

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 749-A

Case No. 93-9C

(Consolidated PUD & Map Amendment @ 21st & H Sts., N.W.)

April 11, 1994

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on October 25 and 28, 1993. At the hearing sessions, the Zoning Commission considered an application from the George Washington University (GWU) and the Greater Washington Education Telecommunications Association (WETA). The application requested review and approval of a planned unit development (PUD) and related map amendment, pursuant to Chapter 24 and Section 102, respectively, 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 June 16, 1993, requested consolidated review and approval of a PUD and a related change of zoning from R-5-D to C-3-C for Lot 880 in Square 101. At the public hearing, the applicants requested that the Commission also consider, in the alternative, rezoning the subject property to SP-2.
2. On August 2, 1993 at its regular monthly meeting, the Zoning Commission authorized the scheduling of a public hearing on the original application.
3. As a preliminary matter at the public hearing on October 25, 1993, Advisory Neighborhood Commission (ANC) 2A filed a motion to dismiss the application on the grounds that the building, as proposed, violates the Height of Buildings Act and that the Zoning Commission has no authority to approve a project that violates that Act. The Commission determined that the issues regarding the Act of 1910 were substantive matters to be addressed in the course of the proceeding but not requiring that the application be dismissed. Accordingly, the Commission denied the motion to dismiss the application.

4. As an additional preliminary matter at the public hearing, the Commission ruled to grant status as a party to the Bureau of Catholic Indian Missions, the owner of the abutting property to the east, and to the West End Tenants Association, comprised of occupants of the building at 2124 I Street. The Commission ruled not to grant party status to Maria Tyler, Edward Kelly and Marija Hughes. Ms. Tyler and Mr. Kelly are commissioners of Advisory Neighborhood Commission (ANC) 2A, and the ANC is automatically a party under the Rules of Practice and Procedure. Ms. Tyler, Mr. Kelly and Ms. Hughes live several blocks from the subject site, and none had a specific right or interest that would be affected by action on the application that would be different than any member of the general public. All three were given the opportunity to testify and participate as persons.
5. The PUD site consists of 26,492.25 square feet of land area and is presently used as a surface parking lot accommodating 47 automobiles and 25 motorcycles. It is located at the northeast corner of the intersection of 21st and H Streets, N.W. in Square 101, Lot 880, within the campus boundaries of George Washington University. Square 101 is bounded by Pennsylvania Avenue and I Street to the north, 20th Street to the east, H Street to the south, and 21st Street to the west.
6. Square 101 is split-zoned C-3-C and R-5-D. The northern half of the square (the entire I Street and Pennsylvania Avenue frontage) is zoned C-3-C and is developed with a mixed-use retail, service and office building which occupies the street frontage at 2000 Pennsylvania Avenue, N.W. The remainder of the square is zoned R-5-D.
7. The area surrounding the site is primarily developed with institutional and commercial uses. The Red Lion Row PUD development at 2000 Pennsylvania Avenue, N.W. abuts the site to the north within the same square. The George Washington University Yard is situated directly across H Street to the south of the site. The University's Lisner Auditorium is located on the southwest corner of the intersection of H and 21st Streets, diagonally across from the site. The University's Marvin Center is located directly across 21st Street from the site.
8. The R-5-D District permits general residential use at a medium-high density, including single-family dwellings, flats and apartments. The maximum height is 90 feet, the maximum floor area ratio (FAR) is 3.5 and the maximum lot occupancy is 75 percent.

9. The C-3-C District is a major business and employment center, permitting office, retail, service, housing and other mixed uses. The maximum height is 90 feet, the maximum FAR is 6.5 and the maximum lot occupancy is 100 percent. The PUD guidelines for the C-3-C District establish a height of 130 feet and an FAR of 7.0.
10. The SP-2 District permits matter of right, medium-high density development, including all kinds of residential uses as well as offices for nonprofit organizations, trade associations and professionals permitted as a special exception requiring approval of the Board of Zoning Adjustment (BZA). The maximum height is 90 feet, the maximum floor area ratio is 6.0 for residential and 3.5 for other permitted uses and the maximum lot occupancy of 80 percent for residential uses. The PUD guidelines establish a height of 90 feet and an FAR of 6.5 for residential and 4.5 for commercial uses.
11. 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 special exceptions and would otherwise require approval by the BZA.
12. The District of Columbia Generalized Land Use Map Element of the Comprehensive Plan designates the subject site for institutional use. The greater portion of the subject square is also designated for high density institutional use.
13. The applicants propose to construct a building to be jointly occupied by GWU and WETA. GWU will use its space to house the University's National Center for Communications Studies and GWU Television, including classrooms, faculty offices and support space, seminar rooms, specialized laboratories and teaching facilities and broadcast and production facilities. WETA will use its space to house its principal executive offices, its general operations and broadcast studios and its related technical and administrative, production, distribution, broadcast, publishing, research and development, marketing, fundraising, educational and outreach activities and programs, including the activities and programs of the National Center for Public Broadcasting. The WETA space will include administrative and production staff offices and support space, television and radio broadcasting studios, production, post-production, screening, listening and related support space, control and editing rooms and space for

technical services and facilities. Of the total area in the building, 16 percent will be used exclusively by GWU, 28 percent will be used exclusively by WETA and the remaining 56 percent will be shared between the two.

14. The building will have a total gross floor area of approximately 139,808 square feet, or an FAR of approximately 5.29.
15. The applicants through testimony at the public hearing, indicated that because of the technical requirements involved in designing space for the television and radio broadcast facilities, the building has a different height at the front and the rear. The roof of that portion of the building which fronts on both H and 21st Streets has a height of 100 feet, 7 9/16 inches. Above that level is a roof structure which houses mechanical equipment and stair and elevator penthouses. This roof structure is 18 feet, six inches from the edges of the building fronting H and 21st Streets. The north side of the building, the area where the studios are located, has a height of 109 feet, 7 9/16 inches, measured from the point of measurement to the top of the solid roof of the studio, which is above the electrical grid on the eighth floor of the building. Above that roof is a roof structure housing electrical and mechanical equipment for the studio and the building. The roof over the northern roof structure is 2.5 feet lower than the roof over the southern roof structure. The top of the roof of the northern penthouse will be 116 feet, 7 9/16 inches above the measuring point.
16. There will be 15 satellite and microwave dish antennas located on the roof of the building to serve the uses proposed in the building. Ten of those antennas will be located on a tower at the southeast corner of the building. Five dish antennas will be located on the roof of the northern penthouse.
17. The building will contain a total of 110 parking spaces on two cellar levels. There will be nine bicycle parking spaces located on the first cellar level.
18. Loading and service access to the building will be provided through the "common service area" located on the north side of the building. This area was established in the Zoning Commission's approval of the PUD for 2000 Pennsylvania Avenue and was specifically reserved for service to that building as well as any future building to be constructed by GWU on the subject property. Two loading berths will be provided in the common service area to serve the subject building.

19. In association with the PUD project at 21st and H Streets, N.W., the applicants propose the following amenities and public benefits:
  - a. The relocation of more than 250 long-term jobs at WETA from Virginia to the District of Columbia, resulting in \$345,000 in annual new taxes to the District and \$9.8 million in new income each year in the District's economy;
  - b. The creation of construction jobs for 18 to 24 months;
  - c. The strengthening of WETA's partnership with D.C. public schools and libraries;
  - d. The establishment of a superbly designed mixed use building in the GWU campus area consistent with the Comprehensive Plan, the Land Use Element and the Campus Plan;
  - e. The implementation of a streetscape program that compliments the design of the building, comports with the approved Campus Plan and sets a standard for extension of the design treatment into other areas on the campus;
  - f. Providing an after-hours presence in the neighborhood, increasing local security since WETA operates 24 hours a day;
  - g. Expanding WETA's activities and presence in the broader community in the District of Columbia to a wide variety of programs and projects;
  - h. The establishment of an agreement between the applicants and the Minority Business Opportunity Commission regarding minority participation in the construction of the project; and
  - i. The establishment of an agreement with the D.C. Department of Employment Services (DOES) committing the applicants to use DOES as their first source for recruitment, referral and placement of employees and to use their best efforts to utilize District residents for at least 51 percent of the jobs created by the project.
20. The applicants stated that the proposed development is consistent with the Comprehensive Plan for the National

Capital, and will further the District's land use, economic development, urban design, environmental protection, and transportation elements of the Plan.

21. The applicants' traffic expert testified that the traffic to be generated from the proposed development can be accommodated on the existing street network and all of the intersections in the vicinity will operate at acceptable levels of service. The parking and loading facilities of the project are sufficient to accommodate the needs of the project, and there will be no adverse transportation impact on the neighborhood or the larger area because of the development.
22. The applicants' antenna expert indicated that the total of 15 antennas located on the roof of the building will not result in dangerous or other objectionable conditions because of radiation or interference. He further stated that the antennas must be located and aimed so as not to be near any building or other obstruction which could interrupt or degrade the signal quality.
23. The Office of Planning (OP), by report dated October 14, 1993, and by testimony at the public hearing, recommended approval of the application subject to conditions. The OP reported that the greater portion of the subject square, including the subject site, is designated for institutional use on the Generalized Land Use Map of the Comprehensive Plan. The north-eastern corner of the square is designated for high density commercial use. The OP was of the opinion that since the proposed project is designed for educational and commercial mixed uses, it would appear to be not inconsistent with the Comprehensive Plan, given the soft-edge nature of the Generalized Land Use Map. The OP further reported that the proposed project appears to be generally consistent with the designation of the site for educational mixed use on the GWU Campus Plan. The OP further reported that the change of zoning to C-3-C would be comparable to the abutting property to the north. The PUD process would give the Zoning Commission authority to control the height, size and design of the building. With respect to the design of the building, OP reported that, through the use of setbacks, color and materials, the apparent mass and height of the building will be reduced so that the building will serve its transition role between the 130-foot high buildings to the north and the 40 to 90-foot high buildings to the east and south of the site. The design emphasizes the building's horizontality, rather than its height. The OP noted that the applicants, in coordinating the plans with OP, had modified the tower and location of dish antennas on the roof of the building to mitigate potential impacts and improve the already superior building design.

The OP identified the benefits and amenities which would result from construction of the project, as summarized above in Finding of Fact No. 19. The OP concluded that the proposed project is compatible with the existing streetscape on Pennsylvania Avenue and 21st Street, as well as existing development within the university campus and the surrounding area. The OP recommended approval of the application provided that the applicants adequately quantify the proposed amenity package relative to the requested zoning relief.

24. The Department of Public Works (DPW), by memorandum dated October 13, 1993, advised that it had reviewed the applicants' traffic impact study and generally agreed with the conclusion that there will be no significant impact and that those impacts that are expected to occur are manageable. The DPW requested the applicants to make a firm commitment to reducing automobile use by the persons employed in this building. The DPW recommended that at least four bicycle parking spaces be provided in the building. The DPW recommended against installation of the circular driveway, leading to the entrance to the building on H Street, N.W. because it eliminated three to four on-street parking spaces and presents additional hazards for pedestrians.
25. Advisory Neighborhood Commission (ANC) 2A by resolution dated October 17, 1993, and by report dated October 18, 1993, and by testimony at the public hearing, opposed the application. The following summarizes the issues raised by the ANC:
  - a. The subject site is not appropriate for WETA's activities. WETA should be located elsewhere in the District of Columbia, preferably in a commercially zoned area or near Howard University.
  - b. The applicants are using the PUD process to circumvent the Zoning Regulations, because they are seeking Zoning Commission approval for the project on a piecemeal basis outside the normal BZA process governing university development pursuant to an approved Campus Plan.
  - c. The project violates the Height of Buildings Act, because the height of the building is listed as being 116 feet, 7 9/16 inches above the measuring point and the Act permits a height of only 110 feet.
  - d. The dish antennas on the roof of the building extend above the 110-foot level and therefore violate the Act of 1910.

- e. The proposed project is not consistent with GWU's approved Campus Plan, since the Plan refers only to University use and the WETA television and radio stations are a commercial use. In addition, the Campus Plan as approved contains no reference to height in excess of that permitted under the current zoning.
  - f. The Zoning Commission should not process the subject application until GWU begins construction on residence halls on the campus, to eliminate objectionable conditions created by a large number of students residing in the Foggy Bottom neighborhood outside the campus boundaries.
  - g. The applicants' traffic analysis did not account for visitor traffic, did not adequately support its assumption for modal split and assumed without knowing that the signal at 21st and H Streets could be re-timed.
  - h. The economic and fiscal benefits claimed for the proposed project are overstated. The benefits should be compared to the site developed with a GWU mixed use building rather than to a parking lot.
  - i. The proposed project does not provide amenities and benefits that are not available under existing zoning controls with WETA located on a matter of right site elsewhere in the District of Columbia.
26. Five individual residents of the community appeared at the hearing and supported the application. The points raised in support of the application include but are not limited to the following:
- a. The project should be approved but with a rezoning to SP-2, rather than C-3-C, so as not to set a precedent for expansion of commercial zoning south of Pennsylvania Avenue.
  - b. The project would be good for the District of Columbia and for the neighborhood, and enjoys wide-spread community support within the Foggy Bottom/West End community.
  - c. The use is consistent with the GWU Campus Plan, which designates the site as an alternative site for educational mixed use.

- d. This site is not designated as a housing site under the Campus Plan and approval of the application will not cause any loss of potential sites for additional on-campus housing.
  - e. The project proposes a beautiful building with underground parking, consistent with the residential architecture of the neighborhood.
  - f. The 24-hour presence of WETA in the neighborhood increases neighborhood security.
  - g. The presence of WETA, a public service type organization, is essential to the overall welfare of the city.
27. The Bureau of Catholic Indian Missions, the owner of the property which abuts the subject site to the east, appeared as a party in opposition to the application. The Bureau advised that it is the beneficiary under an easement across the subject property and that the development could not proceed until the Bureau's rights to the easement have been addressed.
28. The application was opposed by the West End Tenants Association, also a party to the application. The West End Apartment Building is located at 2124 I Street, N.W., west of and adjacent to the Marvin Center. The West End Tenants Association's opposition included, but was not limited to the following points:
- a. The area is already unsafe for pedestrians.
  - b. There are no amenities to the neighborhood.
  - c. The parking situation on campus is already one of the worst in the city.
  - d. Rezoning to commercial or special purpose from residential creates additional pressures in terms of a precedent.
  - e. There is at least a potential for harm from such large numbers and concentration of antennas.
29. Four individuals testified at the hearing in opposition to the application, amplifying the concerns of the ANC and identifying the following issues:

- a. The antennas proposed on the building will have substantial negative effects because of electromagnetic radiation.
  - b. The project is not consistent with the approved GWU Campus Plan.
  - c. The project should not be approved until GWU has demonstrated its commitment to developing a substantial on-campus housing policy.
30. At the conclusion of the public hearing on October 28, 1993, the Zoning Commission requested the following information:
  - a. The applicants' written response on electromagnetic emissions;
  - b. Memoranda on the Height of Buildings Act of 1910 from the applicant, the Zoning Administrator, ANC-2A, and the Office of Corporation Counsel (OCC);
  - c. Written testimony from Edward Kelly;
  - d. The applicants' transportation plan;
  - e. Written testimony from Maria Tyler;
  - f. The MBOC Agreement executed by the applicants;
  - g. A drawing showing the location of bicycle parking in the parking garage; and
  - h. Redrafted language requesting modest flexibility on signage and finishes from OZ.
31. The Commission at its monthly meeting of December 13, 1993, considered a motion dated November 16, 1993 from Ms. Marija Hughes which requested reconsideration of the Zoning Commission's decision which denied her party status.
32. At that meeting, the Commission also considered a memorandum dated December 9, 1993 from the Director of the Office of Zoning recommending that the Commission deny Ms. Hughes' motion for reconsideration.
33. Pursuant to 11 DCMR 3028.8, Z.C. Order No. 749 denying party status to Ms. Marija Hughes became final and effective upon publication in the District of Columbia Register on January 28, 1994 (41 DCR 477).

34. At the public meeting of January 10, 1994, the Commission reviewed and discussed all of the written post-hearing submissions in the record of the case. The post-hearing submissions included responses from the applicant, the Zoning Administrator, ANC-2A and Maria Tyler's and Edward Kelly's written testimony. Subsequent to discussion, the Commission took proposed action.
35. At the public meeting of March 14, 1994, the Commission postponed final action on the case until the Commission had ample opportunity to read the draft order, as prepared by the Office of Zoning staff.
36. A special meeting of the Commission was held on March 24, 1994 to consider adoption of draft Z.C. Order No. 749-A as final action in the case. At that meeting, the Commission discussed the following items:
  - a. Letters dated March 24, 1994 from ANC-2A and the West End Tenants Association requesting the Commission to reopen the record to receive new materials that may affect the case.
  - b. Proposed legislation from Congressman Pete Stark titled "H.R. 4121, District of Columbia Building Height Act of 1994."
37. The Office of the Corporation Counsel (OCC) advised the Commission that the letters dated March 24, 1994 from ANC-2A and the West End Tenants Association, as well as the letter dated March 14, 1994 from Congressman Pete Stark were ex-parte communications and should not be accepted into the record. OCC also advised the Commission that if the Commission decided on its own motion, it could legitimately open the record to receive comments from the parties on the proposed legislation.
38. After a thorough discussion, the Commission voted to reopen the record to receive the proposed Congressional legislation and legal briefs from the parties on how the proposed legislation would affect the subject PUD. The Commission also determined on its own motion, that it would reopen the record to receive comments from the parties on the proposed legislation.
39. In accordance with the deadlines established by the Zoning Commission at its meeting of March 24, 1994, the following items were received into the record:
  - a. Letter dated April 6, 1994 from Wilkes, Artis, Hedrick & Lane regarding the Height Act Amendment.

- b. Memorandum dated April 6, 1994 from ANC-2A regarding the Height Act Amendment.
  - c. Letter dated April 6, 1994 from the West End Tenants Association regarding the Height Act Amendment.
  - d. Motion to reopen the record for additional evidence on the Height Act Issue from ANC-2A dated April 6, 1994.
  - e. Response from the applicant dated April 7, 1994 regarding ANC-2A's motion to reopen the record.
40. At its regular monthly meeting of April 11, 1994, the Commission took note of the above-mentioned items and determined on its own motion that there is no need for additional hearings as requested by ANC-2A.
41. The Commission concurs with the recommendations and/or positions of OP, DPW and the applicant and believes that the application should be approved.
42. The Commission concurs with the applicant that the project is appropriate for the site and is not inconsistent with the Comprehensive Plan.
43. The Commission concurs with the Zoning Administrator that the project, as modified, does not violate the Height of Buildings Act of 1910.
44. The Commission believes that it is not in the position to assess the health implications of the antennas and looks to the appropriate Federal and District agencies to set policy in that area.
45. The Commission finds that while C-3-C zoning is being applied, it is not designed to set a precedent to permit the introduction of commercial zoning or activities on the campus.
46. The Commission finds that the easement issue raised by the Bureau of Catholic Indian Missions relates to a private access agreement between the applicant and the Bureau and encourages those involved to settle the matter.
47. The Commission finds that the site is well-served by public transportation, that the transportation management plan proposed by the applicants will help to mitigate the minor traffic impacts of the project and that the proposed

development will not have a significant impact on the intersection of 21st and I Streets for either vehicular or pedestrian traffic.

48. The Commission finds that the applicants have satisfied the intent and purpose of Chapter 24 of DCMR, Title 11, Zoning.
49. 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. NCPC, by letter dated March 3, 1994 indicated that the proposed PUD and related amendment to the Zoning Map of the District of Columbia would not adversely affect the Federal Establishment or other Federal interest and would not 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 purpose 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. 898) and the Zoning Map of the District of Columbia, by furthering the general public welfare and serving to stabilize and improve the area.
6. This 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

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8. The Zoning Commission has accorded ANC 2A 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 of 1977.

#### DECISION

In consideration of the findings of fact and conclusions of law herein, the Commission hereby **ORDERS** the **APPROVAL** of the application for consolidated review of a PUD and map amendment from R-5-D to C-3-C for Lot 880 in Square 101, located at the northeast corner of the intersection of 21st and H Streets, N.W. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with plans prepared by the architectural firm of Ayers Saint Gross, marked as Exhibit Nos. 19, 65, 66, 67, 69 and 102, as modified by the guidelines, conditions and standards of this order.
2. The building shall be constructed for the joint use of George Washington University (GWU) and the Greater Washington Education Telecommunications Association (WETA) for educational and radio and television broadcasting and support purposes.
3. The building will have a total gross floor area of approximately 139,808 square feet, or an FAR of approximately 5.29.
4. The height of the building shall not exceed 101 feet as measured to the roof of the building as it faces 21st and H Streets and 110 feet as measured to the roof of the studios on the eighth floor of the building at the rear, as shown more precisely on Sheets F21 and F22 in Exhibit No. 102B of the record.
5. The PUD shall contain a minimum of 110 off-street parking spaces located in the cellars of the building and a minimum of nine bicycle parking spaces located on the first cellar.
6. Two off-street loading berths shall be provided at the northeast corner of the building as shown on Sheet F32 of Exhibit 19, with access to the common service area from 21st Street.
7. The east facade of the building shall be as shown on Exhibit 67 of the record.
8. The location and height of the five antennas on the roof of the roof structure shall be as shown on Tab U5 of Exhibit 27 of the record.

9. All antennas on the building shall be of a soft white color to match the color used in the main facade, as shown on Exhibit No. 64 of the record, and shall not be illuminated.
10. The height and design of the tower at the southeast corner of the building shall be as shown on Exhibit 66 of the record and shall be of the identical color of the antennas, as referenced in Condition No. 9.
11. Landscaping shall be provided as shown on Sheet F6 of Exhibit 19, as modified by Condition No. 13(d) and shown on Exhibit No. 65 of the record.
12. Exterior materials and colors shall be as modified by Condition 13(c) and shown on Exhibit 64 of the record.
13. The applicants shall have flexibility with respect to the following:
  - a. Varying the location and design of interior components, including partitions, slabs, doors, hallways, columns, stairways, location of elevators and electrical and mechanical room, provided that the partitions do not change the exterior configuration of the building including the penthouse.
  - b. Make minor adjustments to the facade and window size and detailing.
  - c. Varying the final selection of the color of materials within the color ranges proposed on Exhibit No. 64 of the record, based on availability at the time of construction.
  - d. Television viewing area must be landscaped in accordance with Exhibit No. 65 of the record.
14. The applicants shall comply with the Memorandum of Understanding which they have entered into with the Minority Business Opportunity Commission, which provides that at least 35 percent of the construction related contracts for the project must be awarded to Certified Minority Business Enterprises as shown on Tab F of Exhibit No. 88 of the record.
15. The applicants shall comply with the First Source Agreement with the Department of Employment Service (DOES) which provides that the applicants will use DOES as their first

source for the recruitment, referral and placement of employees in connection with the construction of the project as shown on Exhibit No. 22 of the record.

16. The change of zoning from R-5-D to C-3-C for Lot 880 in Square 101 shall be effective upon recordation of a covenant as required by 11 DCMR 2407.3.
17. No building permit shall be issued for the site until the applicants have recorded a covenant in the Land Records of the District of Columbia between the owner and the District of Columbia and satisfactory to the Office of the 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 construction on and use of the property in accordance with this order and amendments thereto of the Zoning Commission.
18. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA until the applicants have filed a certified copy of the covenant with the records of the Zoning Commission.
19. The PUD approval 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 11 DCMR 2407.1. Construction shall start within three years of the effective date of this order.
20. Pursuant to D.C. Code Section 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicants are required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25 (1987), and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Regulations Division of DCRA to approve permits if the applicants fail to comply with any provision of D.C. Law 2-38 as amended.

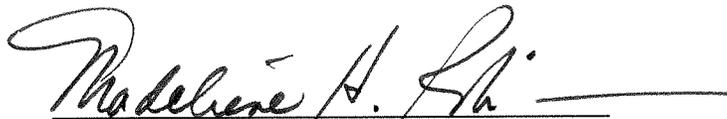
Vote of the Zoning Commission taken at the public meeting on January 10, 1994: 5-0 (John G. Parsons, William B. Johnson, William L. Ensign, Jerrily R. Kress and Maybelle Taylor Bennett, to approve the PUD and change of zoning to C-3-C with conditions).

This order was adopted by the Zoning Commission at the public meeting on April 11, 1994 by a vote of 5-0: (John G. Parsons, Maybelle Taylor Bennett, William L. Ensign, Jerrily R. Kress to adopt as corrected, and William B. Johnson, to adopt by absentee vote).

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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 APR 29 1994.

  
MAYBELLE TAYLOR BENNETT  
Chairperson  
Zoning Commission

  
MADELIENE H. ROBINSON  
Director  
Office of Zoning

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