

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 645-A

Case No. 89-14C

(PUD & Map Amendment @ Gonzaga)

March 12, 1990

By Z.C. Order No. 645, dated November 13, 1989, the Zoning Commission for the District of Columbia approved an application of the North Capitol Limited Partnership, the 19 H Street Limited Partnership, and Gonzaga College High School.

The application was for consolidated review of a Planned Unit Development (PUD) and related amendment to the Zoning Map of the District of Columbia, pursuant to Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The PUD approval was for the construction of a mixed-use commercial building, containing office and retail uses, and is for part of lot 88 in Square 622 and all of lot 184 in Square 623, located at 800 North Capitol Street, N.W.

The PUD development was approved for a height of 114 feet, a maximum floor area ratio (FAR) of 9.37, a lot occupancy of 100%, and on-site parking to accommodate approximately 221 cars. In addition to the above-mentioned development standards, other conditions of approval were contained in Z.C. Order No. 645.

Pursuant to 11 DCMR 3028, Z.C. Order No. 645 became final and effective upon publication in the D.C. Register; that is, on December 15, 1989.

11 DCMR 3029.5, in part, requires that a party in a contested case proceeding file its motion for reconsideration no more than ten (10) days after an order becomes effective. Counsel for the applicant, by letter dated February 1, 1990 filed a motion for reconsideration of Z.C. Order No. 645.

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 motion requested the Zoning Commission to grant approval of a modification to Condition No. 13 of Z.C Order No. 645; so as to reflect the language contained in the October 3 and 19, 1989 letters of Father Dooley, which are part of the record in the case.

The relevant requirements of Condition No. 13 of Z.C. Order No. 645 as approved, are contained in the following excerpt:

"The applicants shall provide Gonzaga College High School, pursuant to the ground lease between 800 North Capitol Street Limited Partnership and Gonzaga College High School, a lump sum payment of \$2.5 million with additional annual payments of \$250,000 for 99 years. The applicants shall enter into a covenant with Gonzaga College High School, providing that the annual payments of \$250,000 for 99 years to Gonzaga will be used exclusively to provide financial aid to minority students and primarily residents of the District of Columbia. The following shall apply to said annual payments":

- a. The financial aid shall not supplant existing financial aid to minority students;"

The applicants request that the Commission delete the words, "and primarily residents of the District of Columbia" and to insert in its place the words,

"and that, more particularly, Gonzaga shall endeavor to utilize those funds to provide financial aid for minority students who are residents of the District of Columbia." Thus, the sentence will read: "The applicants shall enter into a covenant with Gonzaga College High School, providing that the annual payments of \$250,000 for 99 years to Gonzaga will be used exclusively to provide financial aid to minority students, and that, more particularly, Gonzaga shall endeavor to utilize those funds to provide financial aid for minority students who are residents of the District of Columbia."

The applicants further request that the Commission amend Condition No. 13(a) to read, as follows:

"The financial aid shall not supplant funds which Gonzaga may receive annually from other sources for financial aid to minority students;"

On February 12, 1990 at its regular monthly meeting, the Zoning Commission waived its rules of practice, and considered the applicants' motion for reconsideration.

Z.C. ORDER NO. 645-A  
CASE NO. 89-14C  
MARCH 12, 1990  
PAGE 3

At that meeting, the Director of the District of Columbia Office of Planning (OP) expressed support of the applicants' proposed modifications.

Advisory Neighborhood Commission 2C, by letter dated February 5, 1990, supports the requested clarifications of the applicants.

The Commission concurs, in part, with the position of OP, ANC - 2C, and the applicant, and believes that its decision is reasonable and will protect the interest of all parties.

The Commission was not persuaded, at this time, to revise Condition No. 13(a), but in lieu thereof, reopened the record to permit the applicant to submit additional language that addressed the concern of the Commission that the applicants financial contribution to Gonzaga might tend to supplant existing financial aid to minority students.

Counsel for the applicants, by letters dated February 14 and 28, 1990, expressed acceptance of the proposed action of the Zoning Commission to amend the preamble paragraph of Condition No. 13. Counsel requested the Commission to consider revised proposed language for Condition No. 13(a), and requested the Commission to modify a clause contained in a proposed covenant between Gonzaga and the 800 North Capitol Limited Partnership that was attached to the applicants' February 1, 1990 letter.

On March 12, 1990, at its regular monthly meeting, the Zoning Commission considered the February 14 and 28, 1990 letters from counsel for the applicants. The Commission determined that it would be inappropriate for the Commission to review the proposed language of the covenant. The Commission, however, did approve the applicants' revised proposed language for Condition No. 13(a) of Z.C. Order No. 645.

The Zoning Commission believes that the proposed modifications are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are 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 APPROVAL of the following modifications to Condition No. 13 of Z.C. Order No. 645:

1. Change the second sentence of the preamble of Condition No. 13 to read as follows:

"The applicants shall enter into a covenant with Gonzaga College High School, providing that the annual payments of \$250,000.00 for 99 years to

Gonzaga will be used exclusively to provide financial aid to minority students, and that, more particularly, Gonzaga shall utilize those funds to provide financial aid primarily for minority students who are residents of the District of Columbia"; and

2. Change Condition No. 13(a) to read as follows:

"The financial aid shall not supplant funds which Gonzaga may receive annually from all sources for financial aid to minority students, and Gonzaga shall maintain its efforts to solicit such funds;"

Vote of the Zoning Commission taken at the public meeting on February 12, 1990: 5-0 (John G. Parsons, Maybelle Taylor Bennett, and Tersh Boasberg and William L. Ensign, to approve as amended and Lloyd D. Smith, to approve by absentee vote).

This order was adopted by the Zoning Commission at its regular monthly meeting on March 12, 1990 by a vote of 5-0 (William L. Ensign, John G. Parsons, Maybelle Taylor Bennett, Lloyd D. Smith and Tersh Boasberg, to adopt as amended).

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register; that is, on MAR 23 1990

  
TERSH BOASBERG  
Chairman  
Zoning Commission

  
EDWARD L. CURRY  
Executive Director  
Zoning Secretariat