

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 656-D

Case No. 89-15C

(PUD @ 5333 Connecticut Avenue, N.W. - Cafritz)

July 1, 1996

By Z.C. Order No. 656 and 656-A dated March 12 and July 9, 1990, respectively, the Zoning Commission for the District of Columbia approved an application of Calvin Cafritz for consolidated review of a planned unit development (PUD). The PUD site consists of lots 20-25, 37, 44, 826, 827 and 829, and a portion of a public alley to be closed in Square 1873, and is located at 5333 Connecticut Avenue, N.W.

The PUD approval was for the construction of a multi-story apartment building with approximately 204 dwelling units, a medical clinic, and some commercial adjunct uses.

Z.C. Order Nos. 656 and 656-A approved the PUD project, subject to certain guidelines, conditions, and standards. One of the conditions of approval states that:

"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 the building permit, as specified in 11 DCMR 2407. Construction shall start within three years of the effective date of this order."

11 DCMR 2406.10 allows the Zoning Commission to extend the validity of a PUD "for good cause shown," upon the request of the applicant being made prior to the expiration of the PUD.

By Z.C. Order No. 656-B, the Zoning Commission extended the validity of Z.C. Order Nos. 656 and 656-A, for two years; that is until March 23, 1994 for the applicant to file for a building permit, as specified in 11 DCMR 2406.8. Construction was to start not later than March 23, 1995.

By Z.C. Order No. 656-C, the Zoning Commission extended the validity of Z.C. Order Nos. 656, 656-A and 656-B for two years, that is until March 23, 1996 for the applicant to file for a building permit and thereafter until March 23, 1997 to begin construction.

By motion dated January 30, 1996, counsel for the applicant requested a two-year extension of the validity of Z.C. Order Nos.

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656, 656-A, 656-B and 656-C, citing the following reasons for the extension request:

1. The original order became final on March 23, 1990, and since that time, the applicant has actively sought potential construction and permanent financing;
2. Since the time of the granting of the first and second extensions, there has been little, if any improvement in the financial market relative to real estate financing, and in particular, essential to obtain the financing necessary for construction of the project;
3. In light of the current market conditions, the applicant requires additional time to continue its efforts to obtain financing for the project. The applicant has been continuously marketing the project since 1990. There has been little improvement in the residential real estate market in the last two years. As reported in the Washington Post on January 27, 1996, the "District's population plunged by 13,000 last year, the largest annual decline this decade" and that the city "has lost more people since 1990 -- 52,900 -- than during all of the 1980s." Demand for Class A residential development is expected to continue its decline for the next four years; and
4. The residential market has suffered to an even greater extent than the commercial market. As a result, residential projects are even more difficult to finance than office projects in today's economic environment. In addition, due to substantial soft and hard costs associated with the construction of the project, high rental rates will be required. Only within the last several months have rental rates increased to a point where they begin to support the hard and soft costs of this project.

By memorandum dated February 13, 1996, the District of Columbia Office of Zoning (OZ) referred the applicant's request to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Regulations or Map or to the Comprehensive Plan since the Zoning Commission initially decided this case will affect this request.

By memorandum dated March 20, 1996, OP recommended that the applicant's motion for extension be granted. The OP indicated that neither the Zoning Regulations and Zoning Map, nor the Comprehensive Plan, have changed since the Commission approved the

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subject PUD. The site remains in the R-5-D (formerly known as R-5-C) zone district and in the high density residential land use category.

The OP concluded that the applicant needs additional time to secure financing and complete the development of the project. It added that the Commission should extend the validity of the PUD to March 23, 1998 by which time plans must be filed for a building permit, and March 23, 1999 by which time construction must commence.

By letter dated February 21, 1996, Advisory Neighborhood Commission (ANC) - 3G supported the applicant's request for extension of the PUD. By letter dated February 28, 1996, the ANC conditioned its support on the applicant agreeing to continue to maintain the grass at the PUD site by cutting it at least once a month from April to October, until construction begins.

On April 8, 1996 at its regular monthly meeting, the Commission reviewed and considered the applicant's request, the OP report and ANC-3G's condition of support.

After discussing the applicant's submission and reviewing all other documents submitted, the Zoning Commission determined that the applicant did not show good cause why the request should be granted. The Commission deferred action on the request to allow the applicant additional time to show good cause. By letter dated May 2, 1996 to counsel for the applicant, the Office of Zoning communicated the Commission's action to the applicant.

By letter dated May 31, 1996, the applicant, through counsel, submitted additional information to document good cause for the extension. The information submitted are letters from potential lenders and realtors documenting the state of the market for Class A residential development and the applicant's efforts to finance the project.

On June 10, 1996 at its regular monthly meeting, the Commission reviewed and considered the applicant's May 31, 1996 submission and the other documents previously submitted in the case.

With regard to the conditional support of ANC-3G, the Commission determined that additional conditions of approval would constitute a modification to the original order, and would require a further public hearing.

The Director of the Office of Zoning informed the Commission that requests to extend PUDs are requests to extend what the Commission has previously approved, and that modifications to previously approved orders are not appropriate as part of this process. The Director noted that the applicant and the ANC have the option of

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reaching an agreement separate from the Commission's proceeding. The Commission concurred with the Director of the office of Zoning, and determined that this order should note that option.

The Commission concurs with the applicant, OP, and ANC-3G, 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 Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

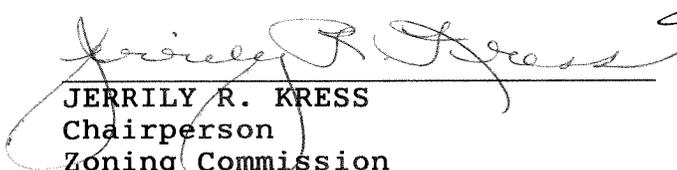
For the reasons set forth in this order, the Zoning Commission for the District of Columbia hereby **ORDERS** that the validity of Z.C. Order Nos. 656, 656-A, 656-B and 656-C be **EXTENDED** for a period of two-years; until March 23, 1998. Prior to the expiration of that time, the applicant shall file an application for a building permit, as specified in 11 DCMR 2406.8. Construction shall start within one year of that date, that is, not later than March 23, 1999.

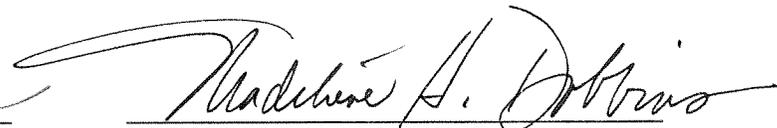
Vote of the Commission taken at the monthly meeting on June 10, 1996: 5-0 (Howard R. Croft, Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress, and Herbert M. Franklin to approve).

This order was adopted by the Zoning Commission at its regular monthly meeting on July 1, 1996 by a vote of 5-0 (Maybelle Taylor Bennett, John G. Parsons, Howard R. Croft, Herbert M. Franklin and Jerrily R. Kress to adopt).

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

JUL 26 1996


JERRILY R. KRESS
Chairperson
Zoning Commission


MADELIENE H. DOBBINS
Director
Office of Zoning

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