Government of the District of Columbia

ZONING COMMISSION

ZONING COMMISSION ORDER NO. 692
Case No. 89-32C
(PUD & Map @ 1201 K Street, N.W.)
April 8, 1991

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on May 7 and June 4, 1990 to consider the application of Richard G. David, D.H. & H Title Holder I Inc., and 1201 K Associates for consolidated review and approval of a Planned Unit Development (PUD) and related map amendment pursuant to Chapter 24 and Section 102 of the Zoning Regulations of the District of Columbia. The public hearing was conducted in accordance with provisions 11 DCMR 3022.

FINDINGS OF FACT

1. The application filed on October 13, 1989, requested consolidated review and approval of a PUD for Lots 825 and 827 in Square 284, located at the southeast corner of Square 284. The application also requested a change of zoning from HR/C-3-C to C-4.

2. The PUD site is bounded by 12th Street, N.W. to east; K Street, N.W. to the south; a 15 foot wide east-west alley, which bisects the square to the north; and a 12 story, 130 foot office building known as 1275 K Street, N.W. to the west. The site encompasses an area of approximately 25,617 square feet and is currently improved with the 28 year old Days Inn Hotel and a four-story commercial building.

3. The applicant proposed the construction of a 130 foot building for mixed use office and retail and below grade parking. The building will have a gross floor area of approximately 268,978 square feet and a floor area ratio (FAR) of approximately 10.5.

4. The Hotel Residential (HR) Incentive District permits development incentives for residential and hotel uses only, to a maximum FAR 8.5 and the maximum height permitted by the "Act to Regulate the Height of Buildings, June 1, 1910, as amended", which would allow 130 feet on the subject site. The HR District is mapped in combination with other Districts.

5. 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 6.5 for commercial and

other permitted uses, and a maximum lot occupancy of one hundred percent.

6. The present zoning of the subject property is HR/C-3-C. The remainder of the square, excluding the Thomson School property which is unzoned, is zoned C-4.

7. The C-4 District is the downtown core, comprising the retail and office centers for both the District of Columbia and the metropolitan area, and would allow office, retail, housing and mixed uses to a maximum height of 110 or 130 feet, a maximum lot occupancy of one hundred percent, and a maximum floor area ratio (FAR) of 8.5 or 10.0, with the maximum height and FAR, dependant upon the width of adjoining street.

8. The site is located within the boundaries of Housing Priority Area B of the then proposed Downtown Development Overlay District ("DD") and pursuant to the Office of Planning's DD proposal as set for public hearing, the PUD site would be permitted a maximum FAR of 9.0 and a height of 130 feet. The proposed DD, as set forth by the Office of Planning requires the site to provide 2.0 FAR of residential uses, of which 1.0 FAR may be located off-site.

9. Under the PUD process of the Zoning Regulations, Chapter 24 of 11 DCMR, the Zoning Commission has the authority to consider this application as a first-stage PUD. The Commision may also impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified above. The Zoning Commission may also approve uses that are permitted as a special exception and which would otherwise require approval by the Board of Zoning Adjustment (BZA).

10. The District of Columbia Generalized Land Use Map of the Comprehensive Plan for the National Capital shows the area of the subject PUD as within an area designated appropriate for both high density commercial and high density residential land use.

11. The proposed building on the PUD site will have underground parking to accommodate 143 cars, a lot occupancy of 99.2 percent, approximately 235,519 square feet devoted to office use, and up to 16,000 square feet devoted to retail use.

12. The applicants, through testimony presented at the public hearing and post-hearing submission dated June 18, 1990, indicated that the proposed PUD includes a number of significant public benefits. The project provides a number of

special amenities including:

a. Housing: A $3,435,000 contribution to the H Street Community Development Corporation (CDC) to provide approximately 71 affordable housing units as follows:

   i. $2,435,000 will be used by H Street CDC to provide 26 units at 1409 P Street, within 4 blocks of the Downtown Development District or alternatively, to acquire a site at 4th and I Street, N.W. which would be restricted by covenant to the development of housing;

   ii. $600,000 will be devoted by H Street CDC to the Lincoln Mews project on G Street between 8th and 10th Streets, N.E.;

   iii. $300,000 will be devoted by H Street CDC for the development of 17 units at 13th and H Streets, N.E.; and

   iv. $100,000 will be devoted by H Street CDC toward the development of Station Place at 525 - 9th Street, N.E.

b. Parent Child Center: A $1 million contribution for the construction of the Mazique Parent Child Center located at 1719-21 - 13th Street, N.W.

c. I Have A Dream Foundation: A $400,000 contribution to the "I Have A Dream Foundation" to assure payment of the college tuition for approximately 60 public school students at the Evans Junior High School.

d. Education: A $100,000 contribution to the Thomson School which is located immediately to the north of the Subject Site in Square 284.

e. MBOC: A Memorandum of Understanding has been executed by the applicant and approved by the Minority Business Opportunity Commission (MBOC). The agreement commits the applicant to make a bona fide effort to utilize certified minority business enterprises for a minimum of 35 percent of contracted development costs.

f. DOES: An Employment Agreement has been executed and approved by D.C. Department of Employment Services (DOES). The Agreement commits the applicant to use DOES as its first source for recruitment, referral and

placement of employees, and to use its best efforts to utilize D.C. residents for at least 51 percent of the jobs created by the project.

g. Design: A superior quality architectural design which appropriately reflects the high quality development of projects in the Franklin Square and Convention Center areas and goes well beyond the dictates of commercial viability. This design achievement will require an extra investment by the applicant in architectural and engineering fees, as well as an extra investment in materials and craftsmanship.

13. The housing amenity contribution, originally $2.5 million, was increased to 3.0 million by the time of the May 7, 1990, public hearing and was further increased to $3.435 million by the time of the June 4, 1990 hearing.

14. In order to assure the delivery of the residential portion of the amenity package, the applicant by letter dated June 18, 1990, outlined a proposal which would restrict the issuance of the certificate of occupancy for the bonus area to be gained by the PUD until the Zoning Administrator issues a confirmation of completion verifying that the rehabilitation and construction of the designated housing units has been completed.

15. The District of Columbia Office of Planning (OP), in its final prehearing report dated May 1, 1990, and by testimony presented at the public hearing, stated its approval of the PUD with the recommendation that the housing amenity be further enhanced. OP noted that the applicant had increased the housing amenity from $2.5 million to $3.0 million as a result of discussions with OP. OP stated that the applicant should devote at least an additional 13,000 square feet to housing for a minimum total of 64,000 square feet. OP reported that the application, because of the proposed housing linkage package, is not inconsistent with the Comprehensive Plan. OP stated that the site was appropriate for C-4 zoning given that it abuts the C-4 zone district to its west.

16. The District of Columbia Department of Public Works (DPW), by letter dated May 3, 1990, stated that it had no objection to the proposed PUD. DPW stated its approval of the applicant's revised loading plan which would provide three loading berths and two delivery spaces and the widening of the alley by a 2 1/2 foot easement. DPW stated that the applicant shall bear the cost of all expenses connected with the removal of the existing layby on the west side of 12th Street and the cost

connected with closing the curb cut on the island between K Street and the service roadway in front of the site. DPW further noted that all water and sewer connections should be coordinated with DPW, and that all proposed improvements within the public space be coordinated with the Downtown Streetscape Committee.

17. The Office of Business and Economic Development (OBED), in its June 26, 1990, memorandum noted that the benefit to the applicant from the increase FAR requested as a result of the combined PUD and map change were enormous. OBED concluded that the value of the amenities package would amount to approximately $3.4 million, compared with the applicant's claim that that value would be between $13 to $16 million.

18. The District of Columbia Department of Housing and Community Development (DHCD), by letter dated May 15, 1990, stated its support of the proposed PUD. DHCD stated that the applicant's proposed amenity package is satisfactory for the additional FAR obtained.

19. Advisory Neighborhood Commission (ANC) 2C, by letter dated May 3, 1990 and by testimony presented at the public hearing, supported the application.

20. There were several groups and organizations that supported the PUD while highlighting the amenity package and its contribution to the community.

21. Balcor and 13th & K Limited Associates Partnership, party in the proceedings, testified in opposition to the application. Balcor indicated that the application was contrary to the Downtown, Economic Development, and Urban Design Elements of the Comprehensive Plan.

22. The application was opposed by the Committee of 100 on the Federal City, the Citizens Planning Coalition, the Downtown Congregation of Churches and the National Capital Area Chapter of the America Planning Association. These organizations where in opposition because they believed the proposal to be inconsistent with the goals of the DD overlay and further stated that the applicant's amenity package was inadequate.

23. In accordance with 11 DCMR 3028, Z.C. Order No. 681, Downtown Development District Overlay (DD), became final and effective upon publication in the D.C. Register on January 18, 1991. The purpose of DD District is to help accomplish the land use and development policies of the Comprehensive Plan related to the Downtown Shopping District, the Downtown Arts District,

Chinatown, Residential and Mixed Use Development and Historic Preservation. One of the major objectives for residential use and development, on and near Downtown as specified in the Comprehensive Plan is to encourage construction of new housing so that a sizable residential component is created that will help accomplish the balanced mixture of uses essential to a "Living Downtown".

24. The DD amendments became affective after the applicant filed its proposal, however the Commission believes that the applicant has a responsibility to stay abreast of pending amendments to the Zoning Regulations which may or may not affect ones proposal, and has a responsiblity to act accordingly.

25. The Commission finds that the proposed PUD is inconsistent with the Land use and other elements of the Comprehensive Plan. The Generalized Land Use Map includes this site within an area designated for a mixture of high density commercial and high density residential.

26. The Commission does not concur with the position of ANC-2C, but finds that the proposed project does not comply with the Downtown Development District (DD) objectives for housing downtown because the applicant has made no effort to locate housing on-site. The new provisions of the Zoning Regulations; that is, 11 DCMR 1700, indicates that the housing requirement can not be reduced for this site. However, in this proposal it has been reduced 100%; i.e., no housing is on-site.

27. The Commission concurs, in part, with the opinions of Balcor, the Committee of 100 on the Federal City, the Citizens Planning Coalition, the Downtown Congregation of Churches, and the National Capital Area Chapter of the American Planning Association, and believes that the subject application should not be approved.

28. The Commission finds that the applicant has not met the intent and purpose of the Zoning Regulations.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling development on the subject site.

2. The development of this PUD does not carry out the pruposes of Chapters 24 and 17 of the Zoning Regulations, since the

development cannot be considered a well-planned residential, commercial and mixed-use project which will offer a variety of building designs and the uses proposed could be achievable under matter-of-right development.

3. The development of the PUD is not compatible with city-wide goals, plans programs, and is insensitive to the existing environment.

4. The approval of this application will not promote orderly development in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and Maps of the District of Columbia.

5. The PUD shall only be granted for projects that are superior in achieving the purpose of 11 DCMR 1700 and the adopted objectives and policies of the Downtown Element of the Comprehensive Plan.

6. The PUD process shall not be used to reduce requirements in 11 DCMR 1700 for housing, or preferred uses, specifically retail, service, entertainment, arts and residential uses.

7. The Zoning Commission has accorded ANC-2C, the "great weight" consideration to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders that the application for consolidation review of a Planned Unit Development and related change of zoning from HR/C-3-C to C-4 for Lots 825 and 827 in Square 284 be **DENIED.**

Vote of the Commission taken at the public meeting on March 11, 1991: 3-2 (Tersh Boasberg, John G. Parsons and William L. Ensign, to deny - Lloyd D. Smith and Maybelle Taylor Bennett, opposed).

This order was adopted by the Commission at the public meeting on April 8, 1991 by a vote of 3-2 (John G. Parsons, Tersh Boasberg and William Ensign, to adopt - Lloyd D. Smith and Maybelle Taylor Bennett, opposed).

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

APR 26 1991.

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

EDWARD L. CURRY
Executive Director
Zoning Secretariat

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