

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 668
Case No. 89-31C
(PUD & Map @ Judiciary Center)
July 9, 1990

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on May 3, 1990. At that hearing session, the Zoning Commission considered an application of 488 Associates Limited Partnership, the Salvation Army, the Fraternal Order of Police, and John W. & Vinard Paris. The consolidated review and approval of a Planned Unit Development 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 public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on September 27, 1989, requested consolidated review and approval of a PUD and related change of zoning 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 Fifth Street, N.W.
2. The PUD site measures 44,250.1 square feet in area, is presently zoned SP-2, and is in the Square bounded by E, F, 5th and 6th Streets, N.W.
3. The PUD site is currently used for a variety of uses including the headquarters of the Salvation Army, the Fraternal Order of Police buildings, a tour bus service, several vacant buildings, and a surface parking lot.
4. The applicants propose to construct a mixed-use commercial building, including office and retail uses.
5. The zoning pattern in the vicinity of the PUD site include SP-2, C-3-C, C-4 and HR/SP-2.
6. The land uses in the vicinity of the PUD site include

general office and retail/service uses, municipal uses including a fire station and courts, and the site of the old Hecht Co. department store, which is being developed with a mixed-use.

7. The SP-2 District permits matter-of-right medium/high density development including all kinds of residential uses, with limited offices for non-profit organizations, trade associations and professionals permitted as a special exception requiring approval of the BZA, to a maximum height of ninety feet, a maximum floor area ratio (FAR) of 6.0 for residential and 3.5 for other permitted uses, and a maximum lot occupancy of eighty percent for residential uses.
8. 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.
9. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standares identified above. 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.
10. The District of Columbia Generalized Land-Use Map Element of the Comprehensive Plan for the National Capital designates the PUD site within the "high density commercial" category.
11. The applicants propose to construct a ten-story commercial building with general office and retail uses. The building will incorporate the facades of certain buildings in the square that have historic preservation significance. The project would have a maximum height of 120 feet, a maximum FAR of 7.64, a lot occupancy of ninety-nine (99) percent, a gross floor area of approximately 338,125 square feet for office/retail uses, and parking to accommodate 214 self-parked cars and 273 stacked-parked cars. The gross floor area devoted to retail use will be 8,000-10,000 square feet.
12. In the Prehearing Submission filed on March 8, 1990, the applicants noted that certain design-related changes had been made from the proposal that was set for public hearing. These changes include projections

and indentations related to the modeling of the facades. Further, the main entrance bay on 5th Street was widened by 10 feet and an additional loading lane was added. The number of self-parking spaces was reduced from 254 to 214. A stacked parking scheme has been developed with a total of 273 spaces. In the application statement, the applicants offered as an amenity to establish an escrow of \$100,000 for landscaping of adjacent parklands. In the alternative to this escrow account, because of its significance and proximity to the proposed PUD, the applicants would be willing to provide \$100,000 for the benefit of the National Law Enforcement Officers Memorial. The funds would be provided upon the issuance of the building permit for the building.

13. The applicants worked for several months with the D.C. Preservation League and the Committee of 100 on the Federal City, in order to develop a building which incorporated the historically significant building, parts of buildings and/or facades in the southern portion of the square. The project provides a number of special amenities including:
 - a. Historic Preservation. In coordination with the D.C. Preservation League and the Commission of Fine Arts, the project has been designed to preserve the most important buildings, portions thereof, and/or facades of the buildings, in the southern portion of Square 488. These buildings include: Columbia Title Insurance Company - 500 5th Street, N.W.; Salvation Army Building - 503 E Street, N.W.; 509 E Street, N.W.; 511 E Street, N.W.; 507 6th Street, N.W.; 509 6th Street, N.W.; 511 6th Street, N.W.; and 513 6th Street, N.W. This exterior and interior restoration will be undertaken by the applicants at their sole cost, and with the expert technical services of structural engineers and architectural historians, and in consultation with the D.C. Preservation League.
 - b. Public Space Improvements. Offers improvements to public space surrounding the building including improved streetscape and landscaping for the entire Square including the Fire Station, in compliance with and exceeding D.C. streetscape regulations.
 - c. Funds for Landscaping. To ensure the construction and/or maintenance of the National Law Enforcement Officers Memorial, located adjacent to the subject site, the applicants have agreed, upon the issuance of the building permit,

to provide the National Law Enforcement Officers Memorial Fund with \$100,000;

- d. Urban Design. Establishes a superbly designed mixed-use building in a location in the Downtown area consistent with the Comprehensive Plan, the Land Use Plan, the Downtown Plan, and the Preservation and Historic Features Element;
 - e. Judiciary Square Area. The applicants propose to improve the appearance and economic vitality of the Judiciary Square area by replacing vacant lots and dilapidated structures, while preserving significant buildings, portions thereof and/or facades, as part of a first-class commercial project that offers jobs, preservation, and new architecture;
 - f. Retail Space. Offers space for retail on the first floor along the E Street frontage near a metro station;
 - g. Salvation Army. Approval of this project substantially assists the Salvation Army with obtaining the necessary funding to construct its project, pursuant to Zoning Commission Order No. 618; and
 - h. Economic Benefits. Provides economic benefits to the City and City residents through:
 - i. Increased real estate tax revenues;
 - ii. Commitment to jobs and contracts for minorities in the construction of the project through the Minority Business Opportunity Commission; and
 - iii. First Source Employment for construction jobs.
14. The preservation architect testified that under the agreement, the following buildings, or portions thereof, shall be retained:
- a. Columbia Title Insurance Company - 500 5th Street, N.W. (entire building);
 - b. Salvation Army Building - 503 E Street, N.W. (restored facade);
 - c. 509 E Street, N.W. (restored facade);
 - d. 511 E Street, N.W. (restored facade);
 - e. 507 6th Street, N.W. (restored building - 20 feet

- deep);
- f. 509 6th Street, N.W. (restored building - 20 feet deep);
 - g. 511 6th Street, N.W. (restored building - 20 feet deep); and
 - h. 513 6th Street, N.W. (restored building - 37 feet deep).
15. The preservation architect further stated that under the agreement new infill construction must reflect the scale, design vocabulary, and spirit of the retained buildings and facades. She concluded that the proposed building does so. She also testified that in order to accomplish the preservation goals as contemplated by the agreement, a commercial FAR of approximately 7.64 for general office and retail use was necessary. The building height of 120 feet was stated to be appropriate.
16. The applicants indicated that the proposal is for general office and retail use. The project will have a gross floor area of approximately 338,125 square feet. The applicant requested that the FAR be measured consistent with that permitted in prior Judiciary Square PUDs, so that punched window and recessed window treatments are not penalized. The FAR is 7.64 and the building height is 120 feet. The building will contain parking for approximately 273 cars in a stacked parking arrangement. Ingress and egress for parking and loading will be provided off of 6th Street.
17. The applicants indicated that the subject site is located within the area for which the Judiciary Square Municipal Center Development Plan was proposed and is subject to design review by the Commission of Fine Arts (CFA). The Commission of Fine Arts (CFA) granted conceptual design approval to the original project on September 21, 1989. The revised project, which is subject to the PUD hearing, was reviewed by CFA at its March 15, 1990 meeting. The Commission recommended approval and requested further study of the middle portion of the upper two floors facing 5th Street. The architect requested flexibility to respond to the concerns of the CFA without further processing by the Zoning Commission.
18. The building design was driven by the preservation of historically significant buildings within the Square. Because of the significant nature of the preservation efforts involved in the project, an important part of

which is the retention and preservation of entire buildings or portions thereof, the design does not meet the standard setback requirements of the Judiciary Square Master Plan. Specifically, the old Columbia Title Insurance Company building, located at 500 5th Street, N.W., will be preserved in its entirety. This significant building is not setback as it faces Judiciary Square.

19. The applicants further indicated that the 120 foot height is consistent with other recent developments in the area, including the PUD in Square 532 and the previously approved PUDs in Squares 489 and 531.
20. The following building materials will be used:
 - a. Predominant masonry material Buff-colored stone
 - b. Window mullions Factory Painted Aluminum
 - c. Office windows Clear or tinted glass
 - d. Retail window mullions Factory Painted Aluminum
 - e. Retail windows Clear Tempered Glass
 - f. Side walk pavers D.C. standard precast concrete pavers
21. The architect for the applicants 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, mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - b. Making minor adjustments in the facade, window and balcony 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 frontage in order to accommodate the different types of retail uses;
 - c. Varying the location and type of exterior lighting fixtures;
 - d. Varying the final selection of the exterior

materials within the color ranges and material types as proposed, based on availability at time of construction;

- e. Varying the species of plant materials;
 - f. Varying landscape and paving details to accommodate utilities requirements and minor refinements incorporating comments of the streetscape committee;
 - g. Varying exterior design related to the setbacks on the upper two floors facing 5th Street to meet the specified conditions of the Commission of Fine Arts.
 - h. Permit the applicant to establish from one to three curb cuts in the location and of the size as shown on the applicants site plan on the 6th Street, N.W. frontage.
 - i. Allowing the flexibility permitted pursuant to the provisions of 11 DCMR, Chapter 24.
22. The applicants indicated that due to the preservation of the buildings/facades, handicapped access by wheelchair is unachievable in approximately 6 percent of the building due to the mismatched floor levels. The remainder of the building will meet the handicapped access standards provided in the D.C. Building Codes.
23. The applicants indicated that the proposed development is consistent with the land use goals and policies established in the Land Use Element of the Plan. Under the Downtown Element of the Comprehensive Plan, the policies in support of the Judiciary Square objectives are provided in Section 968. The proposed project is in accordance with the goals and policies of the Comprehensive Plan.
24. The applicants indicated that the proposed parking and loading provided in the project is adequate. The project provides parking in an underground garage which is entered from 6th Street, N.W. The applicants propose to provide approximately 214 parking spaces to insure that the parking needs of the tenants of the building and visitors are met. The Zoning Regulations require 194 spaces. A total of 273 spaces will be available through the stacked parking scheme.
25. The most appropriate location for the parking and loading access is on 6th Street at the northern end of the subject property next to the D.C. fire house. This location would permit the establishment of retail uses

along 5th Street, keep curb cuts off of 5th Street fronting on Judiciary Square, and maximize the project's relationship to Metro. The proposed parking/loading location would have no significant adverse impacts to pedestrians. If a front-in, front-out loading scheme were provided, demolition of the historic structure at 513 6th Street, N.W. would be required.

26. The District of Columbia Office of Planning (OP), by memorandum dated May 5, 1989 and by testimony presented at the hearing, recommended that the application be approved. Office of Planning noted that the city is supportive of this project's contribution in providing superior architecture, the preservation of historic buildings and additional retail space. The amenities being offered by the applicants justify the zoning relief requested. The proposed PUD and change of zoning would not impair the intent, purpose, and integrity of the Zoning Regulations and are consistent with the Comprehensive Plan.
27. At the hearing, OP indicated that it had reviewed the applicants' proposal to landscape the adjacent parklands, or in the alternative to provide funds to the Law Enforcement Memorial Fund, and had no recommendation as to which proposal was more appropriate.
28. The District of Columbia Department of Public Works (DPW) by report dated April 27, 1990, stated that the applicant's parking and loading were adequate. DPW indicated that a front-in and front-out truck operation was preferable, and that, in the PUD covenant related to the alley closing in the square, only 1 curb cut on 6th Street was allowed.
29. The District of Columbia Department of Finance and Revenue, by letter dated March 23, 1990, expressed no opposition to the proposal.
30. The District of Columbia Department of Recreation, (DOR) by report dated April 18, 1990, stated that the project's amenities are substantial and highly appropriate. DOR believes that the former proposal to improve Judiciary Square landscaping apart from the memorial would be preferable and the model created for such improvements in the Franklin Square area could be successful in this instance. According to approved plans, the Law Enforcement Officers Memorial will contain substantial landscaping treatments that will be maintained by the National Park Service after the land transfer to the Federal government, but adequate funds for landscaping improvements and maintenance in the

areas adjacent to the Superior Court buildings are needed.

31. The District of Columbia Metropolitan Police Department, by report dated April 23, 1990, indicated it was not opposed to the proposed development.
32. Advisory Neighborhood Commission (ANC) 2C, by report dated March 21, 1990, supported the approval of the PUD and map amendment. ANC-2C indicated that the PUD was important and should be approved because it included the preservation of the historically significant buildings in the Square, through an agreement with the D.C. Preservation League.
33. By letter dated May 2, 1990, the D.C. Preservation League supported the application. The letter noted that the project developers have sensitively responded to the challenges these historic buildings represent to the square's redevelopment. The proposed project will include the retention and restoration of the most important and intact buildings and building facades on the block. Many of the historic building interiors will be retained and restored as well. The proposed new construction will incorporate substantial setbacks from the retained structures in order to allow the historic buildings to remain a prominent focus of the block. The architectural vocabulary of the low-scale infill buildings and the new building handsomely compliments the existing ensemble.
34. By letter dated May 1, 1990, the Committee of 100 on the Federal City, supported the application. The Committee noted that it, with D.C. Preservation League, had worked closely with the developers and their architects to ensure the retention and proper restoration of as much of the historic block as possible and to ensure a compatible design for new construction.
35. No parties or persons appeared at the hearing in support or opposition to the application.
36. The Commission finds that the applicants have met the requirements of 11 DCMR Chapter 24 and have satisfied the intent and purpose thereof.
37. The Commission concurs with ANC-2C, OP, and the applicants and finds that the public amenities offered as a part of the PUD are significant, particularly the preservation of the historically significant buildings within the square and the provision of retail along E Street.

38. As to the concern of DPW regarding the loading area, the Commission finds that, if a front-in, front-out loading scheme were provided, demolition of the historic structure at 513 6th Street, N.W., would be required. DPW, through the Office of Planning, left to the Commission the determination of the competing interests as to truck maneuvering versus historic preservation. The Commission finds that the interest of historic preservation outweighs DPW's concern as to truck maneuvering and that, therefore, front-in, front-out loading will not be required for this project. The Commission finds that the applicants' proposed loading arrangement is reasonable.
39. The Commission finds that the rezoning of the subject property from SP-2 to C-3-C is appropriate.
40. 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 July 2, 1990, indicated that the PUD would not adversely affect the Federal Establishment or other Federal interests in the National Capital, nor 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 planning and design not achievable under matter-of-right development.
3. The development of this PUD is compatible with city-wide goals, plans and programs, and is sensitive to environmental protection and energy conservation.
4. The approval of this application is not inconsistent with the Comprehensive Plan of the National Capital, as amended.
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. The Zoning Commission has accorded to the Advisory Neighborhood Commission 2C the "great weight" to which it is entitled.
9. 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 District of Columbia Zoning Commission hereby orders APPROVAL of this application for a consolidated Planned Unit Development and map amendment from SP-2 to C-3-C for Lots 15, 16, 17, 18, 19, 24, 25, 821, 822 and 823, and a closed portion of a public alley in Square 488 for premises 500 5th Street, N.W. The approval of this PUD and change of zoning are subject to the following guidelines, conditions, and standards:

1. The Planned Unit Development ("PUD") shall be developed in accordance with the plans prepared by Keys Condon Florance, marked as Exhibits No. 20C and 34, of the record, as modified by the guidelines, conditions and standards of the order.
2. The project shall be developed as a general office building, with a retail component, with uses permitted as matter-of-right in the C-3-C District.
3. The floor area ratio (FAR) of the project shall not exceed 7.64.
4. The height of the building shall be 120 feet excluding the roof structure. Setbacks shall be as shown on Exhibit No. 20C.
5. The lot occupancy of the project shall not exceed 99.7 percent of the site.
6. The applicants shall provide a minimum of 214 parking spaces, consisting of full size, compact and handi-capped spaces. The applicant shall provide two lanes "in" and one lane "out" for vehicular traffic at the entrance of the parking garage. The applicant may

provide additional parking through a valet stacked parking scheme.

7. The applicants shall place appropriate plaques on the buildings indicating their history. The placement and wording shall be worked out by the applicant in conjunction with the D.C. Preservation League.
8. Brochures describing the historically significant and their preservation are to be prepaid by the applicants in conjunction with the D.C. Preservation League, and made available to visitors to the building.
9. The project shall include the amenities package proposed as part of this application and described in detail in the findings and record of this case, as follows:
 - a. Historic Preservation. In coordination with the D.C. Preservation League and the Commission of Fine Arts, the project has been designed to preserve the most important buildings, portions thereof, and/or facades of the buildings, in the southern portion of Square 488. These buildings include: Columbia Title Insurance Company - 500 5th Street, N.W.; Salvation Army Building - 503 E Street, N.W.; 509 E Street, N.W.; 511 E Street, N.W.; 507 6th Street, N.W.; 509 6th Street, N.W.; 511 6th Street, N.W.; and 513 6th Street, N.W. This exterior and interior restoration will be undertaken by the applicant at its sole cost, and with the expert technical services of structural engineers and architectural historians, and in consultation with the D.C. Preservation League.
 - b. Public Space Improvements. Offers improvements to public space surrounding the building including improved streetscape and landscaping for the entire Square including the Fire Station, in compliance with and exceeding D.C. streetscape regulations.
 - c. Funds for Landscaping. To ensure the construction and/or maintenance of the National Law Enforcement Officers Memorial, located adjacent to the subject site, the applicant has agreed, upon the issuance of the building permit, to provide the National Law Enforcement Officers Memorial Fund with \$100,000;
 - d. Urban Design. Establishes a superbly designed mixed use building in a location in the Downtown area consistent with the Comprehensive Plan, the

concrete pavers

10. The final selection of exterior materials shall be within the color ranges as proposed based on availability at time of construction, and shall be approved by the Zoning Commission prior to the issuance of a building permit.
11. The applicants are granted flexibility in the final detailing of the buildings with respect to the following matters:
 - a. Varying the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, provided that the variations do not change the exterior configuration of the building;
 - b. Making minor adjustments in the facade, window and balcony 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 frontage in order to accommodate the different types of retail uses;
 - c. Varying the location and type of exterior lighting fixtures;
 - d. Varying the species of plant materials;
 - e. Varying landscape and paving details to accommodate utilities requirements and minor refinements incorporating comments of the streetscape committee;
 - f. Varying exterior design related to the setbacks on the upper two floors facing 5th Street to meet the specified conditions of the Commission of Fine Arts;
 - g. Provide one to three curb cuts in the location and of the size shown in applicant's Site Plan Exhibit No. 20C, of the record, along the 6th Street, N.W. frontage and subject to the approval of the Department of Public Works; and
 - h. Allowing the flexibility permitted pursuant to the provisions of 11 DCMR, Chapter 24.
12. Antennas within the screen walls of the mechanical penthouse areas may be permitted in accordance with the Zoning Regulations.

13. 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 such time, application must be filed for a building permit as specified in Section 2407.1 DCMR Title 11. Construction shall start within three (3) years of the effective date of this order.
14. No building permit shall be issued for this PUD until the applicants have recorded a covenant in the Land Records of the District of Columbia, between the owner 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 this property in accordance with this order, or amendments thereof, of the Zoning Commission.
15. The change of zoning from SP-2 to C-3-C for lots 15-19, 24, 25 and 821-823 and the closed portion of a public alley in Square 488 shall be effective upon recordation of a PUD covenant, pursuant to 11 DCMR 2407.
16. 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 in the records of the Zoning Commission.
17. 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 applicants fails to comply with any provision of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public hearing on May 3, 1990: 5-0 (Tersh Boasberg, Maybelle Taylor Bennett, John G. Parsons, Lloyd D. Smith and William L. Ensign, to approve with conditions).

This order was adopted by the Zoning Commission at the public meeting on July 9, 1990 by a vote of 5-0: (Maybelle Taylor Bennett, Lloyd D. Smith, Tersh Boasberg, William L. Ensign and John G. Parsons, to adopt).

Z.C. ORDER NO. 668
CASE NO. 89-31C
PAGE 16

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 JUL 27 1990.



TERSH BOASBERG
Chairman
Zoning Commission



EDWARD L. CURRY
Executive Director
Zoning Secretariat

zcorder668/EB63