

ARNOLD & PORTER LLP

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September 30, 2009

D.C. Zoning Commission
441 Fourth Street, N.W.
Suite 210
Washington, D.C. 20001

RE: Proposed Time Extension of PUD
Zoning Commission Case No. 03-30B (Square 643 Associates)

Dear Members of the Commission:

This is a request to defer Commission action on the referenced PUD to allow the Applicant to provide additional details regarding Applicant's efforts to develop the property, if deemed necessary by the Commission.

Office of Planning's September 23 submission to the Commission received yesterday indicates a lack of detail to support the Applicant's statements that the uncertainty regarding the Randall School development has made marketing the site to a nonprofit tenant and arranging financing difficult. Applicant did not anticipate the need given OP's previous support on the same grounds (see attached previous extension order) and current market conditions which have only worsened since then.

Applicant is more than willing, however, to provide details. Deferral until the regular October meeting (October 14) is requested to afford that opportunity if considered necessary by the Commission.

Thank you for your consideration of this request.

Sincerely,
ARNOLD & PORTER LLP

Cynthia A. Giordano

Cynthia A. Giordano

Attachment

cc: ANC-6D
Office of Planning
Tommy Wells

ZONING COMMISSION
District of Columbia

CASE NO.

03-30B

EXHIBIT NO.

7

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



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 03-30A**

Z.C. Case No. 03-30A

**Time Extension - Consolidated Planned Unit Development
(Square 643 Associates LLC)**

April 9, 2007

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the "Commission") was held on April 9, 2007. At the meeting, the Zoning Commission approved a request from Square 643 Associates LLC (the "Applicant") for a time extension for an approved planned unit development ("PUD") for property located at 734 1st Street, S.W. (Square 643, Lot 830; the "Property"), pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. The Commission determined that this modification request was properly before it under the provisions of § 2408.10 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 03-30, dated September 15, 2005, the Commission approved a PUD for the Property. The approved PUD is a mixed-use project requiring the preservation and reuse for non-profit office use of the historic landmark Old Friendship Baptist Church, together with new construction of an L-shaped, mid-rise apartment building connecting to the church on the east and north sides. The apartment building is authorized to have between 18-27 dwelling units, including one affordable rental unit. The apartments are projected to be sold as condominiums. A zoning map amendment from R-4 to R-5-C was adopted as part of the PUD approval.

The Applicant's request to the Commission stated that the reason for the time extension is that current market conditions in the immediate neighborhood have made it impossible to attract a non-profit office tenant. The mixed-use project is not economically viable without both the office and residential components proceeding at the same time. The Applicant has shown the property to a number of non-profit organizations, but all have declined, primarily because of the uncertainty and timing of the major and prospective redevelopment of the former Randall Junior High School complex immediately to the south of the PUD site. The former Randall School has been occupied for a number of years by a homeless shelter and the Millennium Arts Center, a collective of studios for working artists.

For the past few years, the District of Columbia Government had a pending agreement for the school to be occupied by the Corcoran College of Art + Design. Finally, in November 2006, the city reached an agreement with the Corcoran, and the Corcoran signed a development agreement

with Monument Realty. The result will be a redevelopment project having approximately 80,000 square feet of floor area for the Corcoran College of Art + Design and approximately 400,000 square feet of residential space to be built by Monument Realty. Preliminary plans call for a planned unit development and related map amendment from R-4 to C-3-C to allow buildings of up to 90 feet in height and substantial density on the site. This major project will take several years to complete, with the art school's occupancy targeted for fall 2011.

The Applicant anticipates that the current environment of uncertainty for this immediate area of Southwest will diminish as the market becomes aware of the Corcoran and Monument Realty's plans. Interest in the instant PUD will increase as the Corcoran/Monument Realty PUD nears the approval stage. Accordingly, the Applicant requested a three-year time extension.

By report dated March 30, 2007, the Office of Planning ("OP") recommended approval of the request for a three-year time extension. OP noted that the request complies with the criteria for time extensions in § 2408.10, specifically that (a) the request was served on all parties, who were provided at least thirty (30) days in which to comment and (b) that there has been "no substantial change in any of the material facts upon which the Zoning Commission based its original approval . . ." OP also concurred with the Applicant's statement of "good cause" under § 2408.11(c), namely, that uncertain market conditions in the neighborhood have made it impossible to attract a non-profit office tenant. Finally, OP concluded that the request is not inconsistent with the Comprehensive Plan.

The Applicant's submission was served on Advisory Neighborhood Commission ("ANC") 6D, the only party in the case other than the Applicant. ANC 6D did not submit a report. There was no opposition to the requested time extension.

On April 9, 2007, at its regular monthly meeting, the Commission reviewed the proposed time extension and granted approval of the three-year time extension. The Commission concurs with the Applicant that approving the modification is appropriate and not inconsistent with the intent of 11 DCMR §§ 2408.10, 2408.11, and 3030.

The Commission further concludes 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 and Zoning Act.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Commission finds that the proposed time extension is justified by the uncertainty of market conditions in the immediate vicinity of the PUD and consistent with the intent of the previously approved Zoning Commission Order No. 03-30. Further, the Commission concludes 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 time extension is not inconsistent with the Comprehensive Plan.

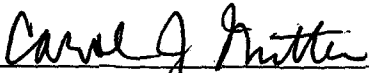
DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a three-year time extension of the approved PUD in Zoning Commission Case No. 03-30, Order No. 03-30.

The final PUD approved by the Commission shall be valid until September 15, 2009, within which time an application shall be filed for a building permit, as specified in § 2409.1. Construction shall start no later September 15, 2010.

Approval granted by the Zoning Commission at its public meeting on April 9, 2007, by a vote of 5-0-0 (John G. Parsons, Carol J. Mitten, Anthony J. Hood, Michael G. Turnbull, and Gregory N. Jeffries to approve).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on ~~OCT 26 2007~~.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning



**Government of the District of Columbia
Office of Zoning**



Z.C. CASE NO.: 03-30A

OCT 22 2007

As Secretary to the Commission, I hereby certify that on _____, copies of this Z.C. Order No. 03-30A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|---|---|
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| | 11. Office of the Attorney General
(Alan Bergstein) |

ATTESTED BY:


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