

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 684-B
Case No. 94-1M/89-34C
(PUD Modification @ 1331 L Street, N.W.)
February 12, 1996

By Z.C. Order No. 684, dated February 11, 1991, the Zoning Commission for the District of Columbia granted approval for an application from Square 247 Associates for a mixed-use planned unit development (PUD) and related change of zoning from HR/SP-2 to C-4 for Lot 96 (formerly Lots 71, 72, 86, 88, 89, 864 and 866) in Square 247.

The PUD site is located at 1331 L Street, N.W. It measures 18,456.17 square feet, and is bounded by 13th, 14th and L Streets, and Massachusetts Avenue, N.W. It is presently improved with and used as a surface parking lot.

The approved PUD project consisted of a commercial building with general office and some ground floor retail uses. The PUD had a lot occupancy of 98.7 percent, a floor area ratio (FAR) of 9.25, a height of 110 feet and a minimum of 94 parking spaces. Additionally, the approval was subject to 16 guidelines, conditions and standards.

On February 14, 1994, Square 247 Associates filed an application to modify Condition Nos. 6a and 11 of Z.C. Order No. 684, and to add a new Condition No. 12. The application also requested that the original Condition Nos. 12 through 16 be renumbered as Condition Nos. 13 through 17. The record in the prior proceedings, that is case 89-34C, was made part of the record in the modification application.

By Z.C. Order No. 684-A, dated November 14, 1994, the Commission granted the applicant's request for the modification of condition Nos. 6(a) and 11, addition of a new Condition No. 12, and the renumbering of Condition Nos. 12 through 16.

Z.C. Order No. 684-A became final and effective on December 30, 1994. The validity of the order is for three years from the effective date of the order, that is until December 30, 1997. Within that period, the applicant is to expend \$500,000 for housing rehabilitation within the jurisdictional area of Advisory Neighborhood Commission (ANC) 2F, and construction is to commence by that time.

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Subsection 2406.10 of the Zoning Regulations allows for 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 letter dated November 22, 1995 counsel for the applicant filed a motion for the extension of Z.C. Order Nos. 684 and 684-A for two years that is until December 30, 1999.

The applicant's motion for extension stated the following as the basis for the extension request:

1. The project's opponent challenged Z.C. Order No. 684-A in the D.C. Court of Appeals, claiming that the Commission lacked the authority under the Zoning Regulations to approve a PUD modification with off-site housing amenities. The pending litigation is a major factor in the applicant's inability to secure a lead tenant, which has hampered the applicant's efforts to commit to a construction schedule, and also encumbers the project in terms of obtaining financing.
2. The applicant has provided significant portions of the amenity package in compliance with Condition Nos. 6(a) and 11 of Order No. 684-A. The applicant has posted \$3,000,000 for the Salvation Army for the provision of the off-site housing. The applicant has been discussing with Advisory Neighborhood Commission (ANC) 2F about the utilization of \$500,000 for housing rehabilitation within the ANC as provided in Z.C. Order Nos. 684 and 684-A.
3. The applicant also pointed out that unfavorable real estate market conditions contribute to the inability to proceed with construction since the PUD's approval.

The counsel for the applicant indicated that copies of the motion for extension were served on ANC-2F and other parties in the case.

By memorandum dated November 27, 1995, the District of Columbia Office of Zoning (OZ) referred the extension request to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Map or Regulations, or to the Comprehensive Plan since the Zoning Commission initially decided the case will affect this request.

The Office of Planning (OP), in a memorandum dated December 8, 1995, recommended that the applicant's motion for extension be granted and added as follows:

"Because of the pending litigation, the applicant is requesting a two-year time extension. The litigation

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hampers the applicant's ability to commit to a construction schedule for a potential lead tenant and encumbers the project relative to obtaining financing. In addition, the applicant has posted \$3 million for the Salvation Army (consistent with modified Condition Nos. 6(a) and 11 of Order No. 684-A) and is pursuing the utilization of \$500,000 for housing within ANC 2F's jurisdiction.

Based on the analysis of the motion for extension and the discussion above, the Office of Planning concludes that the Zoning Regulations and Map have not changed since the Zoning Commission approved the PUD and map amendment. In addition, the Comprehensive Plan land use designation for the site (mixed-use high density commercial and high density residential) has not changed. Accordingly, the Office of Planning recommends that the Zoning Commission extend the validity of the approved PUD and related map amendment for an additional two years, pursuant to Subsection 2405.10 of 11 DCMR."

The Office of Zoning received no comments on this matter from ANC-2F, or any other party.

On December 11, 1995 at its regular monthly meeting, the Zoning Commission reviewed and considered the motion for extension, the OP report and verbal comments from counsel for the applicant.

The Commission concurred with the applicant and the OP recommendation that a two-year extension of the validity of Z.C. Order Nos. 684 and 684-A is appropriate.

The Commission 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.

Pursuant to 11 DCMR 2406.10 of the Zoning Regulations, the Zoning Commission believes that the applicant has shown good cause for the extension of time.

In consideration of the reasons set forth herein, the Zoning Commission for the District of Columbia orders that the validity of Z.C. Order Nos. 684 and 684-A be **EXTENDED** for a period of two-

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years; that is, until December 30, 1999 prior to the expiration of that time, the applicant shall file for a building permit as specified in 11 DCMR 2406.8 construction will begin not later than December 30, 2000.

Vote of the Zoning Commission taken at the public meeting on December 11, 1995: 4-0 (William L. Ensign, John G. Parsons and Maybelle Taylor Bennett, to extend, Jerrily R. Kress to extend by absentee vote).

This order was adopted by the Zoning Commission at its public meeting on February 12, 1996 by a vote of 4-0: (Maybelle Taylor Bennett, William L. Ensign and Jerrily R. Kress, to adopt, and John G. Parsons, to adopt by absentee vote).

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 _____.

MAR 22 1996



JERRILY R. KRESS
Chairperson
Zoning Commission



MADELIENE H. DOBBINS
Director
Office of Zoning

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