

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission**



**ZONING COMMISSION ORDER NO. 684-D  
Z.C. Case No. 94-01A  
Modification to Approved Consolidated Planned Unit Development  
1331 L Street, N.W., LP  
July 24, 2006**

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia (the "Commission") was held on June 1, 2006. At that hearing session, the Zoning Commission considered an application from 1331 L Street, NW, L.P. (the "Applicant"), for modification to a previously approved planned unit development. The public hearing was conducted in accordance with the provisions of § 3022 of the District of Columbia Zoning Regulations (11 DCMR). The Zoning Commission hereby approves the requested modifications.

**FINDINGS OF FACT**

1. By Order No. 684, the Zoning Commission granted approval of an application for a consolidated planned unit development ("PUD") and Zoning Map Amendment from HR/SP-2 to C-4 for Lot 96 in Square 247. Order No. 684 granted approval of a 110-foot tall, 9.25 FAR, mixed-use office/retail building to be located at 1331 L Street, NW. Façade design treatment and materials were to be consistent with plans made part of the official record of the case, with certain areas of flexibility provided to the Applicant in terms of tower design; location and configuration of interior components; façade, window, and balcony detailing; landscaping; and exterior lighting. Final selection of exterior material samples was to be approved by the Zoning Commission. The Order became final and effective upon publication in the *District of Columbia Register* on March 1, 1991.
2. By Order No. 684-A, with an effective date of December 30, 1994, the Zoning Commission approved modification of certain conditions of the approved PUD pertaining to its off-site housing amenities. As part of this modification, the Zoning Commission required that funds in the amount of \$3,000,000 be paid to the Salvation Army for the construction of housing as part of a PUD at 1850 New York Avenue, NE. The Zoning Commission further required that at least \$500,000 be expended by the Applicant, in consultation with Advisory Neighborhood Commission (ANC) 2F, for the provision of housing within the boundaries of ANC 2F. As provided at Exhibit C of the Applicant's prehearing statement (Exhibit No. 3 in the official record), these funds have been provided and the off-site housing amenities required under the PUD have been satisfied.

3. By Order No. 684-B, with an effective date of March 22, 1995, the Zoning Commission extended the validity of the PUD approval to December 30, 1999, within which time application must be made for a building permit.

4. By Order No. 684-C, with an effective date of June 6, 1997, the Zoning Commission extended the validity of the PUD approval to December 30, 2009, within which time application must be made for a building permit. Construction is to commence not later than December 30, 2010.

5. By letter dated and received by the Zoning Commission on February 17, 2006, counsel on behalf of the Applicant filed a request for a minor modification to the approved PUD relating only to updates proposed to the exterior design of the approved building. No increase in any aspects of the previously approved zoning envelope were requested nor were reductions in any setbacks or off-street parking being sought. No changes were proposed to the off-site housing amenities provided as part of the approved PUD.

6. The District of Columbia Office of Zoning referred this matter to the District of Columbia Office of Planning ("OP") for analysis and recommendation. By memorandum dated March 3, 2006 and received into the official record on March 7, 2006, OP indicated its support for the modified project and recommended that the Zoning Commission set the application for a public hearing.

7. The Zoning Commission, at its public meeting on March 13, 2006, removed the request for minor modification from its consent calendar pursuant to 11 DCMR § 3030.12, and set it down for public hearing on June 1, 2006.

8. Advisory Neighborhood Commission ("ANC") 2F, which represents the area including the PUD site, voted 6-0 to support the application for modification to the PUD at a regularly scheduled and publicly noticed meeting on March 1, 2006. ANC 2F submitted a letter to the Zoning Commission dated March 5, 2006 and received into the official record on April 19, 2006, indicating its support for the modification and recommending that the Zoning Commission approve the requested modification.

9. By memorandum dated March 3, 2006 and received into the official record on May 22, 2006, OP recommended approval of the modification application. OP noted that the request was consistent with a number of elements of the District of Columbia Comprehensive Plan. The Office of Planning further stated that the proposed design modification responds extremely well to the project site's mid-block location, with exceptional emphasis at the street and alley level, and that the attention to detail regarding the height and massing of the tower, the passive use of the tower, restrictions on lighting of the tower, and treatment of the area of the roof level, respond equally well to the comments raised by the Zoning Commission when determining to set down the application for public hearing.

10. Upon notice pursuant to § 3015 of the Zoning Regulations, the Zoning Commission held a public hearing on June 1, 2006 and received testimony from the Applicant and OP. No other parties or persons testified at the public hearing.

11. At the conclusion of the June 1, 2006 hearing, the Zoning Commission took proposed action by a vote of 4-1-0 to approve, with conditions, the application and plans that were submitted into the record.

12. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission (“NCPC”) pursuant to § 492 of the District Charter. NCPC, by action dated July 6, 2006, found the proposed PUD modification to be in conflict with Section 5 of the Height of Building Act of 1910 and requested the Zoning Commission to eliminate the canopy and guardrail, or set back these elements from the exterior walls to distances equal to their respective heights above the adjacent roof.

13. The Zoning Commission took final action to approve the PUD modification on July 10, 2006.

### **CONCLUSIONS OF LAW**

Under § 2409.9 of the Zoning Regulations, any modification to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission. The proposed modification shall meet the requirements for a second-stage application, except from minor modifications and technical corrections as provided in § 3030 of the Zoning Regulations. Because the Zoning Commission determined that the requested modifications were not minor modifications pursuant to § 3030 of the Zoning Regulations, the requested modifications were processed as a second-stage application.

Upon consideration of the record in this application, including the testimony received at the public hearing, the Zoning Commission concludes that the PUD, as proposed to be modified, is consistent with the intent of the previously approved PUD. Further, the Zoning Commission concludes that approval of the requested modification is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

Approval of the modification to the approved PUD also is not inconsistent with the District of Columbia Comprehensive Plan (10 DCMR). Further, the modification does not impact material elements of the PUD, including use, height, density, or parking, nor does the modification propose any reduction in the off-site housing amenities package, which was earlier approved and has been fully satisfied.

In accordance with D.C. Official Code § 1-309.10(d)(3)(A) (2001 ed.), the Commission is required to give “great weight” to the issues and concerns of the affected ANC. The Commission has carefully considered the testimony and evidence submitted by ANC 2F recommending approval of the modification application and concurs with the recommendation.

The requested modifications are subject to compliance with D.C. Law 2-39, the Human Rights Act of 1977.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law provided herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the application for modification to the design of an approved PUD for Lot 96 in Square 247, at 1331 L Street, NW. The approval of this modification to the design of the PUD, as an alternative to the previously approved design for the PUD, is subject to the following guidelines, conditions, and standards:

1. The project shall be constructed either in accordance with the plans approved as part of Zoning Commission Order No. 684 or this Order (No. 684-D). If the project is constructed pursuant to this Order:

- (a) it shall be constructed in accordance with the plans marked as part of Exhibits 18 and 24 of the official record;
- (b) approved building materials shall be consistent in general color and appearance to those represented in the official record; and
- (c) the roof area of the PUD shall be limited to passive activities and the tower feature of the PUD may not be lighted.

2. Pursuant to § 2409.3 of the Zoning Regulations, the Applicant shall record a notice of modification of Zoning Commission Order No. 684 among the land records of the District of Columbia. After recordation of the notice of modification, the Applicant shall provide a copy of same for the records of the Office of Zoning.

3. The PUD modification, as an alternative to the previously approved PUD, shall be valid until December 30, 2009, by which time application for a building permit must be filed. Construction is to commence no later than December 30, 2010.

4. All other guidelines, conditions, and standards of Order No. 684, as modified by Orders No. 684-A, 684-B, and 684-C, remain in effect.

Vote of the Zoning Commission at the end of the public hearing on June 1, 2006: **4-1-0** (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, and Michael Turnbull to approve; John G. Parsons opposed).

This Order was adopted by the Zoning Commission at its public meeting on July 24, 2006, by a vote of **3-2-0** (Carol J. Mitten, Anthony J. Hood, and Gregory N. Jeffries (by absentee ballot) to adopt; John G. Parsons and Michael G. Turnbull opposed).

In accordance with the provisions of § 3028.8 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on

SEP 29 2006



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**CAROL J. MITTEN**  
Chairman  
Zoning Commission



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**JERRILY R. KRESS, FAIA**  
Director  
Office of Zoning

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission



Z.C. CASE NO.: 94-01A

As Secretary to the Commission, I hereby certify that on SEP 25 2006 copies of this Z.C. Order No. 684-D were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*
2. Dennis R. Hughes, Esq.  
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2099 Pennsylvania Ave., N.W.  
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3. Charles Reed, Chair  
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Washington, D.C. 20005
4. Commissioner Christopher Dyer  
ANC/SMD 2F03  
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ANC  
1350 Pennsylvania Avenue, N.W.  
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6. Councilmember Jack Evans
7. Office of Planning (Ellen  
McCarthy)
8. Ken Laden, DDOT
9. Zoning Administrator (Bill Crews)
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ATTESTED BY:

**Sharon S. Schellin**  
Secretary to the Zoning Commission  
Office of Zoning