

Government of the District of Columbia

ZONING COMMISSION



Zoning Commission Order No. 213  
Case No. 77-26P  
April 13, 1978

Pursuant to notice, public hearings of the District of Columbia Zoning Commission were held on January 17, 1978, January 30, 1978 and February 13, 1978. At these hearing sessions the Zoning Commission considered an application by Georgetown University for preliminary approval of a Planned Unit Development and related amendment to the zoning map of the District of Columbia.

FINDINGS OF FACT

1. The applicant in this case, Georgetown University, originally filed an application for a map change from SP to C-3-B which was later amended to include an application for preliminary approval of a planned unit development. The amendment was accepted by the Commission at its October 13, 1977 meeting. The property is bounded by fifth, sixth, D and E Streets, N.W., (Square 489 Lots 815, 818, 831, 832 and 833) in the area generally known as Judiciary Square. The area of the site totals approximately 57,250 square feet and is now used as a commercial parking lot which can accommodate approximately 250 cars.
2. The subject site was formerly the location of the Law Department of the Georgetown University, established at this location in 1898. The Law School now occupies a new facility recently constructed at 600 New Jersey Avenue, N.W., and the subject site is now a commercial parking lot. The property included in this application covers approximately three-fourths of Square 489. The remainder of the square is occupied by the offices of the Recorder of Deeds of the District of Columbia at Sixth and D Streets, N.W., two row structures which house offices and a carry-out restaurant, and a four-story structure at 506 Fifth Street, which houses a bondsman's office and law offices. The two buildings at the corner of 5th and D Streets are historic structures, one being the old D.C. Jail House.

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EXHIBIT NO.36

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3. Square 489 is adjacent to the eastern edge of the central business district with C-3-B zoning to its immediate south, C-4 immediately west, and SP to the north and east. To the west, on Sixth Street between D and E Streets, are a nine-story office building and a ten-story office-retail building. South of this square are the new court facilities of the District of Columbia. East of the subject property is the U.S. Court of Military Appeals Building, the center portion of the Judiciary Square area including the Pension Building and the Old City Hall, the Municipal Center and the U.S. Department of Labor Building. The square north of the subject property is devoted to a variety of uses, including the headquarters of the Salvation Army, a sightseeing company, law and bondsman's offices, and the new Engine Company No. 2 firehouse.

4. Judiciary Square is an area of unique architectural and historical character and of particular importance to the city as a whole. The Planned Unit Development process, under which the Zoning Commission can approve a specific site plan, height and bulk requirements use restrictions and other design factors, is an appropriate method for controlling development on the site.

5. The site is within the area for which a master plan for Judiciary Square was developed in 1971 by the D.C. Department of General Services, and approved by the National Capital Planning Commission. The plan proposed the grouping of government office buildings adjacent to the Square. The plan proposed that new buildings be of uniform height, and be setback from Judiciary Square along both 4th and 5th Streets, N.W. Both the WMATA building in Square 487 and the new firehouse in Square 488 have observed the setback along 5th Street. The master plan shows an office building for Square 489 with a height of ninety feet and a forty foot setback along the 5th Street frontage.

6. The planned unit development proposes the construction of a general use office building with two floors of retail space. The preliminary plans propose a ten-story building with floor area ratio of 7.0, a gross floor area of approximately 400,000 square feet, a height of 120 feet and a lot occupancy of approximately seventy-four per cent.

Three levels of the building would be below ground. The ground floor and the first level below ground would be devoted to retail space. The total gross floor area devoted to retail space would be approximately 34,350 square feet. The remaining two levels below grade are devoted to parking and mechanical storage. Parking spaces for 237 cars and spaces for 25 bicycles are proposed. Pedestrian access to the building would be from Fifth Street and Sixth Street, N.W. Vehicular and service access would be provided at the southern end of the building adjacent to the remaining structures in Square 489. Special architectural treatment will be provided at street level on the Fifth Street frontage and the structure will occupy the entire Sixth Street frontage from the northern lot line on E Street to the lot line north of the Recorder of Deeds Office on the south.

7. The PUD application and rezoning will increase the maximum permitted floor area ratio from 5.5 to 7.0 and the maximum permitted height from ninety to 130 feet. The Height Act of 1910, however, effectively restricts buildings constructed on this square to a maximum of 120 feet. A change in use would also be permitted by the rezoning. The S-P District permits all types of residential development as a matter of right and the conversion of existing buildings to offices is limited to use for chanceries, non-profit organizations, labor unions, architects, dentists, doctors, lawyers, and other similar professional persons. New construction to house the aforementioned limited office uses is subject to Board of Zoning Adjustment approval as a special exception in the SP District. General office and retail uses are permitted as-a-matter of right in the C-3-B District.

8. The Commission finds that restriction of the proposed development to the limitations of the Judiciary Square plan would effectively prevent development of this site. The Commission finds that the setback of buildings from the Square itself is appropriate, to line up with existing new buildings to the south. The Commission finds that the height of 120 feet, particularly in view of the space in part created by the setback, would not be inappropriate in this location.

9. As the subject site is completely cleared of structures, the rezoning of this site will entail no relocation of residential housing and will not decrease the housing stock of the city.

10. Under the proposed planned unit development, off-street automobile parking would be provided in accordance with the minimum requirements of the C-3-B District. Furthermore, off-street loading facilities would be provided at the minimum rate required in the C-3-B District.

11. On the basis of testimony presented at the public hearing by the applicant's traffic consultant, it was established that because of excellent public transportation in the area, sixty-five per cent of the employees of the proposed structure would utilize public transportation for their work trips.

12. The D.C. Department of Transportation, by memorandum dated January 17, 1978, and by testimony at the hearing reported that it did not anticipate measurable adverse impacts due to the proposed development. Moreover, the Department stated that the existing transportation system can serve the project without requiring modifications or additional public expenditures. The Commission so finds.

13. The D.C. Department of Environmental Services, by report to the Municipal Planning Office established that there is sufficient water and sanitary sewerage capacity to service the proposed development. Solid waste management will be provided under private contract for which the Department has adequate disposal capacity. The Department stated that the trunk services for storm water management serving this area are deficient, and that on-site storm water management facilities be provided.

14. The applicant, as a part of its plan, will install a water retention system on the roof of the proposed building that will improve existing conditions and lessen the present impact on the storm water sewer system serving this area.

15. The Fire Department, by report dated November 28, 1977, indicated no adverse condition that would affect the operations of the Fire Department. The Commission so finds.

16. The Municipal Planning Office, by report dated March 6, 1978, and by testimony presented at the public hearing, stated that the overall project is appropriate as a planned unit development and meets the general requirements of the PUD process. The proposed project would be consistent with plans for the area by providing general use office space where it is now prohibited. It is anticipated that construction of this project will increase the private market's confidence in the future of the area and will result in a better utilization of this property. It will also increase the quality of retail services available to area workers. The Municipal Planning Office recommended that this application should be approved on a preliminary basis subject to conditions. The Commission so finds.

17. There was no report from Advisory Neighborhood Commission 2C.

CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling the development of this site.
2. Approval of the application would be consistent with the purpose of the Zoning Act, "to promote such distribution of land uses as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity and recreational, educational and cultural opportunities, and as would tend to further economy and efficiency of supply of public services."
3. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Maps of the District of Columbia.
4. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding area.

DECISION

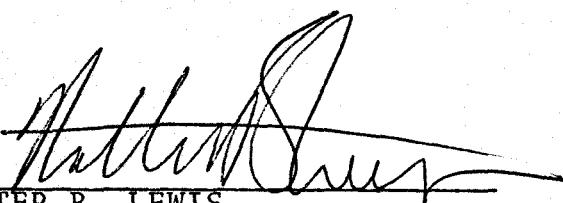
In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby Orders Approval of the preliminary application for a Planned Unit Development, for Lots 815, 818, 831, 832 and 833 in Square 489, located at and bounded by Fifth, Sixth, D and E Streets, N.W., subject to the following guidelines, conditions and standards:

1. An application for a change in zoning from SP to C-3-B shall accompany the application for final approval of the planned unit development.
2. The overall FAR for the project shall not exceed 7.0.
3. The maximum height of the project shall not exceed 120 feet, provided that roof structures may exceed the 120 feet limit, but shall not exceed 18'6" in height above the roof upon which they are located.

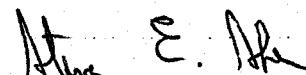
4. The use of the building shall be restricted to office and supporting accessory uses, and retail space and supporting accessory uses, provided that no such retail uses shall be visible from the exterior of the building on 5th Street, N.W., that there be no signs on the 5th Street frontage advertising the presence of the retail uses, and that there be no direct access to the retail uses from the exterior of the building on 5th Street.
5. Off-street automobile parking shall be provided in accordance with the minimum requirements of the C-3-B District and shall be computed in accordance with the gross floor area devoted to individual uses in the building.
6. Off-street loading facilities shall be provided at the minimum required in the C-3-B District.
7. Vehicular access to parking and loading areas shall be by way of 5th and 6th Streets, N.W.
8. Pedestrian access to the retail levels of the buildings shall be provided from 6th Street, N.W., and the interior arcade of the building.
9. A convenient and secure parking area for a minimum of 25 bicycles shall be provided.
10. The building shall be set back approximately forty feet from the 5th Street property line to line up with the WMATA building located between "F", G, 5th and 6th Streets, N.W. The applicant may wish to respond to the set back requirements of the Judiciary Square Master Plan in a number of ways including creation of a court or plaza area or other appropriate alternatives. A detail landscaping plan shall be submitted by the applicant which shows the use and treatment of this setback area.
11. The applicant shall provide facilities for storm water retention on the roof of the building which meet the requirements of the Department of Environmental Services.

12. The design of the exterior facade and the materials of the building shall be in accordance with the requirements of the Municipal Center-Judiciary Square Master Plan.

Vote of the Commission taken at the public meeting of March 9, 1978: 3-1 (Walter B. Lewis, Theodore F. Mariani, and George M. White to approve with CONDITIONS, John G. Parsons opposed and Ruby B. McZier not present, not voting).



WALTER B. LEWIS  
Chairman



STEVEN E. SHER  
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on April 13, 1978 by a vote of 3-1 (George M. White, Theodore F. Mariani and Walter B. Lewis to adopt, John G. Parsons opposed, Ruby B. McZier not voting by proxy, not having heard the case).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is effective on 20 APR 1978.

# Memorandum • Government of the District of Columbia

TO: File

Department,  
Agency, Office: Zoning Secretariat

FROM: Cecil B. Tucker

Date: May 15, 1979

SUBJECT: Notification

re: Case No. 78-17/77-26F

On the above date copies of the Zoning Commission Order No. 252  
were mailed to the following and place into the file.

1. Norman M. Glasgow  
Wilkes & Artis  
1666 K Street, N.W.  
Suite 600  
Washington, D.C. 20006
  
2. Bishop Edward H. Moore, Chairperson  
ANC-2C  
715 G Street, N.W.  
Suite 204  
Washington, D.C. 20001

ZONING COMMISSION  
CASE No. 78-17/77-26F  
EXHIBIT No. 45

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 252

Case No. 78-17/77-26F

April 12, 1979

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on October 30, 1978. At this hearing session the Zoning Commission considered an application from Georgetown University for final approval of a Planned Unit Development and related Map Amendment to the Zoning Map of the District of Columbia.

FINDINGS OF FACT

1. This is an application for final approval under Article 75 of the District of Columbia Zoning Regulations for a Planned Unit Development (PUD). The filing also involves a change of zoning from SP-2 to C-3-B. The property contains approximately 57,250 square feet of land, bounded by Fifth, Sixth, and "E" Streets, N.W. (Square 489 - Lots 815,818,831,832, and 833), and located in the area generally known as Judiciary Square.
2. The subject site was formerly the location of the Law Department of the Georgetown University, established at this site in 1898. The Law School now occupies a new facility recently constructed at 600 New Jersey Avenue, N.W. The subject site is now a commercial parking lot accommodating approximately 250 cars.
3. The Zoning Commission granted preliminary approval of the PUD and related map amendment by Order No. 213, dated April 13, 1978. The Commission specified guidelines, conditions, and standards in that order which governed the use, height, bulk, density, and design of the site.
4. The SP-2 District permits limited office and apartment use to a maximum floor area ratio (FAR) of 6.0 for apartment houses or other residential uses and a maximum of 3.5 FAR for hotel or other permitted uses, and a maximum height of ninety feet. Under the PUD process, the maximum permitted FAR is 6.0 and the maximum permitted height is 130 feet in the SP District.

5. The C-3-B District permits a high bulk major business and employment center for office and retail commercial uses, to a maximum FAR of 6.5, and a maximum height of ninety feet. Under the PUD process the maximum permitted FAR is 7.0 and the maximum permitted height is 130 feet.
6. As adopted in 1958, the SP District in which this property is located was bounded by "Eye" Street on the north, 2nd Street on the east, "D" Street on the south and 6th Street on the west. In 1972, as part of the rezoning in the Mount Vernon East area, the SP District was expanded to include parts of Square 516 and 484 and all of the Square W-484. These squares are located southeast of Mount Vernon Square between "Eye" and "K" Streets, N.W. In June of 1977, Square W-484 was rezoned from SP back to C-3-B. To the north and east of Judiciary Square, a number of zoning changes have occurred primarily in furtherance of the Downtown Urban Renewal Plan.
7. In June of 1978, by Order No. 216, the Zoning Commission rezoned Squares 564,566,568, and 570 from SP to C-3-B. These squares are generally bounded by 2nd,3rd, and "D" Sts., and Massachusetts Avenue, N.W. and are located to the east of Judiciary Square. Those squares immediately adjacent to Judiciary Square were left in the SP District at that time and the Commission indicated that individual applications for Planned Unit Developments for these properties were to be encouraged.
8. The property included in this application covers approximately three-fourths of Square 489. The remainder of the square is occupied by the offices of the Recorder of Deeds of the District of Columbia at Sixth and "D" Streets, N.W., two row structures which house offices and a carry-out restaurant, and a four-story structure at 506 Fifth Street, which houses a bondsman's office and law offices. The two buildings, at the corner of 5th and "D" Streets are historic structures, one being the old D.C. Jail House.
9. Square 489 is adjacent to the eastern edge of the central business district with C-3-B zoning to its immediate south, C-4 immediately west, and SP to the north and east. To the west, on Sixth Street between "D" and "E" Streets, are a nine-story office building and a ten-story office-retail building. South of this square are the new court facilities of the District of Columbia. East of the subject property is the U.S. Court of Military Appeals Building, the center portion of the Judiciary Square area including the Pension Building and the Old City Hall, the Municipal Center and the U.S. Department of Labor Building.

- The square north of the subject property is devoted to a variety of uses, including the headquarters of the Salvation Army, a sightseeing company, law and bondsman's offices, and the new Engine Company No. 2 firehouse.
- 10. Judiciary Square is an area of unique architectural and historical character and of particular importance to the city as a whole. The Planned Unit Development process, under which the Zoning Commission can approve a specific site plan, height and bulk requirements, use restrictions and other design factors, is an appropriate method for controlling development on the site.
- 11. The site is within the area for which a master plan for Judiciary Square was developed in 1971 by the D.C. Department of General Services, and approved by the National Capital Planning Commission. The plan proposed the grouping of government office buildings adjacent to the Square. The plan proposed that new buildings be of uniform height, and be setback from Judiciary Square along both 4th and 5th Streets, N.W. Both the Washington Metropolitan Area Transit Authority (WMATA) building in Square 487 and the new firehouse in Square 488 have observed the setback along 5th Street. The master plan shows an office building for Square 489 with a height of ninety feet and a forty foot setback along the 5th Street frontage.
- 12. The PUD proposes the construction of a ten story office building with retail commercial uses on two floors, underground parking to accommodate a minimum of 237 cars based on the proposed FAR, and a minimum set-back along the Fifth Street frontage of forty feet.
- 13. The maximum height proposed is 120 feet, the total lot occupancy is approximately seventy-seven percent, and the proposed FAR is 7.0.
- 14. The applicant proposes to provide parking for 242 automobiles on the second and third cellar levels of the building.
- 15. The original atrium design was modified to accommodate a setback on the 5th Street side of the project. This set back area will be heavily landscaped and will be paved in brick. A ten foot deep arcade is provided along all street frontages of the building. Access to the retail shops is primarily by way of an interior lobby and there is no direct access to the retail areas from the 5th Street frontage. Access to the underground parking is from the southern end of the 6th Street side and is included within the building envelope. Service access is provided from 6th Street at two locations and a total of five loading berths are provided.

16. All facades of the proposed building will consist of buff-colored, precast concrete panels and bronze tinted windows. The proposed facade is similar in character to that of the WMATA building at 5th and "G" Streets, N.W., two blocks to the north. The first floor recessed arcade area will be faced with dark brown granite panels. The penthouse facing will consist of buff colored, precast concrete panels identical in color to the panels of the principal facades.
17. In granting preliminary approval to the application, the Zoning Commission established guidelines, conditions and standards applicable to the final application. As to those guidelines, conditions and standards, the Commission finds as follows:
  - a. The applicant filed an application for a map amendment from SP-2 to C-3-B with the application for final approval of a Planned Unit Development.
  - b. The floor area ratio (FAR) for the proposal is 7.0 with a lot occupancy of seventy-seven percent.
  - c. The height of the proposed building is 120 feet with a roof structure 18'-6" above the roof line.
  - d. The use of the building is restricted to office and supporting accessory uses, and retail space and supporting accessory uses with no retail uses visible nor directly accessible from Fifth Street. However, direct access to the retail space is provided from the Sixth and "E" Streets frontages, as appropriately controlled in the conditions set forth in this order.
  - e. Off-street parking, in accordance with minimum requirements of the C-3-B District, is provided on the second and third cellar levels and accommodates 242 automobiles.
  - f. Off-street loading facilities, in accordance with minimum requirements of the C-3-B District, is provided on the first level and accommodates loading for five vehicles.
  - g. Vehicle access to parking and loading areas is from Sixth Street.
  - h. Pedestrian access to retail levels is from the interior arcade, Sixth, and "E" Streets.
  - i. Parking for 25 bicycles is provided on the second cellar level.

- j. The Fifth Street frontage of the proposed building is set-back 39'-7" from the street line,
- k. An eight-inch storm water retention capability on the roof of the proposed building has been provided.
- l. The design of the exterior facade and materials of the building is in accordance with the requirements of the Municipal Center - Judiciary Square Master Plan.
18. The District of Columbia Municipal Planning Office (MPO) by memorandum dated October 26, 1978 and by testimony presented at the hearing recommended approval of the application on the grounds that the proposal conforms to the guidelines, conditions, and standards outlined in Order # 213. The MPO also believes that the proposal fulfills the requirements of Article 75 of the Zoning Regulations. The Commission so finds.
19. The D.C. Department of Transportation, by memorandum dated January 17, 1978, and by testimony at the preliminary hearing reported that it did not anticipate measurable adverse impacts due to the proposed development. Moreover, the Department stated that the existing transportation system can serve the project without requiring modifications or additional public expenditures. The Commission so finds.
20. The D.C. Department of Environmental Services, by report to the MPO of the preliminary hearing established that there is sufficient water and sanitary sewerage capacity to service the proposed development. Solid waste management will be provided under private contract for which the Department has adequate disposal capacity. The Department stated that the trunk services for storm water management facilities be provided.
21. The applicant, as a part of its plan, will install a water retention system on the roof of the proposed building that will improve existing conditions and lessen the present impact on the storm water sewer system serving this area.
22. The Fire Department, by report dated November 28, 1977, indicated no adverse condition that would affect the operations of the Fire Department. The Commission so finds.
23. The Advisory Neighborhood Commission 2C submitted no report on this application.
24. The proposed action was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self-Government and Government Reorganization Act on November 8, 1978. By letter dated December 13, 1978, the National Capital Planning Commission requested that the Zoning Commission postpone final action in the application for a period of sixty days to enable the NCPC to review the Judiciary

Square Master Plan. At its public meeting held on December 14, 1978, the Zoning Commission deferred final action until its meeting held on February 8, 1979.

25. By Memorandum of Action, dated February 1, 1979, the National Capital Planning Commission reported to the Zoning Commission the following comments concerning the height and setback requirement of the Judiciary Square Master Plan:

- A. The master plan requirement for a forty foot setback along 5th Street and a thirty eight foot setback along 4th Street should be retained to create visual unity between the park-like setting of Judiciary Square and the office buildings that form the frame around the Square.
- B. The master plan limitation on the height of buildings at ninety feet to the top of the parapet line measured from the top of the curb opposite the building face fronting on Judiciary Square should be continued.
- C. The master plan requirements should be revised to permit floors above the second floor to project a maximum of ten feet over the building setback line to permit greater flexibility, provide the opportunity for more creative facade design, and encourage variation in the line of facades placed uniformly along the setback line.

26. The Zoning Commission discussed the comments of the Planning Commission at its public meeting held on February 8, 1979. The Zoning Commission finds that the retention of the setback from the street line is appropriate, for the reasons cited by the Planning Commission. The Zoning Commission finds that for those very reasons, the projection into the setback area at the upper floors is inappropriate, since the projection would effectively reduce the setback area to thirty feet, and the building would then be out of line with the WMATA building already constructed at the forty foot setback. The Zoning Commission finds that the establishment of a ninety foot height at the setback line is appropriate, to create a uniform frame for the Square out of the facades of the buildings facing the Square. The Zoning Commission further finds that it is appropriate to allow a greater height behind the original ninety foot height at the setback line, since this is a desirable location for high-density development adjacent to a Metro station within the downtown area and since the C-4 District permits a height of 120 feet or greater immediately across 6th Street to the west. The Zoning Commission determined at the February 8, 1979 meeting that such height in excess of ninety feet should be set back on a one-to-one basis and should not exceed 120 feet, which is the maximum permitted by the Act of 1910.

27. In order to further assess the impact of the proposed height and review how the proposed building would appear, the Commission held a further hearing on the matter on March 5, 1979. At that time, the applicant presented two alternative schemes for exceeding the ninety foot height. The first set of plans, marked as Exhibit 36 of the record, depicts a building with a vertical facade above ninety feet, set back thirty feet from the front of the building. The second set of plans, marked as Exhibit 43 of the record, depicts a building with a slanting facade above ninety feet, with the slant beginning approximately twenty-four feet back from the front of the building.
28. At the March 5, 1979 hearing, the Planning Commission presented a second Memorandum of Action, dated March 1, 1979, which reported that the height requirements as then proposed by the Zoning Commission would not have a negative impact on the interests of the Federal Establishment in the National Capital provided that the transition in height from ninety to 120 feet should take place within an additional minimum thirty foot set back in a manner which will minimize the visual impact which the additional building height will have when viewed from within the Municipal Center-Judiciary Square area.
29. The Zoning Commission finds that the requirement pertaining to height which it had already considered, in conjunction with the initial forty foot setback, would result in the 120 foot portion of the building being substantially removed from Judiciary Square itself, and that these setbacks would offset the impact of the additional height without requiring any further setback.
30. At the March 5, 1979 hearing, pursuant to Paragraph 7501.92, the applicant requested the Zoning Commission to allow the case to be processed under the revised planned unit development process, which had been approved by the Zoning Commission in February, 1979. The Commission finds that the case was heard and considered under the Regulations in effect prior to the recent revisions and that the integrity of the process is challenged by switching the process at the final stage of consideration of the application. The Commission further finds that the final design of the building has not been determined, pending review of building plans by both the Commission of Fine Arts and the Historic Preservation Review Board.

### CONCLUSIONS OF LAW

1. The Planned Unit Development process is an appropriate means of controlling the development of the subject site.
2. Approval of this final application is appropriate, because it is generally consistent with the present character of the area and because it would encourage stability of the area and land values therein.
3. Approval of this final application and change of zone from SP-2 to C-3-B is in harmony with the intent, purpose and integrity of the comprehensive zone plan of the District of Columbia, as embodied in the Zoning Regulations and Map.
4. Approval of this final application for a planned unit development and change of zone from SP-2 to C-3-B is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938, Stat. 797), as amended.

### DECISION

The Commission notes that in the consideration of this case, the Commission has also had before it a planned unit development application for property located on the east side of Judiciary Square. In reviewing both cases, the Commission has therefore looked at the entire Judiciary Square area, and has arrived at a decision which sets a uniform framing for design of buildings around the Square. The Commission notes however, that each case must be decided on the specific set of facts surrounding that property, that no two properties are identical and therefore that the decision in regard to this application cannot automatically serve as a precedent for other properties in the Judiciary Square area.

For the reasons stated in the findings of fact, the Commission hereby denies the request of the applicant to have the application considered under the revised planned unit development process.

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission hereby orders APPROVAL of the final application for a Planned Unit Development and adoption of a change in zoning from SP-2 to C-3-B for lots 815, 818, 831, 832, and 833 in Square 489 bounded by 5th, 6th, "D", and "E" Streets, N.W., subject to the following guidelines, conditions, and standards:

1. The applicant shall be bound by all of the conditions contained in Order No. 213, dated April 13, 1978, which granted preliminary approval of the planned unit development, except as those conditions may be specifically amended by any subsequent conditions of this order.
2. The height of the building shall not exceed ninety feet at the front facade of the building as it faces Judiciary Square, which facade shall be set back thirty-nine feet, seven inches from the street line. Above the ninety-foot height, the building shall not project above a line drawn at a forty-five degree angle from the parapet of the front facade of the building, provided that the maximum height permitted shall be 120 feet. Roof structures may exceed the 120 foot limit, but shall not exceed eighteen feet, six inches in height above the roof upon which they are located, and further shall be set back from all edges of the roof upon which they are located a distance equal to one foot for each foot of height above the level of the roof upon which they are located.
3. The final design of the building shall be based on the architectural drawings by Vlastimil Koubek, marked as Exhibit 36 of the record, as those plans may be modified by any conditions imposed herein, and further shall receive the approval of the Commission of Fine Arts and the Historic Preservation Review Board.
4. In regard to the first floor retail frontage on 5th Street:
  - a. There shall be no display of goods or services associated with such retail uses.
  - b. There shall be a maximum of fifty square feet of non-opaque glass area in each bay of the building.
  - c. Any non-opaque glass shall be tinted to minimize passage of light through such glass.

5. In regard to the first floor retail frontage on "E" Street:
  - a. Conditions b and c of Item NO. 3 above shall apply to the facade.
  - b. Access to the retail uses in the arcade on the "E" Street side of the building shall be permitted from the arcade, provided that no such access shall be permitted in the bay closest to 5th Street.
  - c. Signs will be permitted in the "E" Street arcade, provided that the signs are located flat against the interior wall of the arcade, are back lighted and match the finish of the building.
6. Retail uses may be permitted in the first cellar level of the building. Such uses may front on the courts located in the setback area in front of the first floor of the building, provided there shall be no signs on or display in the court areas. There may be stairs located in the courts leading from the street level to the level of the courts.
7. There shall be evergreen plant material or other appropriate year round screening device in front of or along the wall of the historic structures located south of and adjacent to the setback area in front of the first floor of the building.
8. The principal exterior material shall be pre-cast concrete of buff-tone color similar to other new construction in the Judiciary Square area.
9. Approval of the application by the Zoning Commission and/or the Board of Zoning Adjustment shall not relieve the applicant of the responsibility of conforming to all other applicable codes and ordinances of the District of Columbia.
10. The change of zoning shall not be effective until the recordation of the covenant required by Sub-section 7501.2 and completion of the planned unit development process.

The vote of the Commission taken at the public hearing of October 30, 1978: 3-0 (Walter B. Lewis, Theodore F. Mariani, and John G. Parsons, to approve - Ruby B. McZier and George M. White, not present not voting).

Ruby B. McZier

RUBY B. MCZIER  
Chairperson  
Zoning Commission

Steven E. Sher

STEVEN E. SHER  
Executive Director  
Zoning Secretariat

This Order was adopted by the Zoning Commission at its public meeting held on April 12, 1979 by a vote of 4-1 (Theodore F. Mariani, George M. White, Walter B. Lewis and Ruby B. McZier to adopt, John G. Parsons opposed by proxy.

In accordance with Section 2.61 of the Rules of Practice and Procedure Before the Zoning Commission of the District of Columbia, the amendment to the Zoning Map is effective on

# Memorandum • Government of the District of Columbia

TO: File

Department,  
Agency, Office: Zoning Secretariat

FROM: Cecil B. Tucker *CBT*

Date: July 13, 1979

SUBJECT: Mailing of Order No. 287

On July 13, 1979 a copy of the above mentioned order No. 287 was mailed by certified mail to the following parties:

Norman M. Glasgow  
1666 K Street. N. W. Ste. 600  
Washington, D. C. 20006

Vlastimil Koubek  
1200 - 17th St NW  
Wash DC 20036

Raymond C. Brophy  
1150 - 17th St. N. W.  
Wash DC 20036

Daniel H. Shear NCPC  
1325 G Street, N. W.  
Wash DC 20004

Harriett B. Hubbard  
2039 New Hampshire Ave. NW  
Wash DC 20009

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ZONING COMMISSION

CASE No. 78-17/77-26F

EXHIBIT NO. 48

ZONING COMMISSION  
District of Columbia  
CASE NO.78-17  
EXHIBIT NO.48

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 287

CASE NO. 78-17/77-26F

June 14, 1979

On April 12, 1979, the Zoning Commission adopted Order No. 252, which granted the application of Georgetown University for final approval of a planned unit development for property located in the block bounded by 5th, 6th, "D" and "E" Streets, N. W. That order became final on May 15, 1979, pursuant to Section 2.611 of the Rules of Practice and Procedure before the Zoning Commission.

Subsequent to the filing of the application, but prior to the conclusion of the hearings on this application, the Zoning Commission adopted Order No. 251, which created a new process for planned unit development's. Paragraph 7501.92 of the new regulations reads as follows:

A planned unit development which has already received preliminary approval or for which an application was filed before the effective date of this section may continue to be processed to completion in accordance with the regulations in effect at the time of filing, or may be processed in accordance with this revised section at the option of the applicant with the approval of the Zoning Commission.

At the further hearing held on March 5, 1979, by request marked as Exhibit No. 40 of the record, the applicant requested the Commission to process this application under the revised PUD process, which would eliminate review of the application by the Board of Zoning Adjustment.

The Commission considered this request at its meeting of April 12, 1979, when it adopted the final order. At that time the Commission ruled to deny the request. Finding of Fact No. 30 of Order No. 252 reads in pertinent part:

The Commission finds that the case was heard and considered under the Regulations in effect prior to the recent revisions and that the integrity of the process is challenged by switching the process at the final stage of con-

sideration of the application. The Commission further finds that the final design of the building has not been determined, pending review of building plans by both the Commission of Fine Arts and the Historic Preservation Review Board.

On June 6, 1979, the applicant filed a Motion to Waive Time for Further Consideration of Amendment to Order No. 252. Under Section 2.641 of the Rules of Practice and Procedure, a motion for reconsideration can be filed by a party within ten days. The applicant's request was filed eight days late.

As to the request for a waiver of the time within which to file a motion, the Commission finds the following:

1. Section 1.53 of the Rules of Practice and Procedure authorizes the Commission to extend or shorten any prescribed period of time for good cause shown.
2. Approval of the design of the project by the Joint Committee on Landmarks acting as the Historic Preservation Review Board occurred on June 1, 1979, and the motion could not have been filed prior to approval by the Joint Committee.
3. The time circumstances described above constitute good cause for extending the period for filing a motion.

As to the applicant's renewed request for processing under the revised PUD regulations, the Commission finds as follows:

1. The effect of the request is to allow the applicant to file directly for building permits without requiring review by the Board of Zoning Adjustment, as was previously the normal requirement.
2. The responsibility of the BZA is to implement the PUD as approved by the Commission, and the Board has a very limited jurisdiction over PUD's.
3. The Commission has expended considerable time and effort in reviewing and deliberating upon this case, and has received and evaluated considerable input in reaching a decision. The Commission believes that the final design which it has approved represents the best possible solution for development of the square, and that the design should be fixed by the Commission

so that it cannot be changed.

4. The plans submitted by the applicant, when read in conjunction with this order and Order No. 252, are sufficiently detailed to enable review by the Zoning Administrator, without benefit of review by the BZA. No useful purpose would be served by requiring review by the Board of the same plans which the Commission has already reviewed and approved.
5. By transmittal to the permit Branch, dated May 30, 1979, which is part of Exhibit No. 46 of the record, the Commission of Fine Arts approved the preliminary design. On June 1, 1979, the Joint Committee on Landmarks, pursuant to the Historic Landmark and Historic District Protection Act of 1978 granted preliminary approval to the project, and indicated no objection to the design, height or setback of the proposed building.

Based on the foregoing findings and reasons, the Commission therefore hereby orders the following:

1. The applicant's request to have the application processed under the new PUD regulations is granted. The applicant may therefore file an application for a building permit with the proper authorities of the District of Columbia. The Zoning Regulations Division of the Department of Housing and Community Development shall not approve such a permit application unless:
  - a. The plans conform in all respects to the plans approved by the Zoning Commission, as those plans may have been modified by any guidelines, conditions or standards which the Zoning Commission may have applied.
  - b. The applicant has recorded a covenant in the land records of the District of Columbia, between the owner or owners and the District of Columbia, satisfactory to the Office of the Corporation Counsel and the Zoning Regulations Division, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders or amendments thereof of the Zoning Commission.
2. The conditions contained in Order No. 252 are amended

as follows:

- a. Reference to the Board of Zoning Adjustment in condition No. 9 shall be deleted.
- b. Change the section number reference in Condition No. 10 from 7501.2 to 7501.812.
- c. Add the following new conditions:
  11. The Chief of the Zoning Regulations Divisions shall not have authority to approve any modifications to the development as specified in the conditions contained in Order No. 252 and this order.
  12. The final planned unit development approved by the Zoning Commission shall be valid for a period of two years, within which time, application must be filed for a building permit, as specified in Paragraph 7501.81 of the Regulations. Construction shall start within three years of the date of final approval. The Commission may extend those periods for good cause shown upon proper request of the applicant before the expiration of the approval. If no application for permit is filed, construction has not started within the period specified or no extension is granted, the approval shall expire, the zoning shall revert to the pre-existing regulations and maps and the approval shall not be reinstated unless a new application is filed.

Vote of the Commission taken at its public meeting held on June 14, 1979: 4-0 (Theodore F. Mariani, Walter B. Lewis, Ruby B. McZier and John G. Parsons to waive the Rules and approve the change of process, George M. White not present, not voting).

Ruby B. McZier  
RUBY B. MCZIER  
Chairperson

Steven E. Sher  
STEVEN E. SHER  
Executive Director

In accordance with Section 2.6 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final on \_\_\_\_\_.