

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 689-C
Case No. 90-3C
(PUD & Map Amendment – Conference Center)
December 8, 1997

By Z.C. Order No. 689 dated March 11, 1991, the Zoning Commission for the District of Columbia approved the application of the Conference Center Associates Limited Partnership and the District of Columbia Office of Business and Economic Development (OBED). The application, as amended, requested consolidated review and approval of a planned unit development (PUD), and a related map amendment from unzoned property to C-2-A for Parcel 121/31 located at the northwest corner of the intersection of Michigan Avenue and Irving Street, N.E. The site consists of approximately 5.48 acres of land and is improved with a parking lot.

Z.C. Order No. 689 provided for the construction of a conference/training center with guest rooms. The center would primarily serve the needs of the surrounding institutional community. The facility, as approved, would not exceed 65 feet in height, would have a floor area ratio (FAR) 1.42, a lot occupancy of 45 percent and would provide a total of 237 parking spaces.

Z.C. Order No. 689 became final and effective on March 29, 1991, requiring the applicant, pursuant to 11 DCMR 2408.8 and 2408.9, to file an application for a building permit by March 29, 1993 and to begin construction by March 29, 1994.

By Z.C. Order Nos. 689-A and 689-B dated July 12, 1993 and October 23, 1995 respectively, the validity of the PUD was extended. Order No. 689-A extended the validity of the PUD, requiring the applicant to file for a building permit by March 29, 1995, and requiring construction to begin by March 29, 1996. Z.C. Order No. 689-B extended the validity of the PUD for two more years, requiring the applicant to file for a building permit by March 29, 1997 and requiring construction to begin by March 29, 1998.

Pursuant to DCMR 2408.10 and 2408.11, the Zoning Commission has the authority to extend the validity of a PUD for good cause shown upon proper request of the applicant before the expiration of the PUD approval.

By letter dated March 27, 1997, counsel for the applicant requested a two-year extension of Z.C. Order Nos 689, 689-A and 689-B. The letter indicated that the real estate recession in the area and the unavailability of financing for the project made it impossible for the applicant to proceed at the present time. The letter added that the applicant is actively discussing the financing of the project with potential investors and will proceed with the project as soon as financing can be secured.

The applicant certified that copies of the extension request were served on Advisory Neighborhood Commission (ANC) 4D and Single Member District Commissioners 4D-11, 4D-13, and 5C-04.

The Office of Zoning (OZ) by memorandum dated April 9, 1997, 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 have taken place since the Zoning Commission initially decided this case that would affect this extension request.

By memorandum dated April 28, 1997, OP stated that neither the Zoning Regulations and Map nor the Comprehensive Plan had changed since the Commission approved the subject PUD. The OP also recommended that the Zoning Commission grant the request to extend the validity of the PUD for two years.

Neither ANC-4D nor Single Member District Commissioners for 4D-11, 4D-13, and 5C-04 commented on the request to extend the validity of the PUD.

At its public monthly meeting on May 12, 1997, the Zoning Commission reviewed and considered the request for a two-year extension of the PUD and the OP recommendation.

The Commission took note of the OP recommendation but determined that the request for extension was deficient in addressing "good cause" as required by the Zoning Regulations. The Commission provided the applicant time to argue the initial request for extension, by adequately addressing good cause. In a follow-up letter to the applicant dated May 16, 1997, the Office of Zoning informed the applicant that the request was deficient in addressing the good cause standards.

Counsel for the applicant, by a letter dated June 9, 1997, supplemented the initial request for extension. The supplemental submission addressed good cause standards, indicating efforts made by the applicant to obtain financing for the project. The applicant argued that in the past, the Zoning Commission has based PUD extensions, including previous extension involving the subject PUD on adverse economic conditions resulting from inability to secure financing.

At its monthly meeting on August 4, 1997, the Commission considered the applicant's request dated March 27, 1997, and the supplemental filing dated June 9, 1997. The Commission determined that the request and the supplemental filing failed to demonstrate with substantial evidence that there is good cause for the extension of the validity of the PUD, pursuant to 2408.11(a). Consequently, the Commission deferred action on the request.

By a letter dated August 18, 1997, the OZ informed the applicant that the Commission had determined that the extension request was still deficient. The letter indicated that the Commission specifically requests information showing efforts made by the applicant over the last two years to obtain financing for the project.

By a letter dated September 3, 1997, counsel for the applicant submitted additional materials addressing good cause. The additional submission indicated the applicant's efforts to secure financing for the project and the District of Columbia extension of the Development Rights Agreement for the PUD granted based on the applicant's current efforts to secure financing.

Additionally, the applicant's supplemental submission stated as follows:

“As demonstrated by the recent efforts, the Applicant and the District of Columbia remain committed to the project as approved by the Commission. However, because of the current real estate market and events entirely beyond its control, the Applicant was not able to begin the project before the March 29, 1997 deadline. The project simply is not feasible absent financing. The Applicant is confident that once financing is secured, there are numerous existing institutional uses in the area that will benefit from and help to support the facility. Unfortunately, these institutions cannot underwrite the substantial costs of construction.”

In a letter dated September 15, 1997, counsel for the applicant reported a breakthrough in the PUDs financing negotiations. The letter stated as follows:

“On September 10, 1997, the applicant met with Alvin Nichols of the Washington Partnership office of Fannie Mae. Fannie Mae is interested in considering financing the project...”

The applicant indicated in a “Certificate of Service” that all supplemental submissions relative to addressing good cause were served on all parties in the case, and on the Office of Planning.

On September 15, 1997, at its regular monthly meeting, the Commission considered all of the submissions related to this case. The Commission noted that the applicant had made reasonably efforts to secure financing for the project and had satisfied the good cause provisions for the extension of the validity of the PUD and related map amendment, pursuant to 11 DCMR 2408.10 and 2408.11.

The Commission concurs with the applicant and the OP that neither the Zoning Regulations nor the Comprehensive Plan has changed since the Commission approved the PUD. The Commission believes that a two-year extension of the validity of the PUD is appropriate.

The Commission further 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 believes 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 the Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of a two-year extension of the validity of Z.C. Order Nos. 689, 689-A, 689-B; that is until March 29, 1999, within which time the applicant must file for a building permit. Pursuant to 11 DCMR and 2408.9, construction must begin on or before March 29, 2000.

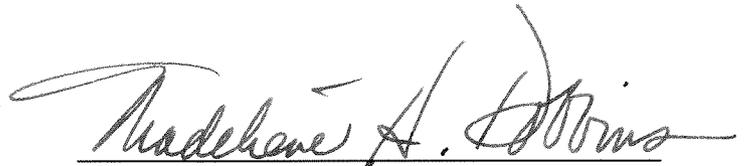
Vote of the Commission taken at the monthly meeting on September 15, 1997; 3-0 (John G. Parsons and Herbert M. Franklin, to approve, Jerrily R. Kress to approve by absentee vote – Maybelle Taylor Bennett not voting; having recused herself).

This order was adopted by the Zoning Commission at its public meeting on December 8, 1997 by a vote of 3-0: (John G. Parsons, Herbert M. Franklin and Jerrily R. Kress, to extend, Maybelle Taylor Bennett not voting, having recused herself).

In accordance with 11 DCMR 3028, this Order is final and effective upon publication in the D.C. Register; that is, on _____.

JAN 2 1998


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. DOBBINS
Director
Office of Zoning