

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 668-F-1

Case No. 94-4M/89-31C

(Consolidated PUD & Map Amendment @ 500 5th Street, N.W.)

APRIL 12, 1999

By Zoning Commission Order No. 668, dated July 9, 1990, the Zoning Commission for the District of Columbia approved the application of 488 Associates Limited Partnership, the Salvation Army, the Fraternal Order of Police and John W. and Vinard Paris for a consolidated review and approval of a planned unit development (PUD) and related map amendment from SP-2 to C-3-C for lots 15-19, 24, 25 and 821-823, and a closed public alley in Square 488, located at 500 5th Street, N.W.

Order No. 668 provided for the construction of a mixed-use commercial building with a height of 120 feet, a maximum floor area ratio (FAR) of 7.64, and a lot occupancy of 99 percent. The approved PUD was subject to certain guidelines, conditions and standards.

By letter dated October 3, 1990, counsel for the applicant requested the Zoning Commission to modify the second sentence in condition No. 6 of Z.C. Order No. 668, relating to ingress and egress. The letter also requested the Commission to extend the validity of the PUD for two years.

By Z.C. Order No. 668-A, dated November 19, 1990, the Commission approved the applicant's request and modified Condition No. 6 to read as follows:

"The applicant shall provide two lanes 'in' and either one or two lanes 'out' for vehicular traffic in the interior of the parking garage."

By Z.C. Order No. 668-B, dated August 5, 1991, the Commission granted the applicant's second extension request and extended the validity of Z.C. Order Nos. 668 and 668-A for a period of two years, until July 27, 1994, with construction to start no later than July 27, 1995.

By Order No. 668-C, the Commission extended the validity of Z.C. Order Nos. 668, 668-A and 668-B for a period of two years, until July 27, 1996, with construction to start not later than July 27, 1997.

By letter dated March 10, 1994, the applicant requested a modification of the existing PUD to include, as alternative development, Lots 833 and 842 at the northern end of Square 488. Lots 833 and 842 were unzoned District of Columbia property developed with a fire station. The

applicant requested that the unzoned property be zoned C-3-C to be consistent with the zoning of the remainder of the square, as approved by the Commission in Z.C. Order No. 668.

By Z.C. Order No. 668-D, dated November 14, 1994, the Zoning Commission approved the modification to the PUD and the map amendment to C-3-C for Lots 833 and 842. Z.C. Order No. 668-D provided for an office/retail building with a gross floor area (including the fire station) of 448,525 square feet, an FAR of 7.64, height of 120 feet and 212 off-street parking spaces with a potential for approximately 313 parking spaces through a staked parking scheme, and a minimum of ten bicycle parking spaces, or in the alternative to proceed under the original PUD approval contained in previous Z.C. Order Nos. 668, 668-A, 668-B, and 668-C.

The validity of Z.C. Order No. 668-D was for two years, that is until December 9, 1996, to file for a building permit, with construction to commence not later than December 9, 1997.

By letter dated September 21, 1995, counsel for the applicant filed a motion for the extension of Z.C. Order Nos. 668, 668-A, 668-B, 668-C, and 668-D for two years. The motion requested that Z.C. Order Nos. 668, 668-A, 668-B, 668-C be extended to July 27, 1998, to file for a building permit, with construction to commence no later than July 27, 1999, and Z.C. Order No. 668-D to be extended to December 9, 1998, to file for a building permit, and construction to commence no later than December 9, 1999.

The applicant's motion for extension stated, in part the following as the basis for the extension.

1. The applicant has not proceeded with construction since the PUD's approval solely because of unfavorable market conditions. These conditions have placed a halt almost all new private construction projects in the past six years. The applicant has been unable to secure financing to allow the project to proceed without a lead tenant in place and the project substantially pre-leased.
2. The unfavorable market conditions and the applicant's continuous actions to market the project, including the PUD modification to utilize the air rights over the fire house, are both highly relevant to the demonstration of good cause. On the basis of these factors, an extension for good cause shown is merited without hearing.

By Z.C. Order No. 668-E, dated, February 12, 1996, the Commission granted the applicants' motion for extension and extended the validity of Z.C. Order No. 668 through 668-C for two years, that is, until July 27, 1998, to file for a building permit, with construction to begin no later than July 27, 1999. Additionally, by Z.C. Order No. 668-E, the Commission extended Order No. 668-D for a period of two years, until December 9, 1998, to file for a building permit with construction to begin no later than December 9, 1999.

By correspondence dated September 17, 1997, counsel for the applicant filed a motion requesting the Commission to further extend the validity of Zoning Commission Order Nos. 668, 668-A, 668-B, 668-C, and 668-E for five-years (until July 27, 2003), and for Order No. 668-D, until December 9, 2003, pursuant to Subsection 2408 of the Zoning Regulations.

Finding that the applicant had demonstrated good cause for the extension and that the rationale for granting approval for the PUD had not changed, the Zoning Commission, by Z.C. Order No. 668-F dated February 9, 1998, granted an extension of the validity of Z.C. Order Nos. 668, 668-A, 668-B, 668-C and 668E for a period of two years, until July 27, 2000, and for Z.C. Order No. 668-D until December 9, 2000. The extension was based upon the Zoning Commission's finding of a willingness on the part of the applicant to go forward with the development of the project as soon as market conditions improved, as well as the applicant's diligent, good-faith efforts to secure financing by negotiating the air rights agreement with the District of Columbia Redevelopment Land Agency ("RLA") to improve the marketability of the project

By letter dated February 23, 1999, the applicant submitted a request for a minor modification to the concourse level, or cellar, of the approved PUD to allow for parking and office space, or parking only. The proposed change will result in an increase in the available off-street parking spaces from 313 vehicles to 425 vehicles. The applicant additionally requested that the requested minor modification be placed on the Zoning Commission's consent calendar. By letter dated April 2, 1999, the applicant corrected its request to reflect that the requested minor modification would result in a reduction of the space set aside for office use of 9%. In support of its request, the applicant noted that there was nothing in the initial PUD order which mandated the use of the concourse level for office use, that the office use of the concourse level was not an amenity identified as a basis for the approval of the PUD and because the change involved a cellar level, the use had no effect on the "gross floor area" of the structure or the office use.

Copies of the request for a minor modification were served on Advisory Neighborhood Commission (ANC) 6A, within whose jurisdiction the property is now situated, the D.C. Preservation League and the Committee of 100 on the Federal City. The application for a minor modification was supported by the Office of Planning.

On April 12, 1999, at its regular monthly meeting, the Commission considered the applicant's request for a minor modification to the concourse level to allow for parking or office space or parking only.

The Zoning Commission agreed that the requested modification was a "minor modification" and voted to approve the minor modification.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia hereby ORDERS that the request for a minor modification to the concourse level of the approved PUD so as to allow for parking and office space or parking only be **APPROVED**.

Vote of the Commission taken at the monthly meeting on April 12, 1999. The request was approved by a vote of **4-0-1**: (Jerrily R. Kress, Herbert M. Franklin, Anthony J. Hood, and John G. Parsons voting to **APPROVE**; Angel F. Clarens not present, not voting).

In accordance with the provisions of 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that is on OCT 12 2001.


JERRILY R. KRESS, FAIA
Chairperson
Zoning Commission


SHERI M. PRUITT- WILLIAMS
Interim Director
Office of Zoning