant proposes to provide $2.5 million toward the costs associated with the rehabilitation.

c. Education: The applicant proposes a substantial contribution to programs sponsored by the D.C. Public School System. Beneficiaries of this program will include Mentors, Inc. and the Value Education Program. The educational programs would offer an attractive alternative to keep young people away from drugs, and would work to counter school drop-out problems. The applicant proposes to contribute $200,000 for this amenity.

d. Franklin Square Area: The applicant proposes to improve the appearance and economic vitality of the Franklin Square area by replacing vacant lots and dilapidated undersized structures with a first-class commercial project that offers jobs, preservation of a historic landmark, and a new architecture which is both compatible with and complementary to that landmark.

e. Franklin Square Association: The applicant has committed funds to the Franklin Square Association for the improvement of Franklin Park.

f. Streetscape: The applicant will be providing a street program that meets and exceeds the Streetscape Guidelines.

g. MBOC: A Memorandum of Understanding has been executed by the applicant and approved by the Minority Business Opportunity Commission (MBOC). The agreement commits the applicant to make a bona fide effort to utilize certified minority business enterprises for a minimum of 35 percent of contracted development costs.

h. DOES: An Employment Agreement has been executed and approved by the D.C. Department of Employment Services (DOES). The Agreement commits the applicant to use DOES as its first source for recruitment, referral and placement of employees, and to use its best efforts to utilize D.C. residents for at least 51 percent of the jobs created by the project.

i. Memorandum of Understanding: A Memorandum of Understanding has been executed by the applicant and Advisory Commission (ANC) 2C which sets forth a commitment by the applicant to make a bona fide effort to provide employment and contracting opportunities to the community of ANC 2C.

j. Design: A superior quality architectural design is required in order to be compatible with the adjacent Franklin School. The proposed design goes well beyond the dictates of commercial viability to deliver a building with charm and character. This design achievement will require an extra investment by the applicant in architectural and engineering fees, as well as an extra investment in materials and craftsmanship.

14. The applicant requested flexibility in the following areas to ensure that minor refinements and improvements made during the process of design development and construction documents will be consistent with the intent of the proposed design:

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;

b. Making minor adjustments in facade and window detailing;

c. Varying the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at time of construction; and

d. Varying the arrangement and size of the parking garage based on site conditions and parking demand, so long as a minimum of 203 below-grade parking spaces are provided.

15. Handicapped access is provided at the K Street entrance. The street tree planting and other public space improvements along 12th, 13th and K Streets meet and exceed the Downtown Streetscape Guidelines.

16. The applicant, through its traffic consultant, indicated that traffic volumes to the site from the proposed development will be similar to those generated by the present parking garage. The proposed development will have no impact on the study area street system. The site is served by Metrobus stops adjacent to the site

on K Street, and on 13th Street just north to the site. Two Metrorail Stations, McPherson Square and Metro Center, are within a few blocks of the site. The project will generate approximately 160 cars during the peak hour, which will not change any of the current levels of service.

17. He indicated that access to the loading facilities is from the 30 foot wide public alley. This alley is 10 feet wider than the normal minimum required 20 foot alley width. Access to both the parking and loading are designed to provide for a safe and efficient flow of traffic into and out of the site.

18. The applicant, through its land use planner, indicated that the project is not inconsistent with the Comprehensive Plan. One of the major policies of the Housing Element is to facilitate the availability of adequate and affordable housing. The proposed project helps the District to meet the housing priorities identified by the city as being the greatest, by taking public housing stock which is not presently suitable for use and occupancy and putting it back into productive use. The application offers an opportunity to rehabilitate housing off-site, in a location specifically identified by the District. Given the substantial amount of amenities on-site and immediately adjacent to the site, and the Zoning Commission's authority to zone in a manner which would serve the overall benefit and general welfare of the District of Columbia, the applicant's housing amenity is appropriate.

19. While the Land Use Element calls for this site to be mixed-use high-density commercial and high-density residential, in the Downtown Element, the Franklin Square sub-area particularly is described as the prestige office area of Downtown. The proposed project meets the goals of the city in terms of the various amenities provided.

20. In terms of the nexus between the amenities offered and the benefit to the neighborhood and the PUD, the issue of nexus developed from the proposition that those who bear the burden also should receive benefit from a project. In this case, there is very little burden imposed by the project because the property is already deemed suitable for office use and there is no residential displacement. The project's traffic, height, and FAR will not create any substantial impacts on the area.

21. The applicant, through its marketing consultants, indicated that the highest and best use of the site is

clearly commercial. Residential or hotel use of the site is not feasible. As a matter-of-right, the applicants could develop a building containing 285,608 square feet of gross floor area. Without the PUD, there is no reason to expect that any of the amenities, particularly the off-site housing, will be provided.

22. The applicant concluded that the proposed PUD project complies with the provisions of Chapter 24 of the Zoning Regulations.

23. The District of Columbia Office of Planning (OP), by memorandum dated June 30, 1989 and by testimony presented at the public hearing, recommended that the application be approved. OP stated the following:

"The site is located in the Franklin Square area adjacent to a C-4 District. This area is now one of the most active areas in the city in terms of development. The Office of Planning feels that an office/retail building as proposed for this site with off-site housing rehabilitation of low income housing elsewhere is appropriate. The restoration of Franklin School, a historic landmark would have a positive impact on the surrounding area."

24. The District of Columbia Public Schools (DCPS), by letter dated June 22, 1989 and by testimony presented at the public hearing, stated that the Board of Education reached an Agreement with the applicant which would provide a much-needed restoration of the exterior of the adjacent Franklin School Building. DCPS supported the applicant's financial contribution to Mentors Inc. and the Value Education programs. The DCPS representative testified that the school system supports the PUD application and urged expedited approval.

25. The District of Columbia Department of Public Works (DPW) stated that it had no objection to the proposed PUD provided that the applicant agree to resurface the portion of the 30 foot public alley adjacent to the PUD site, and that the applicant coordinate all construction, streetscape and design elements within public space with DPW. DPW recommended that the applicant contact the Council of Governments to implement a ridesharing program.

26. The District of Columbia Department of Recreation (DOR), by letter dated June 19, 1989, recommended that the open area between the PUD building and the Franklin School be designed to accommodate an open air landscaped area, and that the applicant consider providing new trees along K Street and 13th Street.

27. The District of Columbia Fire Department (DCFD) stated in its report dated June 9, 1989, that it has no objection to the proposal provided the applicant complies with the fire protection and life safety provisions of the D.C. Construction Codes.

28. The District of Columbia Department of Finance and Revenue (DFR) stated in its report, dated June 20, 1989, that it has no objection to the requested zoning change, and in fact would encourage that it be undertaken.

29. The District of Columbia Department of Public and Assisted Housing (DPAH), by letter dated May 17, 1989 and by testimony presented at the public hearing, stated that an agreement had been reached between DPAH and the applicant for the rehabilitation by the applicant of a significant number of housing units at the Ellen Wilson Project. DPAH stated that the applicant has committed $2.5 million for the rehabilitation which is scheduled to commence simultaneously with the commencement of the PUD. DPAH stated that the rehabilitation would include approximately 30-40 units.

30. The Department of Housing and Community Development (DHCD) submitted a report dated June 27, 1989 to the Office of Planning regarding the PUD project. DHCD recommended approval of the project conditioned upon the density of the project being reduced to 11.0 FAR. By a subsequent report dated July 13, 1989, DHCD requested that its earlier report be replaced, and further stated that the proposed design at 11.17 FAR was carefully considered to be sensitive to the Franklin School site, and that it should be approved as proposed.

31. The District of Columbia Department of Consumer and Regulatory Affairs (DCRA) Soil Resources Branch, by letter dated May 31, 1989, stated that the applicant should submit a storm water management plan for the project pursuant to D.C. Law 5-188, Secs. 509-519, to the Soil Resources Branch before the beginning of any construction activity. It noted that the developer must submit the conceptual design for the stormwater management facility for review before a final design can be done.

32. The District of Columbia Metropolitan Police Department (MPD), by letter dated June 30, 1989, indicated that it had no objections to the proposal.

33. A representative of Mentors, Inc., by testimony presented at the public hearing, stated support for the amenities package which includes a $200,000.00 contribution through the Board of Education to Mentors Inc. and the Values Education programs. The representative testified

that these programs have a direct positive impact on the students and the school system and that establishing the Mentors Inc. program at Dunbar High School and the Young Leaders Program at Montgomery Elementary School, both serving students from ANC 2C, are in accordance with Mentors' goals and will provide a sound financial base for these schools' programs for a period of years. The representative also stated that this amenity provides a model example for future developers who may consider assisting a specific program as part of an amenity package.

34. Advisory Neighborhood Commission - 2C, by letter dated July 12, 1989 and by testimony presented at the public hearing, supported the application, subject to the applicant's agreement to a Memorandum of Understanding with the ANC for priority employment of ANC - 2C residents. ANC - 2C stated the following:

    "ANC 2C considers the objectives of the proposed public amenity package (restoration of the exterior of the historic Franklin School, renovation of housing for low income families, a mentors program for children of our community) associated with this project were to be excellent. We are disappointed that none of the proposed off site housing is within ANC 2C. We believe that a failure to add low and moderate income family housing to the near downtown areas such as the ANC 2C region will result in a irreversible loss of potential sites for such housing. This loss will occur mainly for economic reasons. Thus a failure to act now will promote a displacement of low and moderate income families from our neighborhoods. If this occurs we will be poorer for the loss of the rich diversity which ANC 2C now enjoys. We are therefore requesting that you direct the applicant to work with ANC 2C to identify a site (or sites) within the ANC 2C area for placement of at least 50% of the proposed off site housing for low and moderate income family housing associated with this proposal. ANC 2C has already initiated identification of potential sites and stands ready to assist in this process."

35. The Franklin Square Association, by letter dated May 25, 1989, supported the application.

36. The Single Member District Commissioner - 2C02 of the ANC, by letter stated July 11, 1989, supported the application.

37. There were no letters received in opposition nor was there any testimony at the public hearing in opposition.

38. By post hearing submissions, the applicant modified its housing amenity to include the rehabilitation of 10 units within ANC 2C, made a recommendation that addressed a security concern, and modified its elevations to provide three arches in the building design along the 12th Street and K Street facades.

39. The Zoning Commission concurs with the position of the applicant, OP, ANC-2C and others, and believes that the PUD proposal is an appropriate development for the site.

40. As the concern of ANC-2C regarding a housing linkage amenity, the Commission finds that in its decision to approve modified housing linkage amenity to require 10 units within the ANC 2C, the Zoning Commission has addressed the concerns of the ANC that a portion of the housing amenity should be located within the boundaries of ANC 2C.

41. The Commission finds that a substantial portion of the amenity package will directly benefit ANC 2C, including a portion of the off-site housing to be renovated, the restoration of the Franklin School and the contributions to the Board of Education sponsored programs. The Commission finds further that the total amenity package is worth approximately $7 million and creates a very significant public benefit.

42. The Commission finds that the applicant was responsive to the concerns raised at the hearing in regard to the Department of Public Works' (DPW) request that the applicant resurface a portion of the alley adjacent to the PUD, as evidenced by the applicant's statement that is would comply with DPW's request.

43. The Commission finds the applicant responsive to the Department of Recreation's concerns that the area between the Franklin School and the PUD be landscaped, as evidenced by the applicant's Landscape plan which was included in the post hearing submission dated July 21, 1989 (Exhibit No. 41).

44. The Commission finds that the applicant was responsive to concerns raised at the hearing in regard to the design of the arches and the penthouse as evidenced by the applicant's July 21, 1989 submission (Exhibit No. 41).

45. The Commission finds that the applicant has 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 area.

The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC, by report dated October 5, 1989, indicated that the PUD 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.

CONCLUSIONS OF LAW

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.

The development of this PUD carries out the purposes of Chapter 24 to encourage the development of well-planned commercial and mixed-use developments which will offer a efficient overall planning and design not achievable under matter-of-right development.

The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.

Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.

The approval of this application is consistent with the purpose of the Zoning Act.

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 ensure neighborhood stability.

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.

The Zoning Commission has accorded to the Advisory Neighborhood Commission 2C the "great weight" to which it is entitled.

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 and related map amendment from HR/C-3-C to C-4 for Lots 20, 33, 34, 37, 46, 809, 810, 811 and 821 in Square 285 at the southwest corner of the intersection of 12th and K Streets, N.W. The approval of this planned unit development and change of zoning is subject to the following guidelines, conditions and standards:

1. The Planned Unit Development (PUD) shall be developed in accordance with the architectural drawings submitted by Hartman-Cox Architects, marked as Exhibits No. 27 and 41 and the photographs submitted by counsel for the applicant, marked as Exhibits No. 27 and 41, as modified by the guidelines, conditions, and standards of this order.

2. The PUD site shall be developed as a 12-story mixed-use office/retail building, consistent with the submitted plans.

3. The floor area ratio (FAR) for the project shall not exceed 11.17 FAR, exclusive of roof structure.

   a. Approximately 7900 square feet of gross floor area shall be devoted to ground floor retail uses; and

   b. Approximately 367,400 square feet of gross floor area shall be devoted to office uses.

4. The height of the building shall not exceed 130 feet, exclusive of roof structure, as measured from K Street.

5. The building shall contain no less than 203 parking spaces located in two and one-half levels. Twelve of the parking spaces shall be made available for use by the Franklin School. If additional spaces are needed and if site conditions permit, the applicant may increase the number of parking spaces through construction of three full levels of parking. Access aisles, size of parking spaces, driveways, maneuvering areas and other parking garage features shall meet the requirements of the Zoning Regulations.

6. Loading activity shall take place in the location shown on the plans marked as Exhibit No. 41.

7. Landscaping improvements shall be provided as shown on

the plans marked as Exhibit No. 41, or as otherwise may be required by the District of Columbia Department of Public Works.

8. The applicant shall construct a gate enclosure in or adjacent to the portion of the Franklin School property which abuts the public alley and which is designated on the landscape plan as service delivery area.

9. Pursuant to an agreement with the District of Columbia Board of Education filed in the record as Exhibit No. 41, the applicant shall undertake and complete an historical restoration of the exterior of the Franklin School consistent with the Department of Interior Standards for Rehabilitation. The exterior restoration of Franklin School will include the repair of existing original materials and the replication of deteriorated, missing or altered materials and details and is described in Exhibit A of the agreement with the Board of Education. Nothing in this PUD Order shall preclude changes to the Franklin School building to complete the historic preservation review process. Nothing in this PUD Order shall preclude the removal of the existing fire escapes either as part of the historic preservation review or in connection with any further rehabilitation efforts by the Board of Education.

10. The restoration work shall include landscaping improvements for the rear yard of the School property generally in accordance with the concept plan filed in the record as Exhibits No. 41 and 45. Pursuant to the terms of the Agreement with the Board of Education, the architectural and engineering drawings and specifications for the restoration and landscaping work are subject to the final approval of the Board of Education and historic preservation review.

11. Pursuant to the same agreement with the District of Columbia Board of Education, the applicant shall contribute $200,000.00 to the Board of Education sanctioned programs known as Mentors, Inc. and Values Education Program (collectively, the "Programs"), in a 50:50 ratio.

12. Pursuant to an agreement with the Department of Public and Assisted Housing (DPAH), the applicant shall commit $2.5 million for the rehabilitation of public housing units. Ten dwelling units shall be located within ANC 2C. The remainder of the money shall be used for the rehabilitation of housing units at the Ellen Wilson project or such other project as may be designated by DPAH. The total contribution for housing shall be $2.5 million and the precise number of units shall depend on the scope of the rehabilitation work required.

13. The applicant shall implement the First Source Agreement with the Department of Employment Services which was filed in the record as Exhibit No. 37.

14. The applicant shall implement the Memorandum of Understanding with the Minority Business Opportunity Commission, which was filed in the record as Exhibit No. 37.

15. The applicant shall implement the Memorandum of Understanding with Advisory Neighborhood Commission 2C.

16. The design and color of the penthouse shall be as shown in Exhibit No. 41(c). The applicant has the flexibility to reduce the area or height of the penthouse depending on the final location for the rooftop mechanical equipment.

17. Signs for the retail establishments facing 12th Street or K Street shall be provided as shown on the detailed pencil rendering of a typical entrance in Exhibit No. 41 and shall be backlit or internally illuminated, if needed.

18. Antennas shall be permitted on the PUD site, subject to the Zoning Regulations adopted by the Zoning Commission in Case No. 84-10.

19. The architectural design for the K Street frontage of the building shall be in accordance with the elevations filed in Exhibit No. 45 which shows a modified treatment along K Street and three arches on 12th Street of identical design treatment.

20. Building materials for the project shall be similar to that of the Franklin School Building and shall consist of a red brick, with limestone and/or cast stone trim, as shown on Exhibits No. 27 and 41 of the record.

21. The applicant shall resurface the entire length and width of the abutting alley to the south side of the PUD site.

22. The applicant is granted flexibility in the final detailing of the building 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;

    b. Making minor adjustments in facade and window

detailing;

c. Varying the arrangement and size of the parking garage based on site conditions and parking demand, so long as a minimum of 203 below-grade parking spaces are provided; and

d. 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, prior to the issuance of building permit, the applicant shall submit the aforementioned to the Zoning Commission for final approval which the Commission may determine to grant without having a further public hearing.

23. The Zoning Commission reserves the discretion to determine the proceedings by which it will consider any matter submitted to it, pursuant to Paragraph "d" of Condition No. 22 of this order.

24. The change in zoning from HR/C-3-C to C-4 shall be effective upon recordation of a covenant, as required by Section 2407 of the Zoning Regulations.

25. No building permit shall be issued for this Planned Unit Development until the applicant has recorded a covenant in the Land Records of the District of Columbia, between the applicant and the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use each lot of record on the property, both in combination and severally, in accordance with this Order, and amendments thereof by the Zoning Commission.

26. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division of the DCRA until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.

27. The Planned Unit Development approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within that time, application must be filed for a building permit, as specified in 11 DCMR 2407.1 and 2406.8. 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 applicant is required to comply fully with the provisions of D.C. Law 2-38, 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 applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

Vote of the Zoning commission taken at the special public meeting on July 31, 1989: 5-0 (Maybelle Taylor Bennett, Lloyd D. Smith, Lindsley Williams, William L. Ensign, and John G. Parsons to approve with conditions).

The guidelines, conditions and standards were approved by the Zoning Commission at its regular monthly meeting on September 11, 1989.

The order was adopted by the Zoning Commission at its regular monthly meeting on November 13, 1989 by a vote of 4-0 (William L. Ensign, Lloyd D. Smith, Maybelle Taylor Bennett and John G. Parsons, to adopt as amended - Tersh Boasberg, not voting not having participated in the case).

In accordance withthe provisions of 11 DCMR 3028, this order isfinal and effective upon publication in the D. C. Register; that is on DEC 15 1989

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

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