

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



MEMORANDUM

To: Office of Documents and Administrative Issuance (via-email)
From: Sharon S. Schellin *SS*
Secretary to the Zoning Commission
Date: March 30, 2009
Re: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on April 3, 2009:

1. Z.C. Order No. 02-51B (~~CASE NO. 02-51B~~);
2. Z.C. Order No. 05-25A (Case No. 05-25A); and
3. Z.C. Order No. 06-21A (Case No. 06-21A).

Attachment

ZONING COMMISSION
District of Columbia
CASE NO. 02-51B
EXHIBIT NO. 5

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ZONING COMMISSION
District of Columbia
CASE NO. 02-51B
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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 02-51B**

Z.C. Case No. 02-51B

(Center for Strategic and International Studies, Inc. –

**Time Extension – First-Stage Approval of a Planned Unit Development Located at
1616 Rhode Island Avenue, N.W. (Square 182, Lot 82))**

September 8, 2008

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) was held on September 8, 2008. At the meeting, the Commission approved the request of the Center for Strategic and International Studies, Inc. (“Applicant”) for a time extension of the First-Stage approval of a planned unit development (“PUD”) for Lot 82 in Square 182, located at 1616 Rhode Island Avenue, NW (“Property”). The request was made pursuant to Chapters 1 and 24 of the District of Columbia Zoning Regulations. The Commission determined that this request was properly before it under the provisions of § 2408.10 of the Zoning Regulations.

FINDINGS OF FACT

1. By Z.C. Order No. 02-51A, effective June 29, 2007, the Commission approved the First-Stage of a Two-Stage PUD for the Property. The approved First-Stage PUD is for an office building comprised of approximately 130,000 square feet and a floor area ratio (“FAR”) of 8.4. The Commission approved a maximum building height of 104 feet and approximately 90 parking spaces.
2. On June 26, 2008, prior to the expiration of the First-Stage PUD, the Applicant filed a request to extend the validity of the First-Stage PUD approval for a period of one year, such that an application for the Second-Stage PUD must be filed no later than June 29, 2009. The request stated, in relevant part, that the extension was necessary because of new ownership of the Property. The Applicant in Z.C. Case No. 02-51A secured First-Stage PUD approval for a building that was designed as a speculative office building. The Applicant subsequently purchased the Property for use as its headquarters. Shortly after purchasing the Property, the Applicant held a design competition to ensure it could produce a building design that meets its needs as well as the District’s goals for the site. After the initial design process concluded, the Applicant retained an architecture firm to further refine the building design to accommodate the Applicant’s needs. Given the timing of its purchase of the property, the amount of time it took to choose and hire an architect, to refine its program and evaluate design decisions, the Applicant was not able to meet the deadline for filing an application for the Second-Stage of the PUD before the expiration of the First-Stage order.
3. Advisory Neighborhood Commission (“ANC”) 2B, the ANC within which the Property is located, was automatically a party in the instant case, as well as the original PUD case, Z.C. Case No. 02-51A. The University of California was also granted party status in Z.C. Case No. 02-51A. Accordingly, the Applicant served

both the ANC and the University of California a copy of the extension request and provided at least 30 days for them to respond. No responses were received.

4. By report dated August 20, 2008, the Office of Planning ("OP") recommended approval of the one-year extension request. The OP report stated that it could not identify any changes of material fact that would undermine the Commission's earlier justification for the First-Stage approval of the PUD. It found that there was good cause for the extension and that all parties to the First-Stage PUD case had been served.
5. At its regularly scheduled public meeting on September 8, 2008, the Commission reviewed and approved the one-year time extension.

CONCLUSIONS OF LAW

The Commission may extend the validity of a PUD for good cause shown upon a request made before the expiration of the approval, provided: (a) the request is served on all parties and all parties are allowed 30 days to respond; (b) there is no substantial change in any material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and (c) substantial evidence that there is good cause for the extension based on the criteria established in Section 2408.11. (11 DCMR § 2408.10.) The three criteria are: (a) an inability to obtain sufficient project financing for the PUD, following an applicant's good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the Applicant's control; (b) an inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD Order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or (c) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the PUD order. (11 DCMR § 2408.11.)

The Commission concludes the Applicant complied with the notice requirements of 11 DCMR § 2408.10(a) by serving all parties with a copy of the application and allowing them 30 days to respond.

The Commission concludes there has been no substantial change in any material facts that would undermine the Commission's justification for approving the original PUD.

The Commission concludes the Applicant presented substantial evidence of good cause for the extension based on the criteria established by 11 DCMR § 2408.11(a), including the fact that the Applicant recently purchased the property and is refining the design of the building to suit its needs.

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 one-year time extension of the First-Stage PUD approval in Z.C. Case No. 02-51A.

The final PUD approved by the Commission shall be valid until June 29, 2009, within which time an application shall be filed with the Zoning Commission for review and approval of the Second-Stage of the PUD. If no second stage application is filed, the first stage approval will expire on that date.

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 Section 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, gender identity or expression, familial status, family responsibilities, genetic information, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that 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.

For the reasons stated above, the Commission concludes that the Applicant has met its burden; it is hereby **ORDERED** that the application be **GRANTED**.

On September 8, 2008, upon the motion of Chairman Hood, as seconded by Vice Chairman Jeffries, Zoning Commission **ADOPTED** this Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, Peter G. May, and Michael G. Turnbull to adopt; Curtis L. Etherley, Jr. having recused himself, not voting).

In accordance with the provisions of 11 DCMR § 3028.8, this Order shall become final and effective upon publication in the *D.C. Register* on **APR -3 2009**.