Government of the District of Columbia
OFFICE OF ZONING

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: December 6, 2002

SUBJECT: Publication for the Office of Zoning

Please publish the following in the D.C. Register on December 13, 2002:

1. Z.C. Order No. 02-24 (Case No. 02-24.

Received By

12/6/02
Date

Attachments

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ZONING COMMISSION
District of Columbia
Case 02-24
Exhibit 29

ZONING COMMISSION
District of Columbia
CASE NO.02-24
EXHIBIT NO.29

ZONING COMMISSION ORDER NO. 02-24 (906)
Case No. 02-24/98-14C – Order No. 906
(PUD Modification - 1000-1010 16th Street, N.W.)
November 18, 2002

This decision arises out of an application by JBG/6006 Limited Partnership for approval of modifications to Zoning Commission Order No. 906, which approved a planned unit development ("PUD") pursuant to chapter 24 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. At its public meeting on November 18, 2002, the Commission took action to grant the application subject to conditions.

Preliminary Matters

On May 30, 2002, the JBG/6006 Limited Partnership ("JBG" or "Applicant") filed an application for modifications to a PUD approved in Zoning Commission Order No. 906, a commercial office development at the premises known as 1000-1010 16th Street, N.W., Square 184, Lot 74 (the "Property"). The application was processed as a second-stage PUD application.

The Commission voted at its July 8, 2002, public meeting to hear the application as a contested case with a public hearing held in accordance with the provisions of 11 DCMR § 3022. Notice of the public hearing was published in the *D.C. Register* on August 2, 2002, 49 *D.C.Reg.* 7483, and was mailed to all property owners within 200 feet of the Property as well as to Advisory Neighborhood Commission ("ANC") 2B, in whose boundaries the Property is located. The parties in this case were the Applicant, ANC 2B, and Presidential Owners, Inc. ("Presidential"), the owners of a residential property adjoining the PUD site. The public hearing was held on October 7, 2002.

At the hearing, Porter Dawson, a partner at JBG, testified that the Applicant's proposed modifications of the approved PUD were intended to enhance and further refine the design of the building, which would increase the benefits to the surrounding neighborhood. C.R. George Dove, FAIA, APA, principal of WDG, also appeared on behalf of JBG to describe the proposed refinements. The Commission also heard testimony from the Office of Planning ("OP"), Presidential, and Nik Moradi, a business tenant in an abutting building who testified in opposition to the application due to concerns about the impact of construction on his business. By letter dated October 10, 2002, Mr. Moradi withdrew his objection and expressed his support for the application, in response to the Applicant's agreement to provide a covered walkway along the sidewalk on K Street and signage funds for his business. The Commission received a letter

dated June 26, 2002, from the Capital Hilton expressing its strong support of the proposed modifications.

At a special public meeting held October 17, 2002, the Commission took proposed action by a vote of 4-0-1 to approve the application subject to conditions.

The proposed action was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by action dated August 6, 2002, found that the proposal would not adversely affect the federal interest or be inconsistent with the Comprehensive Plan for the National Capital.

The Commission took final action to approve the application on November 18, 2002 by a vote of 4-0-1.

Government Reports

By report dated June 28, 2002, OP recommended approval of the application. The District Department of Transportation ("D-DOT") submitted a report dated September 9, 2002, expressing its support for the relocation of the garage entrance from 16th Street.

ANC Report

By letter dated August 27, 2002, ANC 2B indicated its support for the requested modifications.

Findings of Fact

1. The PUD site is located at 1000-1010 16th Street, N.W. (Square 184, Lot 74). The Property has a land area of 20,111 square feet and is improved with two buildings: the Solar Building, an eight-story commercial office building at 1000 16th Street; and the Taca Building, a six-story building at 1010 16th Street. The site currently has no parking or loading facilities.

2. By Order No. 906, dated October 16, 2000 (47 *D.C. Reg.* 9365), the Commission approved JBG's application for consolidated review and approval of a planned unit development and related map amendment modifying the SP-2 zone district for a depth of 30 feet along 16th Street, with the remainder of the Property included in the C-4 zone district. Pursuant to Order No. 906, the approved PUD expires on November 24, 2002, with construction to commence no later than November 24, 2003.

3. The PUD approved by Order No. 906 was a commercial office development with approximately 200,247 square feet of gross floor area and a height not to exceed 125.5 feet in the C-4 portion of the Property or 90 feet in the SP-2 portion. Important elements

of the PUD included landscaping and setbacks along 16th Street, with a reduction in height of the penthouse structure from the Applicant's original design.

4. On June 26, 2001, JBG entered into an agreement with the Marshall Heights Community Development Organization and, at the same time, contributed $280,000 toward the cost of constructing seven (7) new single-family dwellings, as required under Decision paragraph 11 of Order No. 906.

5. Building permits have been issued for the PUD approved by Order No. 906.

6. The requested modifications to the approved PUD include the relocation of the front entrance and corresponding projection bay one bay in the direction of K Street, improvements to the proportions of the projection bay and façade components, refinements to the exterior skin detailing, and relocation of the parking garage entrance from 16th Street to K Street or, at JBG's discretion, to the rear of the building off the public alley. Relocation of the parking garage entrance, and resulting reorganization of the first floor of the PUD, would require other modifications to the conditions set forth in Order No. 906. According to the Applicant, the proposed modifications would result in a further setback of the penthouse structure by a distance of 10 to 14 feet along 16th Street, improved and increased green space, an increased distance between the front entrance of the PUD project and its residential neighbors, a reduction in area to contiguous paved areas along the public space at 16th Street, and improved visual balance of the 16th Street elevation.

7. Presidential, which opposed the original PUD, supported the Applicant's requested modifications. By letter dated July 8, 2002, Presidential recommended, and JBG agreed to, the following amendments to the conditions set forth in Order No. 906:

   (a) Condition 1. No change.

   (b) Condition 2. The modified PUD shall be developed in accordance with the plans prepared by WDG, dated May 22, 2002, and marked as Exhibit No. 1, and the revised G-1st drawing attached to Exhibit No. 5 in the record, as modified by the guidelines, conditions, and standards herein.

   (c) Condition 3. No change.

   (d) Condition 4. Landscaping shall be in accordance with the revised G-1st plan attached to Exhibit No. 5 in the record.

   (e) Condition 5. Retail signage along the 16th Street frontage of the building shall be limited to two signs, neither of which may exceed 30 feet in area. A building

identification sign will also be permitted. There shall be no more than two retail entrances along 16th Street in addition to the building entry.

(f) Condition 6. No change.

(g) Condition 7. The garage entrance shall be located either on K Street or from the rear alley. A minimum of 42 fixed parking spaces or 76 managed spaces shall be provided in the garage. The Applicant will remove the existing curb cut on 16th Street. There shall be no signage along 16th Street, permanent or movable, noting the location of the garage entrance.

(h) Condition 8. The valet service may not be located along 16th Street.

(i) Condition 9. No change.

(j) Condition 10. The existing condition shall be replaced with the following: Managed parking shall be provided in the building.

(k) Conditions 11 through 15.B. No change.

(l) Condition 15.C. The Applicant shall have the flexibility with the design of the PUD to adjust the exact locations of the retail entrances along 16th Street to accommodate the tenant layout. The landscape plan may be adjusted to accommodate the retail entrances.

(m) Condition 16. Given the unique nature of this property and the unique circumstances of this case, as described in the Findings of Fact in Order No. 906, this case shall not serve as, and may not be cited as, a precedent for the rezoning to C-4 of any other property zoned SP-2 in the 16th Street corridor or for the introduction of retail uses and entrances thereto in the SP zone.

(n) Condition 17. No building permit for the PUD modification would be issued by the Department of Consumer and Regulatory Affairs ("DCRA") until the Applicant has recorded a Notice of Modification of Zoning Commission Order No. 906 in the Land Records of the District of Columbia. The Notice of Modification shall include true copies of Zoning Commission Order No. 906 and the modification order. The recordation of the Notice of Modification shall bind the Applicant and any successors in title to construct on and use the PUD site in accordance with the modification order and any amendments thereof.

(o) Conditions 18 through 20. No change.

8. The OP recommended approval of the application, concluding that the proposed modifications were consistent with the original project and with recommendations made in OP's final report on the original PUD dated June 6, 2000.

9. By report dated September 9, 2002, D-DOT expressed its support for the relocation of the garage entrance from 16th Street. D-DOT recommended that the driveway to the parking garage be paved with concrete material with different scoring than the adjacent sidewalk.

10. ANC 2B expressed its support for the application, specifically the Applicant's plans to (a) relocate the parking garage entrance from 16th Street to K Street or the public alley; (b) set back the penthouse so that it has a less prominent appearance; (c) add additional green space on 16th Street; and (d) make design changes so the building is more in character with the 16th Street Corridor.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide public benefits, 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, "provided that the project offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience," 11 DCMR § 2400.2.

2. The requested modifications to the originally approved PUD will carry out the purpose of Chapter 24 of the Zoning Regulations to encourage construction of well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

3. Approval of this application as a modification to the original PUD is provided for under the Zoning Regulations and is appropriate within this regulatory scheme for carrying PUDs to final completion.

4. The proposed modifications are not a fundamental change to the purpose, benefits, and amenities included in the original PUD but represent an improvement of the PUD approved in Order No. 906. The modifications are consistent with the design and intent of the original PUD.

5. Approval of the application will promote the orderly development of the PUD site 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.

6. The proposed modifications enhance the original PUD project through the provision of additional green space and the additional penthouse setbacks along 16th Street; the enhancement of the proposed building, including its relation to 16th Street, and the corresponding special characteristics of the 16th Street Special Treatment Area; the alleviation of traffic concerns along 16th Street; and the responsiveness of the proposed modifications to the community's concerns.

7. The Commission credits the conclusions of OP and D-DOT, as well as the testimony of JBG and Presidential, that the requested PUD modifications will not have an adverse impact on the surrounding community or on the District of Columbia.

8. The Commission notes JBG's commitment to the completion of the PUD, as indicated by its obtainment of building permits in a timely manner and fulfillment of its obligations under Order No. 906 by entering into a construction agreement with the Marshall Heights Community Development Organization and contribution of $280,000 towards the completion of seven (7) single-family homes at the Banneker Ridge project.

9. The proposed PUD modifications are not inconsistent with the District Elements of the Comprehensive Plan for the National Capital. The PUD, as modified, is located within the Central Employment Area and will promote the District as the national center for business and financial activity. The PUD's refined design will maintain and enhance the physical integrity and character of both the 16th Street Special Treatment Area and the District of Columbia as the Nation's Capital.

10. The PUD modifications are also not inconsistent with the Ward 2 Element of the Comprehensive Plan and with the designations in the Generalized Land Use Map for high-density commercial use of the PUD site and for mixed-use, high-density residential/medium-high density commercial use of the 16th Street frontage.

11. The proposed modifications can be approved with conditions that will ensure that the development will not have an adverse affect on the surrounding area.

12. The Commission is required under D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the recommendations of the affected ANCs. The Commission notes that ANC 2B recommended approval of the proposed modifications.

13. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

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 modifications to the PUD approved by Zoning Commission Order No. 906 for the property located at 1000-1010 16th Street, N.W., Square 184, Lot 74 (formerly lots 59 and 842). The approval of these PUD modifications is subject to the guidelines, conditions, and standards set forth in Order No. 906, as amended and supplemented below:

1. Condition No. 2: The modified PUD shall be developed in accordance with the plans prepared by WDG, dated May 22, 2002, marked as Exhibit No. 1, and the revised G-1st drawing attached to Exhibit No. 5 in the record, as modified by the guidelines, conditions, and standards herein.

2. Condition No. 4: Landscaping shall be in accordance with the revised G-1st plan attached to Exhibit No. 5 in the record.

3. Condition No. 5: Retail signage along the 16th Street frontage of the building shall be limited to two signs, neither of which may exceed 30 square feet in area. A building identification sign shall also be permitted. There shall be no more than two retail entrances along 16th Street in addition to the building entry.

4. Condition No. 7: The parking garage entrance shall be located on K Street, or at the option of JBG, at the rear of the building accessed from the rear alley. A minimum of 42 fixed parking spaces or 76 managed spaces shall be provided in the garage. JBG will remove the existing curb cut on 16th Street. There shall be no signage along 16th Street, permanent or movable, noting the location of the garage entrance.

5. Condition No. 8: The valet service shall not be located along 16th Street.

6. Condition No. 10: Managed parking shall be provided in the building.

7. Condition No. 15: The applicant shall have the flexibility with the design of the PUD in the following areas:

    a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;

    b. To vary the number and location of parking spaces, not to decrease below the minimum of 42 spaces; and

c. To adjust the exact locations of the retail entrances along 16th Street to accommodate the tenant layout. The landscape plan may be adjusted to accommodate the retail entrances.

8. Condition 16: Given the unique nature of this property and the unique circumstances of this case, as described in the Findings of Fact in Order No. 906, this case shall not serve as, and may not be cited as, a precedent for the rezoning to C-4 of any other property zoned SP-2 in the 16th Street corridor or for the introduction of retail uses and entrances thereto in the SP zone.

9. No building permit for this PUD modification shall be issued by the DCRA until the Applicant has recorded a Notice and Acknowledgment of Modification of Zoning Commission Order No. 906 in the Land Records of the District of Columbia in a form satisfactory to the Office of the Corporation Counsel. The Notice and Acknowledgement shall be executed by the owners of the Property and include true copies of Zoning Commission Order No. 906 and this modification order. The Notice and Acknowledgment shall bind the owners of the PUD site (including the Applicant) and any successors in title or interest to construct on and use the PUD site in accordance with Zoning Commission Order 906, as modified by this and any future orders.

10. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA until the Applicant has filed a certified copy of the Notice and Acknowledgement with the records of the Zoning Commission.

11. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, application shall be filed for a building permit as specified in 11 DCMR §§ 2408.8 and 2409.1. Construction shall start within three (3) years of the effective date of this order.

12. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

Vote of the Zoning Commission was taken at a special meeting on October 17, 2002, to **approve** the application for proposed action by a vote of **4-0-1** (Anthony J. Hood, James Hannaham, Peter May, and John G. Parsons to approve; Carol J. Mitten not voting, having recused herself).

Vote of the Zoning Commission was taken at its public meeting on November 18, 2002, to **adopt** the application for final action by a vote of **4-0-1** (Anthony J. Hood, Peter May, James Hannaham, and John G. Parsons to approve; Carol J. Mitten not voting, having recused herself).