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2009 OCT 27 PM 1:50

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October 27, 2009

Jamison Weinbaum
Director, Office of Zoning
441 4th Street NW, Suite 210S
Washington, DC 20001

Re: American Institute of Architects and the American Architectural
Foundation (collectively, the "Applicant") - Minor Modification
Request in Zoning Commission Case No. 08-27

Dear Mr. Weinbaum:

On September 30, 2009, ANC 2A05 Commissioner Eric Malinen e-mailed a letter to Mr. Richard Nero, Deputy Director of the Office of Zoning, regarding Zoning Commission Order No. 08-27 (the "Order"). Mr. Malinen noted that paragraph 8 on page 3 of the Order incorrectly refers to C-3-C zoned property being immediately adjacent to the north of the Applicant's property. (A copy of that e-mail is attached to this letter.) While the issue raised by Mr. Malinen does not have any impact on the validity of the Zoning Commission's decision to rezone the Applicant's property, the Applicant hereby requests that the Commission correct the Order to note that a C-3-C Zone District is located one block to the north of the Applicant's property, rather than adjacent to the Applicant's property.

The Applicant requests that the Commission modify the Order pursuant to 11 DCMR 3030, as the incorrect statement is clearly a case of an "inadvertent mistake." Pertinent portions from the record of this case (including portions of Mr. Malinen's testimony) are attached to this letter. These materials clearly show that the Zoning Commission understood that a C-3-C Zone District was located one block north of the Applicant's property, rather than immediately adjacent to the Applicant's property. Therefore, the Applicant requests that Zoning Commission Order No. 08-27 be amended by replacing the word "Immediately" with the words "One block" in the second bullet point of Paragraph 8 of the Order.

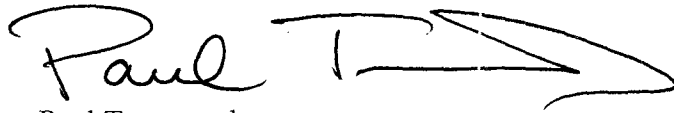
ZONING COMMISSION
District of Columbia
401601270v1
CASE NO. 08-27
EXHIBIT NO. 35

October 27, 2009

Page 2

If you have any questions regarding this minor modification request, please contact me. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Tummonds". The signature is stylized with a large, looped "P" and a long, sweeping horizontal line extending to the right.

Paul Tummonds

Enclosures

cc: Eric Malinen, ANC 2A05
Armando Irizarry, ANC 2A Chair
Barbara Kahlow, West End Citizens Association

Tummonds, Paul

From: eric malinen [ericmdc@yahoo.com]
Sent: Wednesday, September 30, 2009 6:08 PM
To: richard.nero@dc.gov; dcoz@dc.gov
Cc: Tummonds, Paul; barbara.kahlow@verizon.net; armandoirizarry@msn.com
Subject: Apparent factual error in ZC Order No. 08-27 (AIA matter)

September 30, 2009

Mr. Richard Nero
Deputy Director
DC Office of Zoning

Dear Mr. Nero:

I am an ANC Commissioner within the Foggy Bottom and West End ANC (ANC 2A), but today am writing in my individual capacity to point out an apparent error in a ZC order.

I see what appears to be a factual error in Zoning Commission Order No. 08-27, "Consolidated Planned Unit Development and Related Amendment to the Zoning Map; American Institute of Architects and American Architectural Foundation," dated June 22, 2009, and released July 15, 2009. In the section named "PUD Site," at page 3, paragraph 8, the order states: "The area immediately adjacent to the Property is comprised of the following: ... Immediately to the north is C-3-C property" I believe, however, that immediately north of the subject property is the FDIC building at 1776 F Street, NW, which is not zoned C-3-C, and, similarly, the GSA building at 1724 F Street, NW, to the immediate northeast. The apparent error is significant because if the statement quoted is false then there is no C-3-C property at all immediately adjacent to the subject property. The importance of this, in turn, is this: it can make an easier case for justifying upzoning from SP-2 to C-3-C if it can be said that the subject property is already immediately adjacent to a C-3-C property.

If I am correct about the factual error, and it can be said that the subject property, post-upzoning, is C-3-C surrounded by only governmental and transitional zones, then I ask that this present letter be made a part of the proceeding and that, if possible, the zoning order be revised by correcting the statement quoted above. If the statement quoted above is false and yet remains, it gives false precedent for future cases.

I pointed out this issue in my testimony before the Commission on May 18, 2009. As the transcript shows at pages 110 to 111, I noted at that time that there was no C-3-C property immediately adjacent to the subject property, and contrasted that to a previous Foggy Bottom and West End upzoning ZC case at 2013 H Street, NW. I actually used the concept and words, "immediately adjacent," in that testimony to make the point I am making again today.

Thank you for your consideration of this matter.

Sincerely yours,
Eric Malinen
ANC Commissioner for 2A-05

cc: Paul Tummonds, counsel for AIA and the Foundation
Barbara Kahlow, West End Citizens Association
Armando Irizarry, Chair, ANC 2A

10/13/2009

May 18, 2009
Public Hearing
Eric Malinen Testimony

110

1 sitting on the floor there. It's huge, either
2 focus areas in central Washington. This is
3 the core. We're not talking about the core
4 here. Metro Center retail core, we're down
5 here, adjacent to Greater Washington, Foggy
6 Bottom/West End. We're not in the core, not
7 yet.

8 The precedent here is what bothers
9 us a little bit. Applicant itself cites
10 precedent. One block north, it should a
11 couple of times in its brief; one block north
12 is C-3-C, but if you look at the map here, I
13 assure you there's no C-3-C south of that C-3-
14 C you see there, not yet.

15 Even if granted here, it won't be
16 contiguous. It will still be half a block
17 from the nearest C-3-C.

18 Finally, along these lines, the
19 2013 H Street case has been mentioned. That's
20 a very recent case, and Ms. Kahlow was
21 assisting on that, I believe. The chair at
22 the time for the ANC, Ahser Corson, was here.

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1 He made a brief statement.

2 We also opposed that, again pretty
3 much on precedent. I thought personally at
4 that time they were trying very hard to
5 renovate a building and keep much of its
6 historic elements, but we didn't like the idea
7 of C-3-C. They would have gone for PUD, too,
8 but they didn't have a lot zoning.

9 In the 2013 H Street case which was
10 before you recently, and we have your decision
11 here, I just noted that part of the reasons
12 for approving that C-3-C is that, quote, the
13 subject property is, quote, located
14 immediately adjacent to medium density
15 commercial C-3-C -- that's immediately
16 adjacent -- zoned property, allowing for an
17 extension of existing zoning boundary line.

18 Here it wasn't SP-2, but it was the
19 R-5-D zoning, but the notion should still
20 suffice. It was adjacent there, and it was
21 cited as precedent. Applicant cited as
22 precedent. Everybody will use this -- pardon

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Applicant's Pre-Hearing Statement
Exhibit 12 of the record

of life and mental well-being, and architecture is a critical piece of that experience. Through outreach programs, grants, and educational resources, the AAF seeks to inspire people to become engaged in the built environment around them. The AAF also sponsors competitions and scholarships in accordance with its mission to increase awareness about the importance of architecture.

II. The Proposed PUD Project

A. Description of Surrounding Area and Uses

The Subject Property is located just west of the White House and a few blocks north of the National Mall. Large commercial and federal office buildings dominate much of the immediate neighborhood. The Federal Reserve building flanks the AIA headquarters just to the east, and the FDIC owns and occupies the building just to the north. Across 18th Street is the large General Services Administration building. Generally, the area surrounding the Subject Property is zoned C-3-C (one block to the north), with SP-2 and GOV (the GOV zoning applies to the myriad federal government uses) dominating the areas to the south and to the east. The Subject Property and surrounding area are depicted in Exhibit A.

Though large commercial and government buildings dominate the neighborhood, pedestrian activity is limited. None of the nearby federal government buildings have ground-level retail accessible from the street, and few of the commercial buildings have street-level retail. As a result, there is very little street level vitality or vibrancy in this area. This is likely the result of the SP-2 Zoning, which limits the ability for retail uses that are directly accessible from the street.