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April 24, 2001

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D.C. BOARD OF ZONING
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Ms. Sheila Cross Reid
Chairperson
D.C. Board of Zoning Adjustment
441 Fourth Street, N.W.
Second Floor
Washington, D.C. 20001

Re: BZA Appeal No. 16701

Dear Ms. Reid and Members of the Board:

Enclosed please find the materials requested by the Board at the April 10, 2001 public hearing.

Should you need anything further, please have a member of the staff contact either of the undersigned.

Sincerely,

Phil T. Feola/SES

Phil T. Feola

Sarah E. Shaw

Sarah E. Shaw

Enclosures

Document #: 1107044 v.1

BZA
Case No. 16701
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.27A1

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2A
Appellant

Appeal No. 16701
Public Hearings: April 10, 2001
May1, 2001

ADDITIONAL RESPONSE OF
THE GEORGE WASHINGTON UNIVERSITY, INTERVENOR

D.C. OFFICE OF ZONING
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I.
Summary Statement Of Issues Defined By Appellant

The Appellant did not file a pre-hearing statement. Based on its March 21, 2001 resolution, and its presentation at the April 10, 2001 public hearing, the University has attempted to distill the Appellant's issues in respect to building permit, which Appellant asserts constitutes error on the part of the Zoning Administrator. These issues are:

1. The University filed building permit applications untimely, that is after deadlines set by the Zoning Commission in the PUD Orders, Zoning Commission Orders No. 746, 746-A, 746-B, (collectively, "Orders") attached as Exhibit A.

2. The use of the PUD site by the University violates the PUD.

3. The Zoning Administrator should have reviewed the proposed uses of the PUD site for compliance with the Orders prior to completion of construction.

4. The University did not comply with the District of Columbia Environmental Policy Act ("DCEPA") (D.C. Code § 6-981 et seq.) and/or the environmental review of the project was flawed; and the failure of the DCRA to send a "notice" that a building permit application was filed is grounds for revoking said building permit.

II.
Summary Response Of The George Washington University

The issues raised by the Appellant are not grounded in fact, have no basis in law and thus, cannot be sustained by the Board. The University followed all proper procedures when applying for the building permit. Likewise, the District, and in particular, the Zoning Administrator, applied all appropriate regulations and standards when reviewing the building permit application and in reaching its decision to grant the building permit. Building Permit No. B434036, attached as Exhibit B, was properly issued and this appeal should be denied.

A. Timeliness

The University completed all of its required tasks within the allotted time deadlines. (See matrix attached as Exhibit C.) Pursuant to Zoning Commission Order No. 746-B, the University had until December 10, 1999 to apply for its building permit and until December 10, 2000 to begin construction. The building permit application and the building permit customer control receipt, attached as Exhibit D, clearly show that the application was filed on December 7, 1999. As described in the Affidavit of Mark Thifault, attached as Exhibit E, actual construction, pursuant to a validly issued excavation and sheeting and shoring permit was commenced on or about October 30, 2000, well before the December 10, 2000 deadline. Thus, the University complied with deadlines set by the PUD Orders and Appellant's argument is without merit.

B. The University's Use of the Property is Permitted Pursuant to the PUD Orders

The Orders, upon recordation of the PUD Covenant, a copy of which is attached as Exhibit F, rezoned the property from the SP-2 Zone District to the C-3-C Zone District and permitted the construction of a mixed-use building for residential and commercial uses. Specifically, the project was approved to include 174,563 square feet of commercial space (5.79

FAR) and 65,423 gross square feet of residential space (2.17 FAR). There is no prohibition in the PUD Orders as to any use. All uses permitted in the C-3-C Zone District are permitted in the project, provided that the building contains at least 2.17 FAR of residential uses, see Condition No. 3 of the Orders. The Orders do not prohibit university use from either the permitted commercial or permitted residential uses.

The Appellant implies that because the residential component of the PUD will house students, it is somehow a violation of the Orders. This implication is without merit. Nowhere, in any of the Orders, is any mention made of who may, or may not, be housed in the residential portion of the PUD. In fact, such a condition would almost certainly violate the District of Columbia Human Rights Act.

The zoning and permissible uses at 1957 E Street are currently defined by the Orders. The University cannot be precluded from establishing university uses at 1957 E Street. The University's planned uses of the Property are consistent with the uses approved by the PUD. The University will use the PUD site for academic, office and residential uses. The fact that the commercial uses planned will serve students and the residential portion of the PUD will house students is immaterial. Pursuant to the Orders, these uses are permitted as a matter-of-right.

In past Zoning Commission cases, when the Commission has wished to put certain, legal constraints on PUD uses, it has done so. For instance, in Zoning Commission Order No. 638, attached as Exhibit G, the approved mixed-use development was to consist of eight floors of office/retail use and two floors of residential use. In this case, the Zoning Commission set forth certain conditions with regard to the type of residential uses, including: (i) the two residential floors of the development could not be used as a hotel, motel, boarding house or private club; (ii) all leases for the residential units were required to be for at least twelve months; and (iii) the

residential units were not to be leased to any corporation, partnership, association, joint venture, government agency, trust, or estate. Therefore, while the Zoning Commission is not legally permitted to create a condition prohibiting University students from living in a certain PUD, it may put some restrictions on the uses within a PUD. In the AGC case, no such restriction was promulgated

The Appellant also takes issue with the mere fact that the University now owns the PUD site. The Orders do not condition approval on the ownership of the site. In fact, to do so would have been unlawful. In National Black Child Development Institute, Inc. v. District of Columbia Board of Zoning Adjustment, 483 A.2d 687, 691 (D.C. 1984), the District of Columbia Court of Appeals held that it is impermissible to limit zoning relief to a particular property owner. However, the identity of the owner of the property is the very crux of the Appellant's argument. When the Zoning Commission originally heard this PUD application, the Appellant supported the application. Now, because it is the University building the same PUD, the Appellant is attempting to stop its construction through this appeal of the building permit.

The Appellant also objects to the University's plans to use a building that is not within its campus plan boundary. This objection is not grounded in current law. It is well established that a private university cannot be prohibited from occupying commercially zoned off-campus property. In Spring Valley Heights Citizens Association v. District of Columbia Board of Zoning Adjustment, 644 A.2d 434 (D.C. 1994), the Court of Appeals found that American University could not be precluded from locating its law school off-campus in a commercially zoned building in which a college or university use is permitted as a matter-of-right. The Board recently relied on that precedent in denying an appeal of Watergate West, Inc., challenging the issuance of a permit for 2616 Virginia Avenue. In BZA Appeal 16507, attached as Exhibit H,

the BZA found that the University could establish a dormitory off-campus as a matter-of-right because the underlying zoning permitted dormitory use without special exception approval.

Thus, Appellant's argument that the University cannot own this PUD, or use the residential portion for students, cannot be sustained and fails as a matter of law and fact.

C. The PUD Will Comply With All Aspects Of The PUD

In reviewing the University's building permit application, the Zoning Administrator reviewed the architectural plans and uses proposed by the University. The Zoning Administrator then made the determination that these plans and uses were consistent with the PUD Orders. The project, as shown on the plans, will have 55 apartment units, at least 200 parking spaces, at least 2.17 FAR of residential uses and not more than 5.79 FAR (actually 4.64 FAR) of other uses, permitted in the C-3-C Zone. As stated above, the uses that are proposed by the University (housing, office and academic uses) are consistent with the uses that are approved pursuant to the PUD.

The University will actually use the PUD for these uses permitted in the Orders. Once it is built, it must be assumed that Department of Consumer and Regulatory Affairs ("DCRA") will insure that it is being used for the permitted uses, residential and commercial. If it is not, then the DCRA will cite the University for a violation and enforce the terms of the PUD.

When the Appellant argues that the University's use of the PUD will violate the standards and conditions of the PUD Orders, it seems actually to be arguing for a reconsideration and modification of the substance of the PUD. This is not the task with which the Board is charged under the Zoning Regulations. The Board does not have jurisdiction to evaluate the merits of the PUD; such an evaluation was already completed by the Zoning Commission, the Office of Planning, and, in fact, by the Appellant, when the PUD application was originally heard.

Presently, the only question properly before the Board is whether any aspect of the Zoning Regulations was violated by the Zoning Administrator's decision that found the University's application for a building permit in conformance with the Zoning Regulations.

D. The Board of Zoning Adjustment Is Not The Appropriate Body To Review A Determination Regarding Environmental Impacts Nor Whether Appropriate "Notice" Has Been Given

1. Environmental Review

The BZA does not have jurisdiction to review anything outside the scope of the Zoning Administrator's ruling. As the Zoning Administrator testified on April 10, 2001, he has no substantive involvement in environmental review or the enforcement of the District of Columbia Environmental Policy Act (DCEPA). Therefore, it is inappropriate for the BZA to review this issue in this appeal because the BZA does not have the jurisdiction to perform such a review. As the District of Columbia Court of Appeals held in Penn-Branch Citizens' Association v. D.C. Board of Zoning Adjustment, No. 80-802, slip op. (D.C. 1981), "[t]he jurisdiction of the BZA is limited to matters regarding the administration and enforcement of zoning regulations[.]" (Emphasis added.) (See Exhibit I.) The DCEPA is not a zoning regulation and interpretation thereof is not properly before the Board. If there is an objection to the way the DCEPA was interpreted and applied by the Department of Health (DOH) and/or the DCRA, such objections may belong before the Directors of those agencies or, in the alternative, before the Board of Appeals and Review. Clearly, the in-depth review of environmental impacts and regulations, which would follow from such an objection, does not belong before the BZA, a body charged solely with interpreting regulations as to zoning, especially in an appeal from a ruling of the Zoning Administrator.

The appropriateness of environmental review by the BZA has arisen before, most often in

"applications" for variances or special exceptions, not in "appeals" of rulings of the Zoning Administrator. The BZA has steadfastly, with the advice of Corporation Counsel, refused to venture into this potential quagmire even in these cases where the BZA's jurisdiction is broader. For instance, the issue was raised before the BZA in a 1991 case in which the BZA approved the construction of a cogeneration facility on the campus of Georgetown University (BZA Order No. 15434). Opponents of the project argued that before approving the power plant, the BZA should require a detailed environmental review. The BZA specifically addressed this issue in its Findings and held that evaluation of environmental impacts is "beyond the expertise and jurisdiction of the Board." This finding was affirmed by the D.C. Court of Appeals in Citizens Coalition v. D.C. Board of Zoning Adjustment, 619 A.2d 940 (D.C. 1993), in which the court found that the BZA had not erred in its refusal to engage in environmental review, when it approved the project, because it conditioned its approval to acknowledge "that the facility complies with air quality regulations set forth by the Environmental Protection Agency and the District of Columbia Department of Consumer and Regulatory Affairs." Id. at 957.

In any event, as a matter of fact, the University complied with the DCEPA, as part of the building permit application process. The University was required to complete an Environmental Impact Screening Form ("EISF") for review by the DOH. The University completed this form and submitted it to the DOH and it is attached hereto as Exhibit J. The DOH, as the lead agency for the DCEPA, is responsible for determining whether additional environmental analysis need be effectuated. In fact, in response to the EISF, DOH required additional analysis, in particular, an ambient air quality study. The University retained Apex Environmental, an expert in these matters, and submitted the study to the DOH.

The District approved this study and in a memorandum from DOH to BLRA, dated

October 20, 2000 "determined that there would be no significant adverse environmental impacts from the proposed project . . . therefore . . . an Environmental Impact Statement will not be required." (Emphasis added.) In addition to this memorandum, several other memoranda, from divisions within the DOH, were issued indicating the completion of different aspects of the complete environmental review of the project. These memoranda, all of which indicate that no further environmental analysis was needed, are attached as Exhibit K. As a result of this approval, the DOH gave its approval to the building permit application.

Therefore, the Appellant's request that the University comply with the DCEPA is moot because the University has complied. The University, the DCRA and the DOH undertook the appropriate analysis of environmental issues, and the appropriate District bodies approved the project from an environmental standpoint prior to the issuance of the building permit.

2. Notice Of Building Permit Application Filing

Ms. Dorothy Miller, in her statement, alleged that the DCRA failed to notify the Advisory Neighborhood Commission (ANC) 2A that a building permit application had been filed for this project. While the University has no knowledge as to whether this statement is true, whether such notice was given does not impact this appeal. First of all, such a notice requirement is part of the ANC law, and therefore, its enforcement is not within the jurisdiction of the Zoning Administrator and cannot be ruled on by the BZA in this appeal. This precise issue was raised and decided in Penn-Branch Citizens' Association. In that case, the D.C. Court of Appeals specifically held that in the appeal of a decision of the Zoning Administrator to the BZA, the jurisdiction of the BZA is limited to the Zoning Administrator's administration and enforcement of the Zoning Regulations, "[t]he short answer to this is that the BZA had no jurisdiction to consider whether the notice requirements under the Advisory Neighborhood

Commissions Act . . . were violated and it properly so ruled." Id. (Emphasis added.)

Regardless of whether the question of notice to the ANC is properly before the Board, it is undisputed that the ANC was aware of the University's plans to proceed with the PUD on the site; therefore, even if the District did fail to give notice of the permit application, such an error would be harmless error. Shiflett v. D.C. Board of Appeals and Review, 431 A.2d 9, 11 (D.C. 1981). On April 12, 2000, the ANC passed a resolution against the University's development and use of the site. The ANC, as well as the West End Citizens Association, has been preparing its opposition to the University on this matter for over a year. To claim that it was unaware that the University was moving forward with the administrative steps necessary to begin construction is simply disingenuous and counter to the evidence.

V.
Conclusion

The issuance of Building Permit No. B434036 was appropriate. The University met the requirements of, and the Zoning Administrator properly applied, the Zoning Regulations and Zoning Commission Orders Nos. 746, 746-A and 746-B. The PUD Orders permit any commercial and/or residential uses allowed in the C-3-C Zone District provided that at least 2.17 FAR of the PUD be utilized as residential. It is uncontested that the University is building in accordance with the approved PUD plans and that 2.17 FAR is being built for residential uses. The ownership and/or occupancy of the permitted uses of the PUD are not regulated by the PUD Orders nor could they be regulated under well-established, existing District of Columbia law. Finally, the University and the District responsibly and completely complied with all environmental review requirements. The University has a legal right to build this PUD.

For all of the above reasons, the appeal should be denied and the decision of the Zoning Administrator should be upheld.

Respectfully submitted,

Phil T. Feola

Sarah E. Shaw

April 24, 2001

List of Exhibits

Exhibit A: Zoning Commission Orders Nos.746, 746-A and 746-B.

Exhibit B: Building Permit No. B434036

Exhibit C: Matrix of Timing

Exhibit D: Building Permit Application and Building Permit Customer Control Receipt

Exhibit E: Affidavit of Mark Thifault

Exhibit F: Recorded PUD Covenant

Exhibit G: Zoning Commission Order no. 638

Exhibit H: BZA Appeal 16507

Exhibit I: Penn-Branch Citizens' Association v. D.C. Board of Zoning Adjustment, No. 80-802, slip op. (D.C. 1981)

Exhibit J: Environmental Impact Screening Form

Exhibit K: District Memoranda Relating to Environmental Review

CERTIFICATE OF SERVICE

I hereby certify that, on April 24, 2001, a copy of the foregoing material was served by hand delivery to:

Arthur Parker, Esq.
Brenda Walls, Esq.
Office of the Corporation Counsel
441 Fourth Street, N.W.
Suite 450 North
Washington, D.C. 20001

Marie Sansone, Esq.
Office of the Corporation Counsel
441 Fourth Street, N.W.
Sixth Floor
Washington, D.C. 20001

Michael Johnson
Zoning Administrator
DCRA
941 North Capitol, N.E.
Suite 2000
Washington, D.C. 20002

ANC 2A
c/o Elizabeth Elliott, Chairperson
St. Mary's Court
725 24th Street, N.W.
Washington, D.C. 20037

West End Citizens Association
c/o Barbara Kahlow
2555 Pennsylvania Avenue, N.W.
Apt. No. 404
Washington, D.C. 20037

Sarah E. Shaw



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.

26. The Commission finds that the proposed PUD will provide essential housing in the Downtown area and will act as a model for mixed-use development in this transition area between the high-density Central Employment Area and the residential Foggy Bottom neighborhood.

27. The Commission finds that the PUD project and map amendment from SP-2 to C-3-C are in conformance with the Land Use Element of the Comprehensive Plan which designates the site for high-density, commercial uses.

28. The Commission further finds that the proposed urban design approach of the project is consistent with the urban design element of the Comprehensive Plan and the tenets of the L'Enfant and McMillan Plans.

29. The Commission finds that the on-site parking spaces and loading facilities will adequately serve the commercial and residential components of the project. The Commission concurs with AGC's transportation expert that the proposed project will not have an adverse impact on the traffic network in the area.

30. The proposed action of the Zoning Commission to approve the application with conditions was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act.

31. NCPC, by letter dated November 4, 1993, indicated that the proposed action of the Zoning Commission to approve the PUD and related map amendment with conditions would not adversely affect the Federal interest in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Planned United Development process is appropriate means for controlling development of the site in a manner consistent with the best interests of the District of Columbia.

2. The development of this PUD carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned residential, commercial and mixed-use developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

3. The development of the project is compatible with District-wide and neighborhood goals, plans and programs and is sensitive to environmental protection and energy conservation.

4. The approval of this application is not inconsistent with the Comprehensive Plan for the National Capital because it will produce needed housing, be a catalyst for redevelopment in a transition area, strengthen the distinguishing physical characteristics of the area, and increase employment opportunities.

5. The approval of the application is consistent with the purposes of the Zoning Act and the Zoning Map of the District of Columbia, which includes stabilizing land values and improving mixed-use areas.

6. The application can be approved with conditions which ensure that the development will not have an adverse affect on the surrounding community or the District. The project will enhance and promote the revitalization of the area.

7. The approval of this application will promote orderly development in conformity with the entirety of the District of Columbia Zone Plan as embodied in the Zoning Regulations and Map of the District of Columbia.

8. This application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

9. The Zoning Commission has accorded ANC 2A the "great weight" consideration to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law, the Zoning Commission for District of Columbia hereby orders approval of the second-stage PUD and an amendment to the Zoning Map from SP-2 to C-3-C, for Square 122, Lot 835 subject to the following guidelines, conditions and standards:

1. The planned unit development (PUD) shall be developed in accordance with the plans prepared by the architectural firm of Florance, Eichbaum, Esocoff and King, and marked Exhibit No. 5B of the record and as modified by the following guidelines, conditions and standards.

2. The PUD site shall be developed with mixed-use buildings, including residential and commercial uses with below-grade parking.

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 12-10-93.

MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission

MADELIENE H. ROBINSON
Director
Office of Zoning

zco746/VCE/LJP

EXHIBIT C

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 MAR 29 1996.

JERRILY R. KRESS
Chairperson
Zoning Commission

MADELIENE H. DOBBINS
Director
Office of Zoning

zco746-A/SDB/LJP

ZONING COMMISSION ORDER NO. 746-B
Case No. 93-5F/91-18P
(PUD and Map @ 1957 E Street, N.W.)
February 8.1999

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 2.17 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 an application for a building permit was filed within that period of time, after which construction would have to start by December 10, 1996.

By Z.C. Order No. 746-A, dated March 29, 1996, the Zoning Commission approved an extension of the validity period of the PUD for two years; that was until December 10, 1997, provided an application for a building permit was filed within that period of time, after which construction would have to start by December 10, 1998.

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 December 9, 1997, counsel on behalf of AGC, filed a request to extend the validity of the previously approved PUD for a period of two years.

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

> "The recently concluded real estate recession has made developers and financiers more prudent. Large projects cannot be financed, and thus are not started, without a substantial portion of the project committed to long-term leases. This unavailability of financing for the project, without a substantial preleasing commitment from another office user (in addition to the AGC), makes it impossible for the AGC to proceed at the present time. The AGC is actively continuing discussions with potential tenants. Since the approval of the PUD, the AGC, independently and 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 AGC will proceed as expeditiously as possible to begin construction of the PUD as soon as tenant commitments and financing can be secured."

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 April 9, 1998, 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 applicant has stated that the grounds for its previous request for an extension of time have not changed. It has invested a great deal of time and money through a second commercial broker and a construction manager to seek the additional tenant(s) necessary to secure refinancing, spending a total of approximately $45,000 in doing so. That search has been unsuccessful to date. In short, the present request for another time extension is the result of the continuing adverse office market conditions in the District.
>
> The Zoning Commission has the authority to approve PUD time extensions. In the Office of Planning's opinion, no apparent purpose would be served by denying the requested extension. Accordingly, the Office of Planning

recommends that the Zoning Commission grant a second two-year extension of Order No. 746, pursuant to Subsection 2406.10 of 11 DCMR."

On April 13, 1998, at its regular monthly meeting, the Zoning Commission considered the request of counsel for AGC and the OP report. The Zoning Commission concurs with OP and the applicant. The Commission also determined that an extension of time of the validity of this PUD is in the best interests 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 Nos. 746 and 746-A be EXTENDED for a period of two years; that is until December 10, 1999. 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, 2000.

Vote of the Zoning Commission taken at the public meeting on April 13, 1998: 3-0 (Maybelle Taylor Bennett, Jerrily R. Kress and John G. Parsons to approve a two-year PUD extension).

This order was adopted by the Zoning Commission at its public meeting on March 8, 1999, by a vote of 4-0: (John G. Parsons, Anthony J. Hood, Angel F. Clarens and Jerrily R. Kress, to adopt –Herbert M. Franklin abstained.)

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 _____.



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.

1957 E ST. N.W.

Lot 835 Square 122

TOTAL PERMIT FEE $72,875.00

FILING FEE $ 2,000.00

NO. DATE FEE PAYABLE $ 70,875.00

THE GEORGE WASHINGTON UNIVERSITY

When stamped "PAID" by the D.C. Treasurer, this coupon will become your receipt and when presented to the Permit Clerk will entitle you to your permit.

TO ERECT AN 11 STORY MULTI USE BUILDING ACADEMIC, RESIDENTIAL AND OFFICES. SEAPRATE ELECTRICAL, PLBG AND MECH. INSTALLATION PERMITS ARE REQUIRED. INSPECTION BRANCH 202-457-7301.

THIS IS NOT A PERMIT

C-3-C

ACADEMIC RESIDENTIAL AND OFF.

Deposit No. 2025 E ST. N.W. Amount

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

D. MINOR
Cashier, Permit Info, Bldg. Files & Equip.

C. FULLER
DIRECTOR

D.C. GOVERNMENT
OTR/DCRA CASHIERS OFFICE
941 N. CAPITOL STREET NE
WASHINGTON, DC 20002
202-727-1000

Store # 0001 Receipt # 136805
Reg. # 5 12/28/00 at 10:54
Cash In Clk# 15 Sale Clk# 15

EB2001215 BUILD.STRUCTURE & EQUIP
D 1 @ $ 70,875.00 $ 70,875.00

Sub-Total $ 70,875.00
Tax $ 0.00
Total Sale $ 70,875.00

Check Amount $ 70,875.00

Change Due $ 0.00

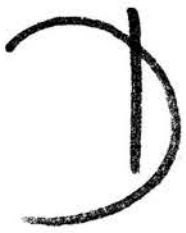
DRV LIC # 9518050 ST. DC
ACCT. # 2312711611201718945032437 3
CHECK # 324373

THANK YOU AND HAVE A NICE DAY



Chronology of Permit Events

EVENT	DATE	DEADLINE
PUD Approved (Z.C. Order No. 746)	12/10/93	n/a
First Extension Granted (Z.C. Order No. 746-A)	3/29/96	n/a
Second Extension Granted (Z.C. Order No. 746-B)	3/19/99	n/a
PUD Covenant Recorded	April 21, 1999	n/a
Building Permit Application Filed	12/7/99	12/10/99
Raze Permit Application Filed	1/6/00	n/a
Raze Permit Issued	2/29/00	n/a
Excavation/Sheeting and Shoring Permit Application Filed	7/20/00	n/a
Excavation/Sheeting and Shoring Permit Issued	10/24/00	n/a
Construction Commenced	10/30/00	12/10/00
Full Building Permit Issued	12/28/00	n/a



1129 AA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT SERVICE CENTER
941 N Capitol Street, NE, Suite 2300, Washington, DC 20001 ☎ 202-442-4470

BUILDING PERMIT CUSTOMER CONTROL RECEIPT

Date: 12 / 7 / 99 Intake Time: ☐AM ☐PM	PROJECT CONTROL NUMBER 99 - 1129AA (Use this number to check on status of your project today)	Review of Your Project Shall Be Completed by: ☐AM ☐PM

☐ Your project will be processed today. Complete review comments or the permit will be ready to pick up by the completion time shown above.

☒ Your project is too complex to be processed today and it **MUST BE FILED.** Please pay the filing fee and return to the intake Counter with proof-of payment, to be assigned a ***FILE JOB NUMBER.***
Complete comments on your filed job will be available on

_____ / _____ / 1999

For other information on the review status of your project, call (202) **442-4547** and refer to your **FILE JOB NUMBER** shown below.

Your Intake Service Representative :	Your Review Expedition Manager :	**FILE JOB NUMBER** 1129AA (Use this number to check on status of your filed job by calling (202) 442-4547)

TO REPORT WASTE, FRAUD OR ABUSE BY ANY D.C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL ON 1-800-811-1639. ALL CALLS ARE CONFIDENTIAL.

ANNEX

1129 AA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT SERVICE CENTER

1129-B

BUILDING PERMIT CONTROL BATCH SHEET

Date: 12 / 7 /99	LOG NO.	Review Completion Due:
Intake Time: 3 22 ☐AM ☐PM	99- 13269	☐AM ☐PM

Address:	Actual Time Review Was Completed
1957 "E" St (W)	☐AM ☐PM

REQUIRED REVIEWS (Checked boxes only)	REVIEWER	COMPLETION TIME	REVIEW STATUS
☐ PUBLIC SPACE		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to DPW ☐ Conf. w/ Applicant
☐ ZONING 5/13/00 PUD # 746		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to BZA ☐ Ref. to Zoning Administr. ☐ Conf. w/ Applicant
☐ SOIL EROSION NA		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to DOH ☐ Conf. w/ Applicant
☐ STORMWATER MGMT.		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to DOH ☐ Conf. w/ Applicant
☐ AIR QUALITY		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to DOH
☐ EIS		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to DOH
☐ WATER AND SEWER		☐AM ☐PM	☐ Approved ☐ HFC ☐ Ref. to WASA ☐ Conf. w/ Applicant ☐ WASA Deposit Required
☐ MECHANICAL/PLUMBING		12/7 ☐AM ☐PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ ELECTRICAL		12/8 ☐AM ☐PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ FIRE PROTECTION		12/9 ☐AM ☐PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant
☐ STRUCTURAL		☐AM ☐PM	☐ Approved ☐ HFC ☐ Conf. w/ Applicant

REMARKS

PRE-FILE NUMBERS	ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BLRA-20 (Rev. 10/97)

APPLICATION FOR CONSTRUCTION PERMITS OR PRIVATE PR

(PRINT IN INK OR TYPE. DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

B1224AA 13269

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

Address of Proposed Work	Suite No.:	2. Lot:	3. Square:	4. Application Date:
957 E STREET NW		B35	122	12-7-99

Owner of Building or Property:	6. Address: (include Zip)	7. Phone:
HE GEORGE WASHINGTON UNIVERSITY	2025 F St. NW Suite 100 WASH. DC 20052	202 Work: 994-4458 Home:

Agent for Owner: (if applicable)	8. Address: (include Zip)	10. Phone:
ARIAS RAIAS	1726 EYVAIL St NW WASHINGTON DC 20010	202 Work: 234-7345 Home:

Type of Proposed Work (check all applicable boxes):

- ☑ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☐ Sign
- ☐ Other (Specify) _____

Description of Proposed Work: To erect an 11 story MULTI USE BUILDING ACADEMIC, RESIDENTIAL & OFFICES

OK to file. 12/7/99

Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:
VACANT	4	0

Proposed Use(s) of Building or Property:	17. Prop. No. of Stories of Bldg.:	18. Prop. No. of Dwelling Units:
ACADEMIC Residential & OFFICES	11/7	5

Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve disturbing the earth or razing a building?
2000	5 2002	☐ Pick-up Truck ☐ Dumpster ☐ Other (specify):	☑ Yes, answer q. 23 ☐ No, SKIP q. 23-27

s the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings or Columns:
☑ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25	See drwgs	See drwgs sq. ft.	See drwgs	See drwgs sq. ft.

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

ete Section B if the proposed work is new building, addition or alteration. (Page 2)
ete Section C if the proposed work is razing a building. (Page 2)
ete Section D if the proposed work is a retaining wall. (Page 2)
ete Section E if the proposed work is a fence. (Page 3)
ete Section F if the proposed work is a shed/garage. (Page 3)
ete Section G if the proposed work is an awning. (Page 3)
ete Section H if the proposed work is a sign. (Page 3)

375

...LDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

R. H. KING KCE/SHE	29. Lic. No.: 004186	30. Architect's Address: (include Zip) 1825 I ST., NW (SUITE 250) 20006		31. Phone: 202 842 2100
Engineer's Name:	33. Lic. No.:	34. Engineer's Address: (include Zip)		35. Phone:
Building Contractor's Name:	36A. Lic. No.:	37. Contractor's Address:		38. Phone:

Type of Construction: ☐ Masonry ☐ Steel ☐ Wood ☐ Other: ☐ Concrete	40. Fire Suppression: ☒ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other:	41. Booster Pump: ☒ New ☐ Existing ☐ None	42. Total Lot Area: 30,150 sq. ft.	43. Breakdown of Lot Area (= 100%): a. Building: 100 % b. Paved Area: 0 % c. Greenery: 0 %
44. Present Gross Floor Area of Bldg.: sq. ft.	45. Proposed Gross Floor Area of Bldg: 331,293 sq. ft.	46. Floors involved in this permit: ☒ All ☐ Floors		47. Projection beyond building line? ☐ Yes: answer q. 48-52 ☒ No, SKIP q. 48-52

48. Number and type of projection:	49. Distance of projection:	50. Width of projection:	51. Width of building frontage: ft.	52. Signature of Owner (projection only):

53. Water or Sewer Excavation? ☒ Yes ☐ No	54. Driveway Construction? ☒ Yes ☐ No	55. Sheeting/Shoring Necessary? ☒ Yes ☐ No	56. Elevators involved? ☒ Yes, answer q. 57 ☐ No, SKIP q. 57	57. No. and type of elev.: 6 TRACTION ELEVATORS	58. Plans Certified by Engineer? ☒ Yes, cert. is attached ☐ No	

Estimated Cost of Work:
New/Add.: $ 22,000,000
Alt/Rep.: $ 0
Total: $ 22,000,000
Volume of New Bldg. or Addition: cubic ft.

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:	62. Contractor's Address: (include Zip)				63. Phone:	
64. Insurance Company:	65. Policy or Certif. No.:		66. Expir. Date:		67. Raze Method:	
68. Building Material:	69. Raze Entire Building? ☐ Yes ☐ No	70. Building Condemned? ☐ Yes ☐ No	70A. Building Vacant? ☐ Yes ☐ No	71. Public Space Vault? ☐ Yes ☐ No	72. Disconnect Water and/or Sewer? ☐ Yes ☐ No	73. Size of Water Connection: in.
74. Plumber's Name:	75. Lic. No.	76. Length: ft.	77. Width: ft.	78. Height: ft.	79. Volume: cu. ft.	80. Party Wall? ☐ Yes ☐ No

81. Asbestos in the Building? ☒ No ☐ Yes, Location
82. Raze Contractor Signature:
83. Owner's Signature:

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any driveway required by D.C. Zoning Regulations

84. Cost of Work:	85. Material:	86. Height: ft.	87. Color:	88. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

89. Signature of Adjoining Owner:	90. Phone: Work Home	
91. Address of Adjoining Owner:	92. Lot:	93. Square:

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

This item will not eliminate any other fence permit required by D.C. Zoning Regulations.

94. Material and Type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work / Home
100. Address of Adjoining Owner:	101. Lot: / 102. Square:

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: $
110. Material of Roof:	111. Material of Sides:	112. Wall thickness: ☐ External ( ) inches ☐ Party ( ) inches				113. Color:

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line: ____ in. Beyond pt. of attachm. ____ in.	118. Height of lowest part of awning: (a) ____ ft above sidewalk (b) ____ ft above parking (c) ____ ft above grade

119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power ____ VA	128. Electrical Contractor: Lic. No.:

129. Address of Electrical Contractor (include Zip)	130. Signature of Licensed Electrician:	131. Phone:	132. License No.:

133. Height relative to building and ground: (a) ____ ft ____ in above sidewalk (b) ____ ft ____ in above roof (c) ____ ft ____ in to bldg height (d) ____ ft ____ in above projection or window (e) ____ ft ____ in from roof to sign's bottom	134. Material of Sign:	135. Type of Sign:	136. Color:

137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.	140. Width of Business Frontage: ft.

141. C of O Number for Building:	142. Sign Contractor Lic. No.
143. Sign Contractor's Address:	144. Phone:

(I) APPLICANT'S SIGNATURE

A. OWNER: I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner: _____ Address: _____ Date: _____

B. AGENT: I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: [signature] Address: 1746 Irving St. NW Date: 12-7-99

OK TO FILE ltr

(J) APPROVALS (DO NOT WRITE ON THIS PAGE, OFFICIAL USE ONLY).

A. PERMIT CONTROL

1. Fine Arts by: _____ Date: _____
2. Historic by: _____ Date: _____
3. PADC by: _____ Date: _____
4. Cap. Gateway by: _____ Date: _____
5. W.H.J Obs. Precinct by: _____ Date: _____
6. Flood Control by: _____ Date: _____
7. WMATA by: _____ Date: _____
8. Condem. by: _____ Date: _____
9. RLA by: _____ Date: _____
10. Rental Accom. by: _____ Date: _____
11. Chinatown Distr. by: _____ Date: _____
12. Utility Clearance by: _____ Date: _____
13. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

1. Zoning by: _____ Date: _____
2. DPW — Permit and Records Division
   Access to Parking Street ☐ Street ☐ Alley
   Cleared by: _____ Date: _____
3. DPW - Consumer Engineer
   Cleared by: _____ Date: _____
4. ERA - Erosion Control
   Cleared by: RC Date: 12-9-99

rictions of the Permit:

SEP[illegible] PLUMBERS AND MECHANICAL INSTALLATIONS PERMITS ARE REQUIRED.

C. PLANS AND APPLICATION APPROVAL

☑ 1. Information Counter by: ES-tt Date: 12-7-99
☐ 2. Information Center by: _____ Date: _____
   ☐ (a) ABC Board by: _____ Date: _____
   ☐ (b) Noise Control by: _____ Date: _____
   ☐ (c) Industrial Safety by: _____ Date: _____
   ☐ (d) Vector Control by: _____ Date: _____
   ☐ (e) D.C. Animal by: _____ Date: _____
   ☐ (f) Police Dept. by: _____ Date: _____
☐ 3. Zoning by: _____ Date: _____
   Zoning Update by: _____ Date: _____
☐ 4. DPW - Permit and Records Division/Deposit #
   Sidewalk Deposit $_____ Driveway Deposit $_____
   by: _____ Date: _____
☐ 5. Water/Sewer Design Branch
   Consumer Eng. by: _____ Date: _____
☐ 6. Environmental Regulation Administration
   ☐ Environmental Policy Review
   Control No.: _____
   by: _____ Date: _____
   ☐ Erosion Control by: _____ Date: _____
   ☐ Storm Water Mgmt. by: _____ Date: _____
   Plan No. _____
☑ 7. Mechanical Eng. Review by: [signature] Date: 2/7/00
☑ 8. Plumbing Eng. Review by: [signature] Date: 2/7/00
☐ 9. Electrical Eng. Review by: _____ Date: _____
☐ 10. Health Plan Review
   ☐ (a) Food Plan Review by: _____ Date: _____
   ☐ (b) Medical X-ray Plan Rev. by: _____ Date: _____
☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section) by: _____ Date: _____
☑ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
☐ 14. Construction Insp. Branch (Field Check) by: _____ Date: _____
☐ 15. Historic Pres. Div. by: _____ Date: _____
☐ 16. Structural Eng. by: _____ Date: _____
☐ 17. Permit and Certificate Issuance Counter By: _____ Date: _____

☐ O.C. By: _____ Date: _____

REPORT WASTE, FRAUD, OR ABUSE BY ANY GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL AT 1-800-521-1639

Number _____ Date _____
Use(s) _____

☐ New bldg.
☐ P.O.D.
☐ File in room 329

BZA Case No.: _____ PUD Order No.: 746

DPW — PUBLIC SPACE

Street Name: _____
Street Width: _____
Road Width: _____
Sidewalk Width: _____
Parking: _____
Restrictions: _____

Case # 93-5F/91-18 P.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION
PERMIT PROCESSING DIVISION
PERMIT & CERTIFICATE ISSUANCE BRANCH

Filing Fee No. A 09296

RECEIPT FOR FILING FEE

ADDRESS OF PROPOSED WORK:	SQUARE	LOT	PERMIT NO.
1757 'E' St NW	122	835	
RECEIVED FROM:			FILING FEE
Carlos Rojas			2000 —

Balance of Permit Fee To Be Paid At Time of Issuance

Chief, Permit & Certificate Issuance Branch

Cash

Acct. 1215-Building Permit

WHITE COPY — CUSTOMER YELLOW COPY — FILE PINK COPY — OFFICE

--SEP.12.2000-- 1:47PM FROM: CARLOS ROJAS ARCH SERV PHONE NO. : 2022344592 Dec. 09 1999 12:24AM P3

GW FACILITIES DEVELOPMENT NO.474 P.5/5



AFFIDAVIT OF MARK THIFAULT

I, Mark Thifault, employee of The George Washington University, being duly sworn, state the following:

1. As part of my job, I supervised the permitting and construction of the planned unit development (PUD) at 1957 E Street, N.W.

2. The building permit application for complete construction of the PUD was filed on December 7, 1999.

3. The excavation/sheeting and shoring permit application for the PUD was filed on July 20, 2000.

4. The excavation/sheeting and shoring permit was issued on October 24, 2000.

5. Construction of the PUD commenced on, or about, October 30, 2000.

6. The full building permit was issued December 28, 2000.

7. Work on the project has continued, in conformance with standards of the industry, continuously since October 30, 2000.

Mark Thifault

Dated: April 23, 2001

Subscribed and sworn to before me this 23rd day of April 2001. Witness my hand and official seal.

Notary Public

My Commission Expires: 6/30/04

F

PUD Covenant

THIS COVENANT, is made as of this 15th day of FEBRUARY, 1999 by and between ASSOCIATED GENERAL CONTRACTORS OF AMERICA, a District of Columbia corporation (hereinafter referred to as "AGC") and the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter referred to as the "District").

WITNESSETH:

WHEREAS, AGC is the owner of Lot 26 in Square 122, as recorded in the Office of the Surveyor in Book 170 at Page 43, also known as Assessment and Taxation Lot 835, Square 122 (such property hereinafter referred to as the "Subject Site"); and

WHEREAS, AGC intends to develop the Subject Site for use as a Planned Unit Development (hereinafter referred to as the the "Project") under Chapter 24 of the Zoning Regulations of the District of Columbia in accordance with Zoning Commission Orders No. 746 and 746A (collectively "Orders") effective December 10, 1993 in Zoning Case No. 93-5F/91-18P; and

WHEREAS, said Chapter 24 further requires that AGC enter into this Covenant with the District of Columbia assuring AGC's (and its respective successors in title) development and operation of the Project as approved by the Zoning Commission of the District of Columbia (hereinafter referred to as the "Zoning Commission") in the Orders and all modifications, alterations or amendments thereto.

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed among the parties hereto as follows:

1. Approved Plans. The terms and conditions of the Zoning Commission's approval of the Planned Unit Development under Orders No. 746 and 746A, effective December 10, 1993, in Zoning Case No. 93-5F/91-18P (as the same may be amended from time to time), are incorporated herein by reference and made a part hereof as Exhibit A and shall be considered a part of this Covenant. The Subject Site will be developed and used in accordance with the plans approved by said Orders and in accordance with the conditions and restrictions contained in said Orders, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia may authorize. AGC covenants that it will use the Subject Site only in accordance with the terms of the Orders, as the same may be further modified from time to time, subject to the terms and conditions contained herein and the provisions of Chapter 24 of the Zoning Regulations.

2. Additional Time to Construct Planned Unit Development. If AGC should fail to file for a building permit and to commence construction of the approved Planned

99 APR 21 PM 2:48 9900034404

Unit Development within the time specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the Orders, the Zoning Commission may duly consider an application for an extension of time for good cause shown.

3. Default. In the event that AGC fails to file for a building permit and to commence construction of the approved Planned Unit Development within the time specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the Orders or within any extension of time granted by the Zoning Commission for good cause shown, the benefits granted by the Orders shall terminate pursuant to Section 2408.11 of the Zoning Regulations.

4. Future Conveyance. AGC covenants that if any conveyance of all or any part of the Subject Site takes place before completion of the Planned Unit Development in accordance with the approvals of the Zoning Commission as aforesaid, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns to develop and use the Subject Site in accordance with the terms and conditions of this Covenant.

5. Successors and Assigns. The covenants and restrictions contained herein shall be deemed real covenants running with the land, and shall bind the parties hereto, their successors and assigns, and shall inure to the benefit of the parties hereto, their successors and assigns. Such covenants are not binding upon any party who no longer has a property interest in the Subject Site. The District shall have the right to enforce all covenants, conditions and restrictions contained herein.

6. Recordation. AGC shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission.

7. Counterparts. This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. Rescission/Alteration of Chapter 24 Covenant. The covenants hereby created may not be extinguished without the prior written consent of the District. In the event any amendment, modification, rescission or alteration of the Orders is adopted or authorized by the Zoning Commission, or in the event of a lapse of said Orders by their terms, the District shall, upon the request of AGC, execute an instrument, in recordable form, evidencing such action or lapse, which instrument shall amend, modify, rescind, nullify or alter this Covenant, as the case may be.

IN WITNESS WHEREOF, Associated General Contractors of America, a District of Columbia corporation, has, as of the day and year first above written, caused this Covenant to be signed by Peter K.W. Wert, its President, attested by Michael E. Kennedy, its Secretary, and does hereby constitute and appoint the said Peter K.W. Wert to be its lawful attorney-in-fact, for it and in its name to acknowledge and deliver this Covenant according to law.

ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, a District of Columbia Corporation

By: Peter K.W. Wert
Peter K.W. Wert
Its: President

ATTEST:

Michael E. Kennedy
Secretary

District of Columbia ss
State of _____)
County of _____)

I, Floretta D. Slade, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Peter K.W. Wert, President of Associated General Contractors of America, a District of Columbia corporation, party to the foregoing Covenant bearing date as of the 15th day of February, 1999, the said Peter K.W. Wert being named as attorney-in-fact for said organization in the foregoing and annexed Covenant, personally appeared before me and, being personally well known to me as such attorney-in-fact, acknowledged said Covenant to be the act and deed of said organization and that he delivered the same as such.

GIVEN under my hand and seal this 15th day of February, 1999.

Floretta dslade
Notary Public

My commission expires: 12/03/03

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D.C., who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932, 47 Stat. 48, D.C. Code § 1-303 (1992 repl.).

WITNESS:

DISTRICT OF COLUMBIA,
A Municipal Corporation

By _____
Secretary, D.C.

(Corporate Seal)

DISTRICT OF COLUMBIA, ss:

I, _____, a Notary Public in and for the District of Columbia, do hereby certify that _____, who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing Covenant bearing date of the 20th day of April, 1999 and hereunto annexed, personally appeared before me in said District and, as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA.

GIVEN under my hand and seal this 20th day of April, 1999.

_____
Notary Public, D.C.

My commission expires: 4-14-01.

APPROVED:

_____ 3/11/99
Zoning Division, Department of
Consumer and Regulatory Affairs

APPROVED AS TO LEGAL SUFFICIENCY:

_____
Assistant Corporation Counsel, D.C.

128049

Government of the District of Columbia
ZONING COMMISSION

DISTRICT OF COLUMBIA, ss:

I attest and certify that I am the Acting Director of the District of Columbia Office of Zoning, and that attached hereto, and bearing my initials in **BLUE INK** in the lower right corner of each page is a true copy of the following records that are in my custody and possession in my official capacity:

a. The twelve (12) Page Order No. 746 of the Zoning Commission of the District of Columbia, dated November 15, 1993, and in the D.C. Register on December 10, 1993.

   The records of this office does not evidence any change of zoning regarding this PUD site since the efffective date of this order, December 10, 1993.

b. The three (3) Page Order No. 746-A of the Zoning Commission of the District of Columbia, dated March 11, 1996, and in the D.C. Register on March 29, 1996.

   The records of this office does not evidence any change of zoning regarding this PUD site since the efffective date of this order, December 10, 1993.

SHERI M. PRUITT-WILLIAMS
Interim Director
Office of Zoning

Signed and sworned to before me this 1st *day of* March, *1999.*

JOANNE THOMAS
NOTARY PUBLIC, D.C.

My Commission expires on:

March 1, 2001

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