

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 669  
Case No. 89-22C  
(PUD & Map @ 1212 Mass. Ave.)  
July 9, 1990

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on November 30, 1989, and January 11 and April 5, 1990. At those hearing sessions, the Zoning Commission considered an application of the RWN Development Group, Inc. The application is for consolidated review and approval 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 public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

### FINDINGS OF FACT

1. The application, which was filed on July 11, 1989, requested consolidated review and approval of a PUD and related change of zoning from HR/SP-2 to HR/C-3-C or C-3-C for property located at 1212 Massachusetts Avenue, N.W.
2. The PUD site comprises lot 50 in Square 283, measures 14,478 square feet of land area, and is in the square bounded by Massachusetts Avenue, and 12th, 13th & L Streets, N.W.
3. The PUD site is vacant and has an irregular shape with approximately 111.43 feet of frontage along Massachusetts Avenue and approximately 79 feet of frontage along L Street.
4. The applicant proposes to develop a ten-story office building on the PUD site.
5. 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.

6. 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.
7. The HR (hotel/residential incentive overlay) permits development incentives for residential and hotel uses, only, to a maximum FAR of 8.5 and a maximum height, as permitted by the "Act to Regulate the Height of Buildings, June 1, 1910, as amended". The District is mapped in combination with other Districts.
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 Element of the Comprehensive Plan for the National Capital shows the PUD site as being included in the high density residential/high density commercial category.
10. The land uses in the vicinity of the PUD site include residential, office, retail and service commercial, institutional, and hotel.
11. The zoning pattern in the vicinity of the PUD site includes, HR/SP-2 for the subject square and to the south east; SP-2 to the northeast, north, and northwest; and C-4 to the southwest and south.
12. In June 1988, the Board of Zoning Adjustment (BZA) issued BZA Order No. 14730 approving a development scheme for special purpose office and a hotel at the site. The approved project has a total FAR of 8.5, with a 3.5 FAR for office use and 5.0 FAR for the hotel. The applicant obtained a building permit to develop the approved project.

13. The applicant prefers to develop the proposed PUD which would result in a superior design and would meet the city planning objectives for obtaining new housing units near the downtown. Due to the configuration of the in-fill site, it is better suited for an office building instead of the mixed-use development contemplated by the BZA-approved plan.
14. The applicant indicated that the proposed project architecture is also superior to that approved by the BZA for an office and hotel development. The BZA-approved plan results in a awkward plan with minimal street exposure and substandard office and hotel floor plates. In the BZA plan, due to light and air requirements, the massing is forced up to the property line precluding setbacks of the 130-foot high building.
15. The applicant proposes to construct a ten-story commercial building with office uses. The project will have a maximum floor area ratio (FAR) of 8.5, a maximum gross floor area of 123,063 square feet, a maximum height of 115 feet, a lot occupancy of 92.7%, and three levels of underground parking to accommodate 103 cars.
16. As a major project amenity, the applicant is offering to completely redevelop the north side of the 1100 block of O Street, N.W. for affordable housing. The housing site consists of a city block of boarded-up buildings and vacant land, and measures approximately 19,000 square feet in land area. All existing structures will be retained. The in-fill lots will be developed with compatible buildings. The applicant plans to develop between 35 and 47 apartment units on the 13 existing lots that comprise the block. The apartments will be primarily 1 and 2 bedroom units, will be sold for home ownership, and will be structured as condominiums or cooperatives.
17. The applicant indicated that the housing amenity site was selected with the extensive input from Advisory Neighborhood Commission (ANC) 2C, Logan Circle Community Association and other community groups. Based on negotiations with the task force appointed by ANC-2C, the housing amenity will be structured in accordance with the following conditions:
  - a. The 1100 block of O Street will be developed by the applicant with for-sale housing units;
  - b. A minimum of 30 units will be developed on the site with a majority of the units consisting of one-bedroom den and two-bedroom units;

- c. The housing units will be sold to HPAP (D.C. Home Purchase Assistance Program) income qualified persons or D.C. fire fighters, D.C. public school teachers or D.C. police officers;
  - d. The existing buildings on the site or similar elements of design will be retained;
  - e. A lien securing a note will be placed on each of the units in an amount equivalent to the difference between the market value of the unit and the purchase price. The note becomes an obligation of the buyer to be paid upon resale. The note will be reduced beginning in the sixth year at 6.67% annually until it is reduced to zero in the 20th year. Upon resale, the proceeds from the payment of the note will be held in trust by MANNA or another appropriate trustee and will be used to benefit future low-income housing purchasers of the unit or another unit located in the District of Columbia; and
  - f. The applicant will obtain a certificate of occupancy for the O Street housing project simultaneously with or before the applicant obtains a certificate of occupancy for its office project at 1212 Massachusetts Avenue.
18. As an additional project amenity, the applicant will donate \$100,000 toward the redevelopment of a six unit low-income apartment house located at the northeast corner of 11th and O Streets, N.W. (Lot 10, Square 338) owned by MANNA, Inc. The site is zoned C-2-A, but will be renovated solely for housing.
19. The applicant indicated that, with respect to the proposed Downtown Development District, the Zoning Commission notes that the proposed zoning would require the development of 3.5 FAR of housing. Under the proposed PUD project, the applicant will provide a comparable amount of housing on the two O Street sites.
20. The applicant stated that the proposed development is consistent with the Comprehensive Plan and will further the District's land use, economic development, housing, Downtown, urban design, environmental protection and transportation elements of the plan.
21. The applicant stated that the proposed PUD results in the efficient and economical utilization of the site, attractive urban design, provisions of desired public spaces and adequately assures the protection of the public health, safety, welfare and convenience of District residents.

22. The applicant indicated the proposed PUD will be developed in one phase.
23. The applicant further indicated that the proposal will not create dangerous or otherwise objectionable traffic conditions and will not adversely impact parking or traffic flow on the surrounding streets.
24. The applicant presented expert testimony from an MAI appraiser indicating that the value of the PUD site under existing zoning is \$7.1 million. Under the proposed zoning, the value of the site would be approximately \$11.1 million resulting in a value enhancement, as a result of the rezoning, of approximately \$4 million.
25. The applicant submitted a pro forma analysis of the development of the O Street housing linkage project which showed that the subsidy required to complete the project will be approximately \$2.8 million. Together with the \$100,000 contribution to MANNA for MANNA's six-unit, low-income project, the value of the applicant's amenity package is \$3 million.
26. The applicant has entered into a First Source Agreement with the Department of Employment Services and a Memorandum of Understanding with the Minority Business Opportunity Commission.
27. The District of Columbia Office of Planning (OP), by memorandum dated November 20, 1989, requested the Commission to leave the record open for a period of time after the public hearing to accept the final comments and recommendation of OP. OP believed that it would benefit from the public hearing process before making its recommendation.
28. The District of Columbia Fire Department (DCFD), by memorandum dated November 2, 1989, stated that the proposal did not appear to create any major or undue hardships on the daily operations of the Fire Department. The DCFD had no objection so long as the applicant complied with applicable life safety provisions of the District of Columbia Construction Codes.
29. The District of Columbia Department of Recreation (DOR), by memorandum dated October 26, 1989, stated that the proposed ten story office building would not create new demands for parks and recreation services provided by DOR. DOR described the housing linkage proposal as highly commendable, and encouraged the provision of small-scale play and passage areas in housing developments in the downtown area.

30. The District of Columbia Metropolitan Police Department (MPD), by letter dated November 17, 1989, recommended that the applicant implement measures to help reduce crime by giving attention to alarm and identification systems, locks, lighting, and surveillance and other security equipment.
31. The District of Columbia Department of Public Works (DPW), by memorandum dated November 21, 1989, indicated that, with the exception of the proposed semi-circular driveway on Massachusetts Avenue, DPW does not object to the application.
32. The District of Columbia Public Schools, (DCPS), by memorandum dated November 20, 1989, reported that the application may affect enrollment at Thompson, Garrison and Seaton Elementary Schools, and Shaw Junior High School. DCPS requested to be kept informed about the number of bedrooms produced by the proposal.
33. The District of Columbia Department of Housing and Community Development (DHCD), by memorandum dated November 20, 1989, supported the proposed combined development of office space south of Massachusetts Avenue and housing linkage units in Logan Circle. DHCD believes the creation of new affordable units through linkage achieves major District goals such as completing the residential and urban fabric with new in-fill housing units and promoting neighborhood stabilization.
34. The District of Columbia Office of Drug Control Policy, by letter dated November 28, 1989, supported the proposal because it would help drug control efforts by eliminating board-up buildings and abandoned vehicles.
35. Advisory Neighborhood Commission (ANC) 2C, by letter dated November 13, 1989, and through testimony at the public hearing, reported that the ANC supports the proposal because it will provide substantial benefits for the community and the District of Columbia, including: eradicating a drug problem in the community, providing affordable housing, stabilizing the area, and developing an office building with an excellent design. The ANC conditioned its support only on the following conditions:
  - a. The 1100 block of O Street will be developed by the applicant with for-sale housing units;
  - b. A minimum of 30 units will be developed on the site with a majority of the units consisting of one-bedroom den and two-bedroom units;

- c. The housing units will be sold to HPAP (D.C. Home Purchase Assistance Program) income qualified persons or D.C. fire fighters, D.C. public school teachers or D.C. police officers;
  - d. The existing buildings on the site or similar elements of design will be retained;
  - e. A second trust will be placed on the units in an amount which reflects a proportionate share of a \$2 million subsidy which the applicant estimates will be needed to subsidize the development of the project. The second trust will be structured so that the subsidy gradually diminishes in the 5th year after the intial purchase of the housing until the trust amount is reduced to zero and released in the 20th year; and
  - f. The applicant will obtain a Certificate of Occupancy for the O Street housing project simultaneously with or before the applicant obtains a Certificate of Occupancy for its office project at 1212 Massachusetts Avenue.
36. City Councilmember William P. Lightfoot, by letter dated November 30, 1989, supported the proposal because of the affordable housing component.
37. MANNA testified in spport of the proposed PUD project at the public hearing. MANNA indicated that the proposed \$100,000 contribution from the applicant would subsidize a six-unit, low-income, limited-equity cooperative housing project to be developed by MANNA jointly with a tenant association at 1401-09 11th Street, N.W. MANNA also supported the proposed housing linkage project at the 1100 block of O Street, identifying it as one of the most critical blocks in all of Shaw and stating that it would not be developed for low and moderate-income buyers without linkage. With respect to the third trust financing mechanism MANNA indicated that, as the trustee for the subsidy value represented by the trust, upon resale of one of the O Street units, MANNA would make that money available for reinvestment on behalf of another low or moderate-income purchaser in another unit, either at that same location or elsewhere in the City.
38. The Logan Cirlce Commmunity Association Commissioner from ANC-2C02, MUSCLE, Inc., Shaw Project Area Committee, owners at the Iowa Condominium located at 1325 13th Street, N.W., the Logan Circle Community Association, and the numerous individuals expressed their support of the proposed PUD. Twenty-one (21)

persons testified in support of the proposal at the public hearing.

39. The issues raised by persons in support were generally about the deteriorated condition of the residential neighborhood located immediately to the north of the PUD site, the drug-dealing and related crime, and they expressed approval of the design of the proposed PUD office project. They supported the proposed O Street linkage project indicating that it would have a positive impact on the community by providing new, affordable housing and by helping to eradicate drugs and criminal activity in the neighborhood. Various persons supported the retention of the facades in the 1100 block of O Street and the proposed, compatible, in-fill development as an enhancement of community historic preservation goals.
40. The Blagden Alley Association (BAA) party in the case, by statement received on January 11, 1990 and by testimony presented at the public hearing, opposed the application. BAA testified that the proposal would not retain the residential quality of the neighborhood, and as a result, that it was inconsistent with Comprehensive Plan. BAA indicated that a mixed-use housing and office project would be more appropriate at the PUD site. BAA submitted its own financial analysis of the site and contended that there would be a rezoning to HR/C-3-C would support a mixed-use project at the site. BAA supported the O Street linkage project but stated that redevelopment of that block would take place without linkage.
41. The "O" Street Community Association (OSCA), party in the case, by testimony presented at the public hearing opposed the application. OSCA testified that approval of the PUD would not help eradicate the area's drug problem and that the drug problem is decreasing. OSCA was opposed to the project for the following reasons:
  - a. Massachusetts Avenue should be residential;
  - b. Approval of the PUD would not add to the housing stock;
  - c. OSCA would remain residential and not be developed for commercial uses in any event;
  - d. The housing in the 1100 block of OSCA will not permanently create low and moderate-income housing; and
  - e. There is no opportunity to review a covenant to

ensure continued residential use of the O Street project.

42. The National Capital Area Chapter of the American Planning Association, the Committee of 100 on the Federal City, the Wisteria Mansion Condominium, and several individuals expressed opposition to the proposal. Seven (7) persons testified in opposition to the proposal at the public hearing.
43. The issues raised by persons in opposition were generally about housing not being provided on the PUD site, that the proposal was not consistent with the proposed Downtown Development District objectives, and that the proposal would create a negative precedent.
44. The District of Columbia Office of Business and Economic Development (OBED), by memorandum dated January 25, 1990 set forth its analysis of the value added to the PUD site under the proposed zoning. Using the comparable sales approach, OBED estimated the gross value added by the proposed zoning to be in excess on \$12,000,000, before adjusting for the applicant's amenity package.
45. The applicant responded to the OBED report with a February 2, 1990 submission from its expert real estate appraiser. The applicant's appraiser provided further support for its estimate of the \$4 million enhanced value of the PUD site under the proposed zoning.
46. At its March 12, 1990 meeting, the Zoning Commission considered the project for proposed action. The Commission decided to defer action on the application pending a further hearing on April 5, 1990 for additional testimony on the proposed housing component of the PUD. The further hearing was limited to testimony by the parties in the case.
47. At the April 5, 1990 hearing, the applicant proffered an additional 30 units of off-site housing within the boundaries of ANC 2C to be developed within seven years of the issuance of a building permit for the PUD project. The additional units would entail the renovation of existing units or the construction of new units.
48. The applicant reiterated why on-site housing is not feasible. An on-site component would require an inordinate amount of infrastructure, including separate elevator cores and lobbies as compared to income-producing office space. In addition, the office space produced would have substandard size floor plates, thereby compromising its marketability.

Further, the reduction in the income-generating office portion of the project and its reduced marketability would be inadequate to subsidize both the produced off-site O Street housing amenity and on-site housing.

49. OP, by supplemental final report dated April 2, 1990 and by testimony presented at the further public hearing, recommended that the application be approved. OP stated the following:  
  
"The choice in this case is not between on and off-site housing; rather, it is between hotel on-site and nearby housing that would improve the immediate neighborhood. Forty-six housing units would be built only two and one-half blocks away, preserving a valuable block front of existing rowhouses while eliminating a drug haven on the edge of Downtown. Thirty additional housing units (market rate) would be provided within the immediate ANC 2C area. The total off-site housing provided would exceed the DD on-site requirement by over 24,000 square feet. In short, it is likely that the community will benefit here far beyond the dollars spent, particularly given the improvement to the community on the north edge of Downtown and the small but significant victory in this city's war against drugs."
50. ANC 2C restated its support of the PUD proposal. ANC representatives testified that the additional 30 units would make the amenity package even stronger and that the PUD furthered the objectives of the community and the plans and policies of the District.
51. OSCA and the BAA opposed the PUD application at the April 5, 1990 hearing because the applicant did not propose on-site housing, the office building would not serve as a buffer between office and residential areas and approval of the development would create a precedent for future growth in the area.
52. The Commission concurs with the applicant, ANC-2C, OP and others, and believes that the proposal, as modified by 30 additional off-site housing units, is appropriate for the PUD site and is in the best interest of the District of Columbia. The Commission notes that the 1200 block of Massachusetts Avenue, N.W. will remain more than fifty (50%) percent residential with the development of the PUD site, as proposed.
53. The Commission finds that linkage is appropriate at the site and that on-site housing is not feasible and that the PUD design is a preferred alternative to the BZA approved plan.
54. The Commission further finds that the proposed off-site

housing, including the increased proffer of an additional 30 units within the boundaries of ANC 2C, will provide an important benefit to the city and the neighborhood.

55. The Commission concurs with the ANC recommendation that approval of the PUD will provide substantial benefits for the area, will stabilize the community and eradicate a drug problem. The Commission finds that proposed housing amenities provide an adequate trade-off for the proposed rezoning of the PUD site. The Commission agrees that the ANC conditions regarding the development of the 1100 block of O Street are appropriate.
56. The Commission does not concur with the "O" Street Community Association and Blagden Alley Association that on-site residential housing at the Massachusetts Avenue site is feasible or that it is necessary to meet City objectives. The Commission finds that Massachusetts Avenue can retain its mixed-use character with the addition of this project and its superior design. The Commission is satisfied that the proposed third trust financing mechanism for the O Street housing units will further City goals to increase the availability of low and moderate-income housing. The Zoning Commission can adequately address all covenant issues as part of its order.
57. The Commission finds that the applicant has met the intent and purpose of the Zoning Regulations and further finds that the design, height, density, and scale of the proposal are compatible with the subject neighborhood.
58. 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 proposal 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 PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia.
2. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations.

3. The development of the project is compatible with District-wide and neighborhood 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 for the National Capital, as amended.
5. The approval of the application is consistent with the purposes of the Zoning Act (Act of June 20, 1938. 52 Stat. 797) and the Zoning Map of the District of Columbia, by furthering the general public welfare and serving to stabilize and improve the area.
6. The application can be approved with conditions which ensure that the development will not have an adverse effect on the surrounding community or the District.
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 ANC 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.

#### 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 PUD and related change of zoning from HR/SP-2 to HR/C-3-C for lot 50 in Square 289 located at 1212 Massachusetts Avenue, N.W. This PUD approval is subject to the following guidelines, conditions, and standards:

1. The site shall be developed in accordance with the plans prepared by the architectural firm of Keyes, Condon & Florance, part of the record in this case as Exhibits No. 24B and 60B as modified by the guidelines, conditions and standards of this order.
2. The PUD site shall be developed with an office building. The height of the building height shall not exceed 115 feet, excluding roof structures. The maximum floor area ratio (FAR) shall not exceed 8.5.
3. The overall lot occupancy shall not exceed 92.7%.

4. Landscaping shall be provided as shown on the plans submitted in the record by the applicant; that is Exhibit No. 60B.
5. Antennas shall be permitted on the roof of the building subject to the regulations in effect at the time the antennas are to erected.
6. The applicant shall provide one loading berth and three service delivery spaces.
7. The applicant shall provide 103 parking spaces on three underground levels, but shall have the flexibility to eliminate the third-level of below-grade parking if the applicant encounters difficult water or soil conditions upon excavation. In the event that this occurs the applicant shall be allowed to provide up to 24 spaces in public vault space adjacent to the first and second underground levels, and up to three tandem spaces, as approved by the D.C. Department of Public Works.
8. The project materials shall be masonry and precast concrete or stone with glass windows and metal or membrane roof areas.
9. There shall be no circular driveway along Massachusetts Avenue.
10. The housing in the 1100 block of O Street shall be developed in accordance with the following conditions:
  - a. The entire north side of the 1100 block of O Street, N.W. shall be developed by the applicant with for-sale housing;
  - b. The applicant shall construct three in-fill residential structures, with similar scale, character, materials, and architectural design as the existing structures, and as shown on Exhibit No. 51 of the record.
  - c. The minimum of 30 units shall be developed on the site with a majority of the units consisting of one-bedroom den and two-bedroom units. The housing units shall be sold to HPAP (D.C. Home Purchase Assistant Program) income qualified persons or D.C. fire fighters, public school teachers or police officers.
  - d. A lien securing a note shall be placed on each of the units in an amount equivalent to the difference between the market value of the unit and the purchase price. The note becomes an obligation of the buyer to be paid upon resale. The note shall

be reduced beginning in the sixth year at 6.67% annually until it is reduced to zero in the 20th year. Upon resale, the proceeds from the payment of the note shall be held in trust by MANNA or another appropriate trustee and shall be used to benefit future low-income housing purchasers of the unit or another unit located in the District of Columbia.

- e. No certificate of occupancy shall be issued for the office building at the PUD site until the applicant has completed and made ready-for-occupancy all of the proposed housing units on the north side of the 1100 block of O Street, N.W., and has certified the completion of said housing units to the Zoning Commission.
11. The applicant shall record in the land records office of the District of Columbia a covenant for the "O" Street housing linkage site restricting the owners to using the property for non-transient residential use, only.
12. The applicant shall renovate or develop thirty (30) additional housing units within the boundaries of Advisory Neighborhood Commission 2C. The units shall be developed or renovated within seven years of the issuance of a building permit for the office building site, and shall be made available, only, to low and moderate income residents, as defined by the D.C. Department of Housing and Community Development. The applicant shall certify completion of the units to the Zoning Commission as they occur.
13. If the 30 units are not completed within the seven year time period, the District shall revoke the certificate of occupancy for the office project.
14. The applicant shall include in all leases for the PUD site, a disclosure statement that sets forth the applicant's obligations to satisfy the terms of Conditions No. 10, 12 and 13 of this order.
15. The applicant shall make a \$100,000 contribution toward redeveloping a six-unit apartment house at the northeast corner of the intersection of 11th and O Streets, N.W.; that is Lot 10, Square 338. The applicant shall obtain a certificate of occupancy for the housing on lot 10 in Square 338 simultaneously with or before the applicant obtains a certificate of occupancy for the PUD site.
16. The applicant shall implement a Department of

Employment Services first source agreement for minority employment opportunities and a Minority Business Opportunity Commission memorandum of understanding for minority contracting opportunities.

17. The applicant shall have flexibility in the final detailing of the proposed building as follows:
  - a. Change the location and design of all 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 of the building including the penthouse;
  - b. Make minor adjustments in the facade window detailing, including the flexibility to shift the location of the doors to any retail uses on the ground floor to accommodate the retail uses;
  - c. Vary the final location and type of exterior lighting fixtures;
  - d. Vary the final selection of the exterior materials within the color ranges and material types proposed, based on availability at the time of construction; and
  - e. Change the location and the types of parking spaces provided and other modifications to the below-grade space to accommodate the needs of retail users, office tenants and handicapped persons and required structural or mechanical building elements.
18. No building permit shall be issued for the commercial office building until the applicant has 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 the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs (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.
19. The change of zoning from HR/SP-2 to HR/C-3-C for lot 50 in Square 289 shall be effective upon recordation of a PUD covenant, as required by 11 DCMR 2407.
20. The Zoning Secretariat shall not release the record of

this case to the Zoning Regulations Division of DCMR until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.

21. 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.
22. Pursuant to D.C. Code Sec. 1-2531 (1987), Section 267 of D.C. Law 2038, 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 the 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 applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

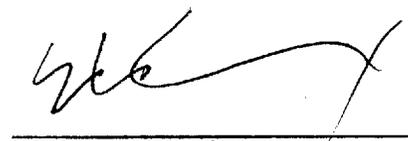
Vote of the Zoning Commission taken at the public meeting on April 16, 1990: 3-2 (Lloyd D. Smith, Maybelle Taylor Bennett and William L. Ensign, to approve with conditions - John G. Parsons and Tersh Boasberg, oppose).

The guidelines, conditions and standards were approved by the Zoning Commission at the public meeting on May 14, 1990.

This order was adopted by the Zoning Commission at the public meeting on July 9, 1990 by a vote of 3-2: (Lloyd D. Smith, Maybelle Taylor Bennett and William L. Ensign, to adopt as amended - John G. Parsons and Tersh Boasberg, oppose).

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.

  
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TERSHER BOASBERG  
Chairman  
Zoning Commission

  
\_\_\_\_\_  
EDWARD L. CURRY  
Executive Director  
Zoning Secretariat