Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

RECEIVED
D.C. OFFICE OF ZONING
2001 JAN 19 PM 4:24

January 19, 2001

Mr. Robert Sockwell, Chair
District of Columbia Board of Zoning Adjustment
441 – 4th Street, NW, Suite 210
Washington, DC 20001

Re: ANC-2A request for Appeal Before the Board of Zoning Adjustment of the Zoning Administrator's decision of Zoning Commission Case No. 93-5F/ 91-18P and Case No. 93-5F/91-18P @1957 E Street, NW.

Dear Mr. Sockwell:

Attached is a copy of BZA Form 1 requesting the BZA to review the Zoning Administrator's decision in the above case. The approval in granting of a permit by the Zoning Administrator in error fails to meet the binding requirements of Zoning Commission Order No. 746, dated, November 15, 1993 Case No. 93-5F/91-18P and Order No. 746-A. dated March 11. 1996, Case No. 93-5F/91-18F (PUD and Map @ 1957 E Street, NW).

Respectfully submitted

Elizabeth B. Elliott, Chair
Advisory Neighborhood Commission 2A

Attachment (1)

[redacted]

BZA
Case No. 16701
Exhibit No. 1

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.1

Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

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Attached is a copy of BZA Form 1 requesting the BZA to review the Zoning Administrator's decision in the above case. The approval in granting of a permit by the Zoning Administrator in error fails to meet the binding requirements of Zoning Commission Order No. 746, dated, November 15, 1993 Case No. 93-5F/91-18P and Order No. 746-A. dated March 11. 1996, Case No. 93-5F/91-18F (PUD and Map @ 1957 E Street, NW).

Respectfully submitted

Elizabeth B. Elliott, Chair
Advisory Neighborhood Commission 2A

Attachment

BZA Form 1
(Revised 7/17/95)

Docket No. 16701

RECEIVED
D.C. OFFICE OF ZONING
2001 JAN 19 PM 4:24

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPEAL

NOTE: See reverse side of this form for filing instructions, filing fees and information required by the Board.

DO NOT MAIL DO NOT MAIL

TO THE BOARD OF ZONING ADJUSTMENT:

Pursuant to Sections 3105 and 3106 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken from the administrative decision of Michael Johnson, Zoning Administrator, DCRA
(Name of administrative officer and title)

made on December 28, 2000, to the effect that George Washington University was issued Permit# B434036 to erect an 11 story multi use building academic, residential, and offices.
(Date of decision)

Premises affected are located at 1957 E Street, N.W.,
(Street Address)

Lot(s) 835, Square(s) 122

in the District of Columbia, in Zoning District C-3-C.

Present Use of Property: Not in use.

Proposed Use of Property: 11 story multi-use building: academic, residential, and offices.

Owner of Property: George Washington University.

Address of Owner: 2025 F Street, N.W. Washington, D.C. 20006.

Name and address of appellant, if other than owner: Advisory Neighborhood Commission-2A, c/o St. Mary's Court, 725 24th Street N.W., Washington, D.C. 20037.

State manner in which appellant is aggrieved by administrative decision: Permit issued violates binding conditions of original PUD issued to previous owner, i.e. residential to dormitory, offices to Academic; increased property size; change of use; adverse environmental impact conditions.

State briefly the allegations of error in administrative decision: Reference ZC Order 746 conditions # 17, 19, and 21.

Relevant Sections of the Zoning Regulations: 11 DCMR 3028

Date: JANUARY 19, 2001 Signature: Elizabeth B. Elliott/Chair
(Appellant)*
Advisory Neighborhood Commission 2A

*If appeal is filed by agent of the appellant, Form 1 (notice of appeal) shall be accompanied by a letter signed by the appellant authorizing the agent to act on his behalf in this appeal.

TO BE NOTIFIED OF HEARING AND DECISION:

Name: Elizabeth B. Elliott/Advisory Neighborhood Commission-2A
Chair
Address: c/o St. Mary's Court, 725 24th Street, N.W., Washington, D.C.

Zip Code 20037 Phone No. 202-736-1775 OR (202.783.5480)

ANY APPEAL THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED

Government of the District of Columbia
OFFICE OF ZONING

Rec'd. 11/29/00

November 20, 2000

Commissioner Barbara Spillinger
Chair ANC 2A
c/o St. Mary's Court
725 24th Street, NW
Washington, DC 20037

Re: Motion to Declare PUD Null and Void – (1957 E Street; Square 122, Lot 835)

Dear Commissioner Spillinger:

The Office of Zoning is in receipt of your letter dated October 2, 2000, concerning a motion submitted by your organization, Advisory Neighborhood Commission 2A, pertaining to the property located at 1957 E Street, N.W. (Square122, Lot 835). The letter has been previously forwarded to Mr. Michael Johnson, Zoning Administrator, for action.

The letter refers to the above referenced site; a property, prior owner, Associated General Contractors, obtained conditional approval for a Planned Unit Development (PUD) and George Washington University (GWU) has now acquired the property and begun construction.

Your motion requested a declaration that the Zoning Commission Order approving the PUD, be rendered null and void - contending that the GWU plans "to move an on-campus institutional use to this off campus site and to build dormitory rooms without long-term taxpaying occupants, i.e., plans that differ substantially from the conditional 1993 PUD" This motion presents an issue of enforcement that should be pursued by your organization with the Zoning Administrator, who can make a determination of whether or not GWU's use of the site is in compliance with the conditions stated in the PUD order or allowed as a matter of right.

Regrettably, the motion is not properly before the ZC. The Zoning Administrator (ZA), at the Department of Consumer & Regulatory Affairs (DCRA), is responsible for administering, interpreting and enforcing the D.C. Zoning Regulations as well as the conditions of Board of Zoning Adjustment and Zoning Commission orders. The ZA is responsible for zoning code compliance and assuring the correct permit(s) and

certificate(s) of occupancy have been obtained by the applicant. All correspondence pertaining to foregoing issues should be addressed to:

Mr. Michael Johnson, Zoning Administrator
Department of Consumer & .
Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002
(202) 442-4455 / (202) 442-4863-fax
mjohnson@dcra.dcgov.org

If the ANC-2A feels that any of the permits or certificates of occupancy issued by the ZA are not in accordance with the ZC orders and/or conditions, the next appropriate action would be an appeal of the ZA's decision to the BZA to issue the requisite building permits or certificates of occupancy.

We hope we have been of some assistance.

Sincerely,
OFFICE OF ZONING

Jerrily R. Kress, FAIA
Director

cc: Mr. Michael Johnson, Zoning Administrator
Commissioner Anthony Hood
Commissioner Carol Mitten
Ms. Barbara Kahlow

PERMIT

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B434036

Date 12/28/00 (Type) NEW CONST/NEW BLDG.

Address of work 1957 E ST. N.W.

Lot 835 Square 122

TOTAL PERMIT FEE $72,875.00

FILING FEE $ 2,000.00

Permission is hereby granted to

THE GEORGE WASHINGTON UNIVERSITY (Owner)

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

NO. DATE

FEE PAYABLE $ 70,875.00

FOR INSPECTIONS CALL 727-7562

Authorized work and conditions of performance thereof:

TO ERECT AN II STORY MULTI USE BUILDING ACADEMIC, RESIDENTIAL AND OFFICES. SEAPRATE ELECTRICAL, PLBG AND MECH. INSTALLATION PERMITS ARE REQUIRED. INSPECTION BRANCH 442-4641. 32301.

Builder—

Valuation $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stories

Zone C-3-C To be occupied as ACADEMIC RESIDENTIAL AND OFF.

Height of terrace above grade Projections:

Address of owner 2025 F ST. N.W.

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER

DIRECTOR

Chief, Permit Issuance Branch

D. MINOR

Permit Clerk

EB220012 Rec'd on 12/28/00 By DISTRICT GOVERNMENT
Rec'd From GEORGE WASHINGTON UNIVERSITY
Check #36059 OTR/CCDO CASHIER OFFICE
12/28/00 10:55 By Clk# 15
BUILD STRUCTURE & EQUI Amount $*70,875.00

A

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 746
Case No. 93-5F/91-18P
(Final PUD & Map Amendment @ 19th & E Sts., N.W. - AGC)
November 15, 1993

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on July 26, 1993, to consider an application from the Associated General Contractors of America (AGC). The application requested second-stage (final) approval of a Planned Unit Development (PUD) and related Map Amendment, pursuant to the provisions of Chapter 24 and Section 102, respectively, of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR Subsection 3022.

FINDINGS OF FACT:

1. The application which was filed on March 3, 1993, requested a second-stage (final) approval of a planned unit development (PUD) and a related change of zoning from SP-2 to C-3-C for Square 122, Lot 835.

2. By Z.C. Order No. 720, in Case No. 91-18P, dated July 13, 1992, the Zoning Commission granted first-stage (Preliminary) approval of a PUD and the related change of zoning from SP-2 to C-3-C for the PUD site. The Proposed PUD will have a gross floor area of 239,986 square feet, and floor area ratio (FAR) of 7.96, of which 174,563 square feet and a 5.79 FAR would be devoted to commercial uses and 65,423 square feet and 2.17 FAR devoted to residential uses. The building will have a height of 107 feet, a lot occupancy of 100 percent and provide below grade parking for about 200 cars.

3. The applicant, the AGC, proposes to construct a larger and more modern office facility, which can accommodate its headquarters' present and future needs and have sufficient rental space to enable the AGC remain in the District of Columbia. AGC also proposes to develop a 47-56 unit apartment component as part of the project.

4. The PUD site is zoned SP-2 and is located at 1957 E Street, N.W. It is on the north side of E Street between 19th and 20th Streets. The site is 30,159 square feet in area and rectangular in shape, with approximately 311 feet of linear frontage on E Street, N.W. and approximately 97 feet of linear frontage on both 19th and 20th Streets, N.W.

5. The western portion, approximately one-third of the PUD site is presently developed with a four-story building used as the AGC headquarters. The remainder of the site is used as a surface parking lot.

6. The PUD site is contiguous to Mitchell Hall, a nine-story George Washington University dormitory, to the northeast and a five-story public parking garage to the northwest in Square 122.

7. The area surrounding the subject site contains a wide variety of land uses. Major office development is located to the south, east and west. Immediately east, across 19th Street, N.W., is the General Services Administration ("GSA") office building which is 107 feet in height and occupies the entire square. The American Red Cross local headquarters building is situated west of the site across 20th Street, N.W. and is approximately 66 feet in height. To the south across E Street and a three-block-long Federal park, are the federal Office of Personnel Management and Department of Interior office buildings.

8. The SP-2 zone district permits matter of right, medium/high-density development, including all kinds of residential uses, with limited offices for non-profit organizations, trade associations and professionals permitted as a special exception requiring approval of the Board of Zoning Adjustment; a maximum height of 90 feet; a maximum floor area ratio ("FAR") of 6.0 for residential and 3.5 for other permitted uses; and a maximum lot occupancy of 80 percent for residential uses, 200 percent for other permitted uses.

9. The C-3-C zone district permits matter of right major business and employment centers of medium/high-density development, including office, retail, housing and mixed-uses; a maximum height of 90 feet; a maximum FAR of 6.5; and a maximum lot occupancy of 100 percent.

10. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this second-stage (final) PUD application. The Commission may also impose development conditions, guidelines and standards that may exceed or be less than the matter of right standards identified above for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.

11. The District of Columbia Generalized Land Use Element of the Comprehensive Plan for the National Capital includes the PUD site in the high-density, commercial land use category.

12. AGC proposes to construct the project in two phases on land which it owns in fee simple. The proposed mixed-use development includes approximately 174,563 square feet of commercial office space (5.79 FAR) and approximately 65,423 gross square feet of residential space (2.17 FAR). The proposed roof elevation of the 8th floor of the office component is 94 feet, measured from E Street and is aligned with the cornice of the GSA building. There is a 20-foot setback along the three street frontages and then the top floor rises to 107 feet in height. The total density of the project is 7.96 FAR. The building will occupy 100 percent of the lot and there will be 200 parking spaces in a parking garage below grade.

13. Loading and parking access to the office portion of the development will be from 19th Street, N.W. loading and parking access to the residential portion of the development will be from 20th Street, N.W. There will be two 12' x 30' and one 10' x 20' loading berths for the office portion of the building. There will be one 12' x 30' and one 10' x 20' loading berths for the residential portion of the building.

14. AGC, through its representative at the public hearing, indicated that it continues to remain in the District of Columbia where it has been located since 1918 and is anxious to achieve second-stage approval of the project so it can move forward with the development. Approval of the subject application would allow the retention of a major, national association; provide approximately 323 new, permanent jobs in the District of Columbia; and create approximately 437 construction jobs over a two-year period; and result in an increase of approximately $2.54 million annually in tax revenues to the District of Columbia. The application indicates that the proposed PUD results in the efficient and economical utilization of the site; provides attractive urban design and new residential housing units; and adequately assures the protection of the public health, safety, welfare and convenience. The project is consistent with the existing physical character and land use patterns in the area; will not adversely impact the various District services; and will result in a positive financial impact to the District of Columbia.

15. AGC's architect and urban planner, indicated at the public hearing that the second-stage application meets all of the standards set forth in the Zoning Commission's first-stage

Order (Zoning Commission Order No. 720). The architect/urban planner testified that the office component's eighth floor roof line will be at 94 feet in order to match the cornice line on the adjacent GSA building's facade. The building will have a maximum height of 107 feet, matching the 107-foot height of the GSA building. He indicated that the proposed project was in complete conformance with the high-density, commercial land use designation of the site on the Comprehensive Plan Generalized Land Use Map. He testified that the proposed uses are consistent with the surrounding land uses and the goals and objectives of the Comprehensive Plan and that the project will not have any adverse land use impact on the surrounding area.

16. The architect/urban planner testified that the setbacks have been increased to 20 feet along the street frontage perimeter of the building, above the 94-foot height elevation and that the penthouse has been lowered into the top floor so that only 8 feet of the mechanical penthouse is exposed to exterior view. He indicated that the height of the project has been carefully examined and redesigned so as to minimize any potential impact on the surrounding properties.

17. The architect/urban planner described the consultation process with the community and indicated that the community had significant input into the design detail and the landscaping plans. Through the testimony of the architect/urban planner, AGC requested certain flexibility in the following development features:

    a. Vary the number of residential units to allow for larger or smaller units, in response to market conditions, so long as there are no less than 47 residential units in the project with no reduction in the gross square footage devoted to residential use;

    b. Change the location and design of all interior components including partitions, structural slabs, doorways, hallways, columns, stairways, location of elevators and electrical/mechanical rooms, so long as the variations do not change the exterior envelope of the building including the penthouse;

    c. Make minor adjustments in the window detailing, including the flexibility to shift the location of entrance doors on the ground floor to accommodate tenant uses;

d. Make minor design changes in response to requirements and final approval of the Commission of Fine Arts;

e. Provide not more than 5,000 square feet of ancillary, retail-related space on the ground floor of the property;

f. Vary the type of planting materials based on the availability at the time completion so long as the plant sizes and species are comparable to those shown on the landscaping plan;

g. Change the location and types of parking spaces provided, increase the number of spaces provided and make other modifications to below-grade space to accommodate the needs of office tenants, residential tenants and handicapped persons, including the potential elimination of a level of commercial parking without reduction of the total number of required spaces.

18. AGC requested that the project be permitted to be developed in two-phases with the office component being developed in the first phase. AGC proposes to apply for a building permit for the residential component within one year of the issuance of the Certificate of Occupancy for the office component and that, upon receipt of the building permit, AGC must achieve a Certificate of Occupancy for the residential component within two and one-half years.

19. AGC's transportation consultant, testified that the traffic generated by the project can be accommodated on the existing street network and that all intersections would operate at acceptable levels of service. He indicated that he had studied the two additional intersections, as requested by the Department of Public Works and the Commission pursuant to the first-stage approval of the project, and found that neither of these intersections would be adversely affected by the proposed project. He concluded that the project would not create any adverse transportation impact on the District or the neighborhood, that the project satisfied a number of goals and policies of the District of Columbia and is consistent with the transportation element of the Comprehensive Plan.

20. The District of Columbia Office of Planning (OP), by report dated July 15, 1993 and by testimony at the public hearing, indicated that the applicant has met the conditions for the final approval of the second-stage PUD application, as specified by the Zoning Commission Order No. 720. The OP

also indicated that the applicant has made substantial effort to reduce the proposed project's height and perceived bulk and has designed a structure that would he appropriate for the area in which it would be located.

21. The OP added, that the project would be an asset to the surrounding neighborhood and to the city as a whole. Accordingly, the OP recommended approval of the second-stage PUD and the related map amendment, subject to the following conditions regarding the development of the residential component of the project.

    a. The project may be developed in two phases with the office component being developed in the first-phase;

    b. Within one year of issuance of the certificate of occupancy for the office component, the AGC must apply for a building permit for the residential component; and

    c. Upon receipt of a building permit, the AGC must receive a certificate of occupancy for the residential component within two and one-half years.

22. The OP's report also contained the applicant's proposals that the enforcement of the above conditions be handled by the appropriate civil infractions official of the District government. That, any violations of the final PUD order be prosecuted in accordance with Section 2407.5 of the Zoning Regulations and Section 1229.1(c) of the civil infractions law, which specified that failure to comply with a Zoning Commission order will result in substantial fines.

23. Advisory Neighborhood Commission ("ANC") 2A, by letter dated July 26, 1993 and by testimony at the public hearing, supported the application. ANC 2A expressed satisfaction that AGC has made bona fide efforts to work with the community and to accommodate the community's concerns within its project.

24. There were no other persons or parties in support of or in opposition to the proposal either entered into the record or appearing at the public hearing.

25. At the conclusion of the hearing, the Commission finds that the proposed PUD is consistent with the requirements set forth in 11 DCMR Section 2400.

3. The floor area ratio (FAR) for the PUD project shall not exceed 7.96, of which not more than 5.79 FAR shall be devoted to commercial use and not less than 2.17 FAR shall be devoted to residential use.

4. The height of the PUD project shall not exceed one hundred and seven feet (107'), exclusive of the penthouses as shown on Exhibit No. 5B. That portion of the building which exceeds a height of ninety-four (94) feet shall be setback from the 19th, 20th and E Streets property lines at least 20 feet.

5. The mechanical penthouses shall be developed as shown on Exhibit No. 5B and shall not exceed eight feet in height above the parapet of the roof of the office component.

6. The PUD project shall be developed with 47 to 56 residential units.

7. There shall be a minimum of 200 on-site parking spaces with at least one parking space designated for each residential unit. Additional parking spaces may be permitted in public vaults.

8. Loading areas, driveways and walkways shall be located on the site as shown on Exhibit No. 5B of the record.

9. Landscaping shall be provided as shown on the landscape plan marked as Exhibit No. 5B of the record.

10. Antennas shall be permitted on the roof of the building subject to the applicable Zoning Regulations.

11. The entire PUD project may be developed in two phases; that is, the residential component being one phase and the office component being the other phase.

12. If the PUD project is developed in one phase or if the residential component is developed in the first phase, the requirements as contained in Condition Nos. 13 and 14 of this order, shall not apply.

13. If the office component is developed in the first phase, the applicant must apply for a building permit for the residential component within one year of the issuance of the certificate of occupancy for the office component. Upon receipt of the building permit for the residential component, the applicant must receive a certificate of occupancy for the residential component within 2 1/2 years of receipt of the building permit for the residential component.

14. The applicant shall promptly file with the Office of Zoning (OZ) a copy of the certificate of occupancy for the office component, a copy of the building permit application for the residential component, and a copy of the certificate of occupancy for the residential component. Each of the aforementioned copies shall include a cover letter that clearly indicates the date on which the certificates of occupancy were issued by the Department of Consumer and Regulatory Affairs (DCRA) as well as the date on which the building permit application for the residential component was made with DCRA.

15. The applicant shall have the flexibility on the final detailing of the proposed project to:

    a. Vary the number of residential units to allow for larger or smaller units, in response to market conditions, so long as there are not less than 47, nor more than 56, residential units at the site with no reduction in the gross square footage devoted to residential use;

    b. Change the location and design of all interior components including partitions, structural slabs, doorways, hallways, columns, stairways, location of elevators and electrical/mechanical rooms, so long as the variations do not change the exterior envelope of the building including the penthouse;

    c. Make minor adjustments in the window detailing, including the flexibility to shift the location of entrance doors on the ground floor to accommodate tenant uses;

    d. Make minor design changes in response to requirements and final approval of the Commission of Fine Arts;

    e. Provide not more than 5,000 square feet of ancillary, retail space on the ground floor of the project; and

    f. Change the location and types of parking spaces provided, increase the number of spaces provided and make other modifications to below-grade space to accommodate the needs of office tenants, residential tenants and handicapped persons, including the potential elimination of a level of commercial parking without reduction of the total number of required spaces.

16. No self-illuminated signs shall be permitted. Other illuminated signs lit indirectly from ground-mounted or building-affixed lighting shall be permitted. Any signs affixed to the

building must be at the first or second floor level, not larger than twenty-four inches (24") in height and subject to review and approval by the Commission of Fine Arts. Inscriptions in the stone or precast concrete materials of the facades may occur elsewhere and are subject to review and approval by the Commission of Fine Arts.

17. No building permit shall be issued for the PUD project until the applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, satisfactory to the Office of Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). The covenant shall bind the owner and all succesors in title to construct on and use the property in accordance with the order and amendments thereto of the Zoning Commission.

18. The change of zoning from SP-2 to C-3-C for the PUD site shall be effective upon recordation of the PUD covenant as required by 11 DCMR 2407.

19. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.

20. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of the order. Within such time, the applicant must file for a building permit as specified in 11 DCMR 2407.1 and 2406.8. Construction shall start within three years of the effective date of the order.

21. Pursuant to D.C. Code Section 1-2531 (1987), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified as D.C. Code, Title 1, Chapter 25, (1987), and the order would be conditioned upon full compliance with those provisions. Nothing in the order shall be understood to require the Zoning Division of DCRA to approve permits if the applicant fails to comply with any provisions of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at the public meeting on September 13, 1993: 5-0 (John G. Parsons, Jerrily R. Kress, William L. Ensign, William B. Johnson and Maybelle Taylor Bennett - to approve with conditions).

This order was adopted by the Zoning Commission at the public meeting on November 15, 1993 by a vote of 5-0: (Jerrily R. Kress, John G. Parsons, William L. Ensign, Maybelle Taylor Bennett and William B. Johnson, to adopt as corrected).

In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on _____.

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

MADELIENE H. ROBINSON
Director
Office of Zoning

zco746/VCE/LJP

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 746-A
Case No. 93-5F/91-18P
(PUD and Map @ 1957 E Street, N.W.
March 11, 1996

By Z.C. Order No. 746 dated November 15, 1993, the Zoning Commission granted approval of an application from the Associated General Contractors of America (AGC) for a second-stage planned unit development (PUD) and an amendment to the Zoning Map from SP-2 to C-3-C for Lot 835 in Square 122 located at 1957 E Street, N.W. pursuant to the provisions of Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The PUD approval was for the construction of a mixed-use building, including residential and commercial uses with below grade parking for 200 cars. The PUD will be the site of the new AGC headquarters. The PUD project would have a maximum floor area ratio (FAR) of 7.96 of which not more than 5.79 FAR will be devoted to commercial use and not less than 2.77 FAR will be devoted to residential use.

Z.C. Order No. 746 became final and effective on December 10, 1993. The validity of that order was for two years; that was until December 10, 1995, provided application for a building permit was filed within that period of time, after which construction would have to start by December 10, 1996.

Pursuant to 11 DCMR 2406.10 of the Zoning Regulations, the Commission may extend the validity of the PUD approval for good cause shown upon a request made before the expiration of the approval.

By letter dated November 13, 1995, counsel on behalf of the AGC, filed a request to extend the validity of the previously approved PUD for a period of two years.

This letter indicated that the basis for an extension of the validity of the PUD is as follows:

> "Unfortunately, the real estate recession in the area and the unavailability of financing for the project without a substantial pre-leasing commitment from another office user (in addition to the AGC) makes it impossible for the applicant to proceed at the present time. The applicant

has retained a well regarded local commercial broker to seek such additional tenants for the project. Since the approval of the PUD, the AGC (through its brokers) has actively solicited both private and federal tenants for the portion of the new office building which will not be for the AGC's own use. The applicant will proceed as expeditiously as possible as soon as tenant commitments and financing can be secured."

By memorandum dated November 29, 1995, the District of Columbia Office of Zoning (OZ) referred this matter to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Map or Regulations, or to the Comprehensive Plan, since the Zoning Commission initially decided the case will affect the request.

By memorandum dated December 29, 1995, OP recommended that the applicant's request be granted and stated that no purpose would be served in this instance by denying the request. OP indicated the following:

"The zoning classification applicable to the site has not changed since the PUD was originally approved in November 1993. The Comprehensive Plan Amendments Act of 1994, effective October 6, 1994, changed the land use classification of the site from high-density commercial to medium-density commercial and high-density residential. The Comprehensive Plan Amendments Act is consistent with the Commission's previously approved mixed-use PUD for the site.

The applicant has stated that it has invested a great deal of time and money through a commercial broker to seek the additional tenant(s) necessary to secure financing. That search has been unsuccessful to date. In short, the present request for a time extension is the result of current adverse market conditions.

The Zoning Commission has the authority to approve PUD time extensions. In the Office of Planning's opinion, no purpose would appear to be served by denying the requested extension. Accordingly, the Office of Planning recommends that the Zoning Commission grant a two-year extension of Order No. 746, pursuant to Subsection 2406.10 of 11 DCMR."

On February 12, 1996, at its regular monthly meeting, the Zoning Commission considered the request of counsel for AGC and the OP report.

The Zoning Commission concurs with the OP and the applicant. The Commission also determined that an extension of time of the validity of this PUD is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia hereby ORDERS that the validity of Z.C. Order No. 746 be EXTENDED for a period of two years; that is until December 10, 1997. Prior to the expiration of that time, the applicant shall file for a building permit, as specified in 11 DCMR 2406.8. Construction shall start within one year; that is not later than December 10, 1998.

Vote of the Zoning Commission taken at the public meeting on February 12, 1996: 4-0 (Maybelle Taylor Bennett, John G. Parsons, Jerrily R. Kress and Herbert Franklin, to approve a two-year PUD extension).

This order was adopted by the Zoning Commission at its public meeting on March 11, 1996 by a vote of 4-0: (Jerrily R. Kress, John G. Parsons and Herbert M. Franklin, to adopt; Maybelle Taylor Bennett, to adopt by absentee vote; Howard Croft not present, not voting).

In accordance with the provisions of 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register; that is, on _____.

JERRILY R. KRESS
Chairperson
Zoning Commission

MADELIENE H. DOBBINS
Director
Office of Zoning

zco746-A/SDB/LJP

INSTRUCTIONS

Any notice of appeal for an administrative ruling as provided by the Zoning Regulations of the District of Columbia that is not completed in accordance with the following instructions shall not be accepted.

1. All appeals shall be made on BZA Form 1. All appeal forms must be completely filled out and be typewritten or printed. All information shall be furnished by the appellant. If additional space is necessary, use separate sheets of paper to complete form.

2. Present this form and supporting documents, in person, to the Board of Zoning Adjustment at 441 4th Street, N.W., Suite 210, Washington, D. C. 20001.

3. At the time of filing an appeal before the Board of Zoning Adjustment, the appellant shall pay a filing fee of $800.00 in accordance with the Board of Zoning Adjustment Schedule of Fees (11 DCMR 3380), except as provided in Subsections 3380.3 and 3380.4.

4. INFORMATION REQUIRED TO BE SUBMITTED AT THE TIME OF MAKING AN APPEAL:

   Any other details, plans or statements pertinent to the appeal required by the Director, Office or Zoning and the Supplemental Rules of Practice and Procedures before the Board of Zoning Adjustment of the District of Columbia.

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