

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 920-A
Zoning Commission Case No. 01-01MM/99-6M/88-16C
(Modification to the Planned Unit Development
at 901 New York Avenue, N.W.)
February 12, 2001

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia was held on February 12, 2001. At the meeting, the Zoning Commission approved an application from NDH 901 New York LLC for a minor modification to an existing planned unit development (PUD) and a related Zoning Map amendment from C-3-C, HR/C-3-C and DD/C-3-C to C-4 pursuant to Chapters 1 and 24, and the Consent Calendar Regulations of Chapter 30 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. Because the modification was deemed minor, a public hearing was not conducted.

The Zoning Commission determined that this modification request is properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 920, dated April 10, 2000, the Commission modified an approved PUD for Lot 33, Square 372 (containing a land area of 51,246 square feet), by adding Lot 32 (containing 2,006 square feet). The Commission approved a redesign of the proposed office building, which would be allowed to be constructed to a height of 130 feet with a 10.0 FAR. The Subject Property is situated in Ward 2, along the New York Avenue corridor and is bounded by K Street, on the north, 10th Street, on the west, and New York Avenue, on the south, and U.S. Reservation 175, on the east.

NDH 901 New York LLC seeks a minor modification in the approved PUD so as to permit NDH 901 New York LLC to utilize the proposed amendments to the text of the Zoning Regulations proposed by the Office of Planning for public hearing in Case No. 00-30T, heard on January 29, 2001. Those provisions would permit NDH 901 New York LLC, pursuant to a proposed revised §1708, to proceed with its commercial development through combined lot development by posting with an escrow agent certain funds to be dedicated for housing use and secured through a covenant without the current impediments of the linkage of certificates of occupancy between the commercial and residential project.

To date, NDH 901 New York LLC has been unable to secure a site or enter into a combined lot development for the provision of the approximately 4,213 square feet of residential development to be provided in Housing Priority Areas B or C as permitted pursuant to Zoning Commission Order No. 920. This situation has a potentially chilling effect on securing tenants and financing for the approved PUD. Consequently, NDH 901 New York LLC has been unable to locate a residential developer who will commit to the timely production of the housing that is reasonably required by the commercial office developer so that the commercial project is not at risk in the event that the residential project does not move forward in a timely fashion.

The requested minor modification will further District of Columbia development objectives for the subject site and the area near the Convention Center and does not affect the design of the approved PUD itself. None of the parameters of the development of the office building approved in Zoning Commission Order No. 920 are changed by the proposed modification. The request simply permits NDH 901 New York LLC to implement the proposed regulations to address an issue that the regulations specifically were designed to address.

On January 19, 2001, a copy of the PUD modification application was mailed to ANC 2F, party to the approved PUD. ANC 2F did not participate in this minor PUD modification application.

On February 12, 2001, at its regularly scheduled meeting, the Zoning Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modification to the PUD.

The Zoning Commission concurs with NDH 901 New York LLC that approving the application is appropriate and not inconsistent with the intent of 11 DCMR §§ 2409.9 and 3030.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Zoning Commission concludes that the proposed modification is minor and consistent with the intent of the previously approved PUD, Zoning Commission Order No. 920. Further, the Commission believes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the requested minor modification will not affect any of the other conditions to

the approved PUD. The modification is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for modification to the original PUD approved for property located in Square 372, Lots 32 and 33, subject to the following guidelines, conditions and standards:

The applicant shall meet the housing requirement of Lot 32 in accordance with the Downtown Development District regulations, provided that, if the combined lot development option is selected by the applicant, housing shall be constructed in Housing Priority Area B or Housing Priority Area C, or, in the alternative, the Applicant may meet the housing requirement of Lot 32 through a contribution to the Housing Production Trust Fund for use for affordable housing projects in Housing Priority Areas A, B and C and ANC 2F.

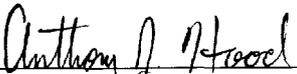
Pursuant to the intent of 11 DCMR § 2409.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs (“DCRA”) for the minor PUD modification until the applicant has recorded a “Notice of Modification” of Zoning Commission Order No. 920 with the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 920 and this order, which the Director of the Office of Zoning has certified. The recordation of the Notice of Certification shall bind NDH 901 New York LLC and any successors in title to construct on and use this site in accordance with this order and any amendments thereof.

After recordation of the Notice of Modification, NDH 901 New York LLC shall promptly file a certified copy of that Notice of Modification with the Office of Zoning for the records of the Zoning Commission.

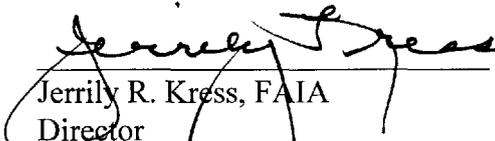
The minor PUD modification approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in §§ 2409.2 and 2409.3 of the Zoning Regulations. Construction shall start within three years of the effective date of this order.

Vote of the Zoning Commission taken at its public meeting on February 12, 2001: 5-0 (Herbert M. Franklin, Kwasi Holman, Anthony J. Hood, Carol J. Mitten, John G. Parsons)

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register; that is, on MAR-9 2001



Anthony J. Hood
Chairperson
Zoning Commission



Jerrily R. Kress, FAIA
Director
Office of Zoning