

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 645

Case No. 89-14C

(PUD & Map @ Gonzaga)

November 13, 1989

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on October 5, 1989. At that hearing session, the Zoning Commission considered an application from the 800 North Capitol Limited Partnership, the 19 H Street Limited Partnership and Gonzaga College High School. The application is for consolidated review and approval of a Planned Unit Development (PUD) and related amendment to the 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 May 19, 1989, requests consolidated review and approval of a PUD and a change of zoning from C-2-A and R-4 to C-3-C for Lot 184 in Square 623 and part of Lot 837 (Record Lot 88) in Square 622 located at the northwest corner of the intersection of North Capitol Street and H Street, N.W.
2. The PUD site is within the boundaries of the Northwest I Urban Renewal Area, contains approximately 32,004 square feet, and is bounded by H Street, N.W. on the south, North Capitol Street on the east, and by the Gonzaga playing fields and tennis courts to the north and west respectively. The site is rectangular in shape, and has a frontage of 252 feet along H Street, N.W. and 127 feet along North Capitol Street. A portion of the site is presently improved with a three-story open-sided parking garage.
3. The garage and the ground on which it is situated are owned by 19 H Street Limited Partnership. The remainder of the ground area which is the subject of this application is owned by Gonzaga College High School. The ground on which the garage is located will be donated to Gonzaga and the entire site will then be leased back

to 800 North Capitol Limited Partnership for a 99 year lease term and be developed by 800 North Capitol Limited Partnership.

4. The applicants propose to construct a ten-story commercial building containing office, retail and service uses.
5. The R-4 District permits matter-of-right development of residential uses (including detached, semi-detached and row single-family dwellings and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of eighteen feet, a maximum height limit of three stories/forty feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit.
6. The C-2-A District permits matter-of-right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio (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.
7. The C-3-A 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.
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 of the Comprehensive Plan for the National Capital includes the PUD site in the institutional land use category.
10. The property is located in an area containing a variety of uses, including office, industrial, government, commercial, and educational. The land north of the site contains a school complex and church. To the west are an abandoned building, a large expressway and office buildings.

11. In the last few years there has been considerable rezoning activity from C-M-3 to C-3-C in the immediate area. The squares across North Capitol Street to the east of the site were rezoned C-3-C.
12. In 1985, in Case No. 84-6 and by Z.C. Order No. 450, the Zoning Commission granted a rezoning request made by the Redevelopment Land Agency (RLA) for property located in Squares 675, 676 and 677. In that case, the Commission rezoned a parcel of property containing 201,062 square feet of land from C-M-3 to C-3-C.
13. Similarly, in July 1988, in Case No. 88-1 and by Z.C. Order No. 570, the Zoning Commission granted approval of a rezoning request made by several owners of property located in Squares 675 and 676. In that case, the commission rezoned 163,147 square feet of land from C-M-3 to C-3-C.
14. In both Cases No. 84-6 and 88-1, the Commission found that development patterns in the area indicated growth in commercial/office/hotel use rather than in industrial use as originally anticipated. The Commission stated:

"that the rezoning of the property at C-3-C would be compatible with the existing zoning in the area since C-3-C concurrently exists directly south, east, and west of the site."
15. The applicants propose to construct a 114 foot office building with an FAR of approximately 9.37. Approximately 12,000 square feet on the first floor and the first level below grade will be devoted to exercise facilities, and approximately 9,000 square feet to retail on the first floor. The building will be finished on all four sides. The building will contain approximately 299,896 FAR feet and have a penthouse of approximately 11,840 square feet. Below grade, three levels of parking (approximately 104,085 square feet) will accommodate approximately 221 cars.
16. Approval of this application will enable the applicant to build a commercial structure appropriate to the site and compatible with the Government Printing Office across H Street which is 169.19 feet high, including penthouses. The project would be in keeping with the C-3-C office development on the east side of North Capitol Street at Union Center Plaza and the Center for Public Administration and Services, Inc. building at the southeast corner of the intersection of North Capitol and H Streets.
17. The applicants indicated that the PUD process is the appropriate mechanism for regulating development of the

site. Approval of the PUD and rezoning will achieve the goals of the PUD process of promoting sound project planning, efficient and economical use of land, attractive urban design, and provision of public benefits.

18. The applicants further indicated that the design of the project is in keeping with the scale and character of the immediate area. The project will continue the character of the main GPO building along North Capitol Street, while providing a transition to the more moderately-scaled St. Aloysius Church and the Gonzaga buildings to the north, which are separated from the project by existing playing fields. The cornice which finishes the building aligns with the main cornice of the GPO building, the top of which is three (3) feet above the roof slab. Pedestrian entry to the office lobby is from both North Capitol and H Streets. The entries centered on the east and south facades are articulated with rich, deep mouldings, reinforcing the traditional contextual spirit of the building.
19. Parking and loading entries are along H Street, their doors are incorporated into the rhythm of the arched spandrels of the base. Loading is at the western corner, and parking is adjacent to the west of the H Street pedestrian entry. The building will be finished identically to the same high level of detail and quality on all four sides so as to exhibit a primary facade regardless of the avenue of approach. The building's brick color will be lighter than that of the GPO. The precast will simulate Indiana Buff Limestone in color to act as a strong accent to the brick. The intent of the color pallet is illustrated in the rendering submitted.
20. The applicants propose to provide the following:
 - a. Exterior signage will be limited to a sign band with 12" high (maximum) letters in any style appropriate to the retail establishment. The letters will 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 will not occupy greater than 25% of the storefront glazed area; and
 - b. New sidewalk treatment and landscaping will be installed along H Street and along North Capitol Street from the intersection to the entrance drive of the playing fields. In conjunction with this landscaping, a new brick and iron fence with a formal gateway to the playing fields will be built

along the eastern edge of the Gonzaga playing fields. In addition, two rows of trees will be planted, providing a canopy over the sidewalk from the project to the alley next to St. Aloysius Church.

21. The applicants request flexibility in the following:
 - a. Alter the number of parking spaces depending on subsurface water condition by no more than five percent;
 - b. Reserve the right to build an additional level below grade which would be occupied by the building's primary tenant or used as shared conference facilities, computer rooms, storage and like facilities. This additional level will not alter parking, FAR, heights, nor the exterior appearance of the building.
 - c. Make minor adjustments in the facade window detailing, shift the location of the doors to the retail uses on the ground floor and vary the type of paneling uses on the retail frontages in order to accommodate the different types of retail uses; and
 - d. Vary the location and design of any interior components, including partitions, structural slabs, core configuration, doors, hallways, columns, stairways, location of elevators, electrical and mechanical rooms, so long as the variations do not change the exterior configuration or appearance of the building including the penthouse and do not increase the height or size of the building.
22. The project will create significant employment opportunities for workers at many levels. The applicants will participate in the First Source Employment Program with the D.C. Department of Employment Services to fill entry-level positions.
23. In addition, the applicants have entered into a Memorandum of Understanding with the Minority Business Opportunity Commission, committing itself to use best efforts to target up to 35 percent of the contracts both during construction and after completion for minorities.
24. The applicants have executed an agreement with Advisory Neighborhood Commission 2C (ANC 2C) to provide funding for community education improvements through the "I Have a Dream" Foundation. This program will assure the availability of college tuition for four years for a

class (or classes) at Terrell Junior High School containing up to 60 students. \$390,000 will be paid to the Foundation as a lump-sum payment to accomplish this.

- a. Under the above-cited agreement, to assure that the students will be in a position to take advantage of the opportunity to attend college without responsibility for tuition, supplementary funding will be provided in the amount of \$200,000 to the Kingsbury Center. The Kingsbury Center is a highly regarded educational institution which will provide diagnostic testing and tutoring services for those students during junior high school and high school; and
 - b. In addition, pursuant to the above cited agreement, the applicants will purchase and donate to Terrell Junior High School high quality computers, graphic arts, and communications equipment and make physical improvements to the space in which the equipment will be contained, costing not less than \$95,000.
25. The applicants will participate in a regional ride-sharing program through "D.C. Ride."
 26. As a further community benefit, a two and one-half million dollar (\$2,500,000) lump sum payment will be made to Gonzaga, intended to insure the school's financial viability at its home on North Capitol Street in the District of Columbia. The applicants will also provide substantial economic value to Gonzaga College High School for financial assistance to minority students. An annual payment of two hundred fifty thousand dollars (\$250,000) for a period of 99 years will be paid by 800 North Capitol Limited Partnership to be used by the school exclusively for financial assistance to minority students. The \$250,000 annual payment will be escalated by 50 percent of the increase in the consumer price index on each five-year anniversary of the commencement date. By letter dated October 3, 1989, Gonzaga will endeavor to utilize those funds to provide financial aid to minorities resident in the District of Columbia.
 27. By letter dated October 19, 1989, Gonzaga has stated that the funds provided will be so utilized without regard to sources presently available to the school for minority financial assistance. Gonzaga has stated that it has no plans to leave the area or suspend operations. If the school should ever cease to exist and there is no successor school established to carry out this

commitment, best efforts would be made to see that the funds are used to pay for minority financial assistance at other D.C. area schools.

28. The applicants indicated that the proposed development will not impose any adverse traffic impact on the street network. Two of the three nearby intersections analyzed will continue to operate at their present levels. The site is well located relative to public transportation facilities. The development will not create objectionable conditions for access, circulation, parking, or loading.
29. The District of Columbia Office of Planning (OP), by memorandum dated September 25, 1989 and by testimony presented at the public hearing, recommended that the application be approved. OP stated the following:

"The project is generally consistent with the Comprehensive Plan. The Generalized Land Use Map designates the site for institutional use. This designation was generally placed over most of the land located in the northwestern quadrant at North Capitol and H Streets primarily because of the location of Gonzaga High School. The existing zoning of the subject site is C-2-A and R-4 as mentioned. Also, the area is in transition as commercial development interest has increased in recent years because of the Union Station Metrorail and Amtrak hub. We believe that the subject location is appropriate for the type of development proposed by the applicant. It is the only corner at the intersection of North Capitol and H Streets which remains undeveloped. The other corners are developed with office buildings. Map changes to C-3-C have been approved recently for squares east of North Capitol Street. The proposed project will complete the development at this important intersection and complement the remaining institutional uses. Additionally, it will eliminate a visually offensive and obsolete parking structure."
30. The District of Columbia Department of Public Works (DPW), by memorandum dated October 4, 1989, and by testimony presented at the public hearing expressed that the major concern of DPW was with the loading facilities. The DPW memorandum concluded or recommended the following:
 - a. That the project will adversely impact the traffic on the area streets;
 - b. That the provided 232 parking spaces is well in excess of the required 169 space, in light of the applicant's claim that 70% of the trips to the site will be by mass transit;

- c. That the loading facility be redesigned to prevent trucks from blocking onto H Street;
 - d. That there is adequate water/sewer service at the PUD site;
 - e. That the applicant coordinate with the DPW Bureau of Transportation Construction Services to develop a number of street improvements;
 - f. That the applicant submit a parking need analysis;
 - g. That the applicant narrow the curb cut access for the loading bays.
31. DPW, by supplemental memorandum dated November 1, 1989, indicated that it met with the applicant and no longer objects to the location of the loading facility.
 32. The District of Columbia Department of Housing and Community Development (DHCD), by memorandum dated September 25, 1989, had no objections to the application.
 33. The District of Columbia Metropolitan Police Department (MPD), by letter dated September 14, 1989, does not oppose the PUD and map amendment.
 34. The District of Columbia Department of Finance and Revenue (DFR), by memorandum dated September 8, 1989, does not oppose the PUD application.
 35. The District of Columbia Department of Recreation (DOR), by memorandum dated August 10, 1989, indicated that the PUD should not have an adverse impact on existing parks and recreation facilities.
 36. The District of Columbia Public Schools (DCPS), by memorandum dated August 28, 1989 and by letters dated October 19 & 20, 1989, does not oppose the PUD proposal and supports the benefits that would be realized by Terrell Junior High School.
 37. Advisory Neighborhood Commission - 2C, by letter dated September 27, 1989, supports the PUD proposal, subject to the following:
 - a. An agreement between the applicants and ANC of a Memorandum of Understanding for priority employment of ANC - 2C residents;
 - b. A statement indicating that Gonzaga College High School will remain at its present location for a minimum of ten years after completion of the PUD project.

38. The principal at Terrell Junior High School, by letter dated September 25, 1989 and by testimony presented at the public hearing, urged the Zoning Commission to approve the PUD application expeditiously in order for the school to promptly implement the various programs that it would receive.
39. The Single Member District (SMD-2C12) Commissioner, by letter dated September 21, 1989 and by testimony presented at the public hearing supported the PUD project.
40. There were no letters received nor testimony at the public hearing in opposition to the application.
41. The Zoning Commission concurs with the position of the applicants, OP, ANC-2C and others, and finds that the PUD proposal is an appropriate development for the PUD site.
42. The Commission takes note of the concerns of ANC-2C and finds that in its decision, it has addressed those concerns.
43. As to the concerns of DPW regarding traffic and parking, the Commission does not concur. The Commission notes the testimony of the DPW representative who summarized that the major concern of DPW was loading. The Commission finds that the additional parking space above the required number of spaces will reduce on-street parking concerns. The commission further finds that the ride-sharing program to be implemented by the applicants and access to existing mass transportation systems in the area (including commuter buses, Metrobuses, Metrorail and commuter rail), will minimize adverse affects on the neighboring street system.
44. 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 neighborhood.
45. 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, report dated November 3, 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.

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 plan and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and program, 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. 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.
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 not inconsistent with the Northwest 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 184 in Square 623 and part of

lot 837 (part of lot 88) in Square 622 located at the corner of the intersection of North Capitol and H Streets, N.W. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the architectural plans of Hartman-Cox Architects, marked as Exhibits No. 30, 31 and 32, as modified by the guidelines, conditions and standards of this order.
2. The site shall be developed with a mixed-use commercial building to include office and retail uses.
3. The floor area ratio for the building on the PUD site shall not exceed 9.37, excluding penthouse.
4. The height of the building shall not exceed 114 feet, excluding the penthouse. The height of the penthouse shall not exceed 18'6".
5. The lot occupancy shall be 100%.
6. No rear yard setback shall be required for the project.
7. The project shall include parking for approximately 221 spaces, consisting of full-size, compact and handi-capped spaces.
8. The loading activity for the project shall be in accordance with the plans marked as Exhibit No. 44. Loading activities shall be prohibited during the extended peak hours; that is, Monday through Friday from 6:00 A.M. to 10:00 A.M. and 3:00 P.M. to 7:00 P.M.
9. The applicant shall participate in the regional ride-sharing program through "D.C. Ride."
10. 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.
11. The applicants shall have flexibility with respect to the following matters:
 - a. Altering the number of parking spaces depending on subsurface water conditions by up to 5%;

- b. Reserving the right to build an additional level below grade which will be occupied by the building's primary tenant or used as shared conference facilities;
 - c. 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; and
 - d. Varying the location and design of any 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 or appearance of the building including the penthouse and do not increase the height or size of the building.
12. The applicants shall enter into an agreement with Advisory Neighborhood Commission 2C and agree to:
- a. Provide funding for college tuition for four years for Terrell Junior High School class (or classes) containing up to 60 students. It is agreed this will be accomplished by applicant paying over to the "I Have A Dream" Foundation \$390,000, not later than the issuance by the District of Columbia of a building permit for the construction of an office building as approved by the Zoning Commission Case No. 89-14C;
 - b. Provide for tutoring services to be provided to students in the I Have A Dream Program by the Kingsbury Center, which shall be accomplished by the payment of \$200,000 to the Kingsbury Center at the same time as the aforesaid \$390,000 is paid; and
 - c. Provide Terrell Junior High School with high quality graphic arts and communication equipment at applicants' sole expense. The applicants will also, at their expense, make physical improvements to the space in which the equipment will be contained so such space will be appropriate for the proper utilization of the equipment. The costs for the equipment and physical improvements are projected to approximate \$95,000 and shall not be less than \$95,000.
13. 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;
 - b. The applicants shall file a statement with the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (DCRA) which identifies current levels of financial aid to minority students. Such statement shall be filed no later than four (4) months after the effective date of this order;
 - c. The applicants shall file a statement with the Zoning Regulations Division/DCRA which shows compliance with Condition No. 13 of this order. Such statement shall be filed each year for 99 years, commencing on the anniversary of the effective date of this order; and
 - d. The applicants shall submit to the Zoning Commission copies of all of the aforementioned statements.
14. The applicants shall enter into a Memorandum of Understanding with the Minority Business Opportunity Commission which provides that the applicants will make a bona fide effort to award at least 35% of the construction-related contracts for the project to Certified Minority Business Enterprises.
 15. The applicants shall enter into a Memorandum of Understanding with Advisory Neighborhood Commission 2C (ANC 2C) which provides that applicants' designee will consult with ANC 2C concerning ANC 2C residents and minority contractors and subcontractors in conjunction with development of the project, as provided for in Exhibit 44 of the record.
 16. The change of zoning from R-4 and C-2-A to C-3-C for the PUD site (part of lot 88 in Square 622 and all of lot 184 in Square 623) shall be effective upon recordation of a covenant as required by 11 DCMR 2407.
 17. 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.

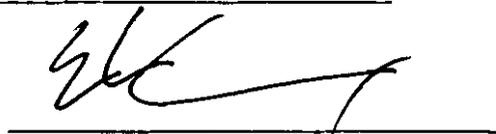
18. The Zoning Secretariat shall not release the record of this case to the Zoning Regulations Division until the applicants have filed a certified copy of said covenant with the record of the Zoning Commission.
19. The PUD approved by the Zoning Commission shall be valid for a period of two years from 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.
20. 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 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 October 5, 1989: 5-0 (William L. Ensign, Lloyd D. Smith, Tersh Boasberg, Maybelle Taylor Bennett and John G. Parsons, to approve with conditions).

This order was adopted by the Zoning Commission at the regular monthly meeting on November 13, 1989 by a vote of 5-0 (Lloyd D. Smith, Tersh Boasberg, John G. Parsons, William L. Ensign and Maybelle Taylor Bennett, to adopt as amended).

In accordance with the provisions of 11 DCMR 3028, this order is final 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