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October 3, 2005

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RECEIVED
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VIA HAND DELIVERY
Zoning Commission for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: Zoning Commission Case No. 01-09C – Order No. 955
Request for Consent Calendar Modification to the Planned Unit Development for Station Place in Square 720

Dear Members of the Commission:

Second Street Holdings LLC, the owner of Building 1 of the Station Place planned unit development (the "Applicant"), at the request of the Securities and Exchange Commission (the "SEC"), the occupant of Buildings 1 and 2 of Station Place, hereby requests that the Zoning Commission modify the approval of the Station Place project granted in Order No. 955, as subsequently amended by Order No. 03-31. Copies of said orders are attached as Exhibit A and Exhibit B, respectively. Specifically, the Applicant requests that the Commission modify Condition No. 1 of the orders so that Courtyard 1 may be redesigned to include a playground for children attending the SEC daycare facility to be included in Station Place. The plans for the proposed playground are attached as Exhibit C.

The original plans for the courtyards at Station Place, attached as Exhibit D, were approved pursuant to Order No. 955. The plans included landscaping, planters, water features, and wood benches. On October 20, 2003, the Commission adopted Order No. 03-31, granting flexibility to substitute sculptures or planters for any of the water features originally proposed in the

ZONING COMMISSION
CASE No. 01-09A
EXHIBIT No. 1

ZONING COMMISSION
District of Columbia
CASE NO.01-09A
EXHIBIT NO.1

Station Place courtyards. A copy of the plans submitted in connection with Order No. 03-31 is attached as Exhibit E.

Under the modification requested herein, the Applicant proposes to redesign Courtyard 1 to include a playground covering approximately 3,225 square feet in the rear (western) portion of the courtyard. The playground will be compartmentalized into age-appropriate play areas. Please note that the configuration of the play areas and the play equipment may be changed from time to time to conform to the latest daycare standards and trends. As shown on the plans attached as Exhibit C, the balance of the courtyard, consisting of 7,285 square feet, will continue to have landscaping, planters, and benches identical to the architectural and design scheme previously approved for the project.

The Applicant respectfully requests that this modification be approved as a consent calendar item, under Sections 2409.9 and 3030 of the Zoning Regulations. This procedure is available "in the interest of efficiency, to make without public hearing, minor modifications . . . to previously approved final orders. . . ." 11 DCMR § 3030.1. As specified in Section 3030.2, minor modifications are to be modifications of little or no importance or consequence. The Director shall determine which matters shall be placed on the Consent Calendar for consideration by the Commission without a public hearing. 11 DCMR § 3030.11. The subject request does not affect the essential elements of the approval given by the Zoning Commission for this project, such as use, height, gross floor area, lot occupancy, setbacks or number of parking spaces. Accordingly, the request falls within the scope of this section.

As required by Section 3030.6 of the Zoning Regulations, the Applicant has served this request on ANC 6C, the Stanton Park Neighborhood Associations, the H Street Merchants and Professionals Association, and the Near Northeast Neighborhood Task Force.

We are prepared to answer any questions the Commission may have or to provide any additional necessary information.

Very truly yours,

Holland & Knight LLP

Whayne S. Quin

Leila M. Jackson Batties

Attachments

cc: Parties to Zoning Commission Case (See Proof of Service)
Office of Planning (Via Hand Delivery; w/attachments)

PROOF OF SERVICE

I hereby certify that on October 3 2005, a copy of the foregoing Request for Consent Calendar Modification to the Planned Unit Development for Station Place in Square 720 was served on the following persons or organizations as stated below:

Advisory Neighborhood Commission 6C (***Via U.S. Mail***)
PO Box 77876
Washington, D.C. 20013

With a copy to

Rob Hall, Chairman for ANC 6C (***Via Hand Delivery***)
240 Parker Street, N.E.
Washington, D.C. 20002

Stanton Park Neighborhood Ass'n (***Via Hand Delivery***)
c/o Drury Tallant, Designated Representative
730 3rd Street, N.E.
Washington, D.C.

H Street Merchants and Professionals Ass'n (***Via Hand Delivery***)
c/o Anwar Saleem, President
1017 H Street, N.E.
Washington, D.C.

Near Northeast Neighborhood Task Force (***Via Hand Delivery***)
c/o Venious Parker, Designated Representative
1131 3rd Street, N.E.
Washington, D.C. 20002

Leila M. Jackson Batties
Holland & Knight, LLP

A

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 955
CASE NO. 01-09C
(Consolidated Planned Unit Development and Zoning Map Amendment for Station Place)
February 11, 2002

Pursuant to notice, the Zoning Commission for the District of Columbia held public hearings on November 8, 2001, November 29, 2001, and December 3, 2001, to consider applications from Louis Dreyfus Property Group for consolidated review and one-step approval of a Planned Unit Development and a Zoning Map Amendment (collectively, the "Applications"). The Zoning Commission considered the Applications pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearings were conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the Applications subject to the specified conditions.

FINDINGS OF FACT

The Applications, Parties, and Hearing

1. On May 2, 2001, Louis Dreyfus Property Group (the "Applicant") filed Applications for the consolidated review and approval of a Planned Unit Development ("PUD") and related Zoning Map amendment for property located on the west side of 2nd Street between F and H Streets, N.E. (the "Site"). The Site consists of Lots 178 and 179 in Square 720. The Site is currently zoned C-M-3 and the Applicant requests rezoning to the C-3-C District.

2. After proper notice, the Zoning Commission opened the public hearing on October 4, 2001, and continued the hearing to November 8, 2001. Public hearings were then held on November 8, 2001, November 29, 2001, and December 3, 2001.

3. The parties to the case were the Applicant; Advisory Neighborhood Commission ("ANC") 6A, the ANC within which the Site is located; the Stanton Park Neighborhood Association ("SPNA"); the H Street Merchants and Professionals Association ("HSMPA"); and the Near Northeast Neighborhood Task Force ("Near Northeast Task Force"). The Zoning Commission determined the parties to the case at the November 8, 2001, public hearing, except for the Near Northeast Task Force, which was given party status at the November 29, 2001, public hearing.

4. The Capitol Hill Restoration Society's ("CHRS") request for party status was denied by the Zoning Commission at the November 8, 2001, public hearing. By letter dated November 19, 2001, the CHRS requested reconsideration of its request. The Zoning Commission considered this request at the November 29, 2001, public hearing but did not grant the request for reconsideration. The Commission determined that the CHRS and the SPNA had overlapping memberships, that the CHRS was not more significantly, distinctively or uniquely affected than the public at large and that, because the SPNA had members from 2nd Street, SPNA would be admitted as a party and CHRS would not be admitted.

5. The Securities and Exchange Commission's ("SEC") request for party status was denied by the Zoning Commission at the November 8, 2001, public hearing. The Zoning Commission determined that the SEC's issues related to whether the Commission would approve the project but not zoning issues that the Commission would consider in the course of the case.

6. At its January 14, 2002, meeting, the Zoning Commission took proposed action by a vote of 5-0-0 to approve with conditions the Applications and plans presented at the public hearings.

7. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by action dated February 7, 2002, found that the proposal would not adversely affect their interest or be inconsistent with the Comprehensive Plan for the National Capital. However, NCPC requested that the Commission specify that any crucial security element located in a public right of way should be submitted to NCPC to assure consistency with the recommendations of the federal security task force.

8. The Zoning Commission took final action to approve the Applications on February 11, 2002.

The Site and the Area

9. The Site is situated in Ward 6 along the west side of 2nd Street, between F and H Streets, N.E., adjacent to Union Station's rail yards. The Site contains approximately 240,644 square feet of land area, or approximately 5.5 acres. The Site has approximately 326 feet of frontage on F Street, 933 feet of frontage on 2nd Street and 139 feet of frontage on H Street.

10. The Site is located in the Central Employment Area. The Generalized Land Use Map of the Comprehensive Plan designates the Site in the mixed-use, medium-high density commercial/production and technical employment land use categories. The Site is also

located in the Northeast No. 1/Eckington Yards Special Treatment Area and the ~~Northeast No. 1/Eckington Yards Development Opportunity Area.~~

11. The Site is presently improved with a surface parking lot, which is capable of accommodating approximately 800 cars. The sole access to the existing parking lot is from 2nd Street. Currently, access for the Union Station loading docks is from 1st Street (east) and F Street.

12. The Site is adjacent to Union Station, including Amtrak, MARC, VRE and Metrorail service, and the railroad right-of-way and tracks to the west. A parking garage serving Union Station is built on the air rights over the tracks. Between Station Place and the parking garage is an air rights parcel which is available for development over the rail yards. Union Station and the rail yards are zoned C-M-3 and the Comprehensive Plan designates this area in the same mixed use, medium-high density commercial/production and technical employment land use categories applicable to the Site. The area further to the west includes additional office buildings, in the C-3-C District and the North Capitol Receiving Zone, which permit development as a matter-of-right with transferable development rights to a maximum height of 130 feet with a maximum of 10.0 FAR, or 110 feet with a maximum of 9.0 FAR, depending upon the width of the street. The Comprehensive Plan designates this area in the medium-high density commercial land use category.

13. To the north of the Site is the H Street overpass, which is approximately twenty to thirty feet above the Site. A three-story commercial office structure known as the Railway Express building is further to the north and is zoned M. This area is designated by the Comprehensive Plan in the mixed-use, medium-high density commercial/production and technical employment land use categories. The current location of the Capital Children's Museum is also located to the north and is zoned C-3-B and C-3-A. The Comprehensive Plan designates this site institutional.

14. To the east of the Site, the area is characterized by moderate-density commercial and residential uses in townhouses and similar low-rise structures. The Comprehensive Plan designates the east side of 2nd Street as mixed-use, moderate-density commercial and moderate-density residential. The frontage on the east side of 2nd Street facing the Site is zoned for commercial use, predominantly zoned C-2-A. Approximately ninety-five percent of the existing properties on the east side of 2nd Street are devoted to nonresidential uses. The Comprehensive Plan designates the area further to the east, not fronting on 2nd Street, in the moderate-density residential category, predominantly zoned R-4.

15. To the south of the Site is the Thurgood Marshall Federal Judiciary Building (the "Judiciary Building"). Further to the south, the area is Federal land. These areas are unzoned and designated in the Federal land use category by the Comprehensive Plan.

16. The Site is not a designated historic landmark nor is it within a historic district.

17. The Site is currently zoned C-M-3. The C-M-3 District is designed to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that would minimize any adverse effects on other nearby, more restrictive districts. The C-M-3 District permits a maximum height of ninety feet, with no limit on the number of stories, and a maximum FAR of 6.0. An office use is permitted as a matter of right, and parking for office use is required at a rate of one parking space for each additional 800 square feet of gross floor area and cellar floor area in excess of 2,000 square feet.

18. The requested zoning for the Site is C-3-C. The C-3 District is designed to accommodate important sub-centers supplementary to the Central Business District. More specifically, the C-3-C District permits high-density development, including office, retail, housing, and mixed-use density development which is compact in areas. The C-3-C District permits a maximum height of ninety feet, with no limit on the number of stories, and a maximum FAR of 6.5. Under the PUD guidelines for the C-3-C District, the maximum height of the project may be 130 feet and the maximum FAR may be 8.0. Parking for office use is required at a rate of one space for each additional 1,800 square feet of gross floor area in excess of 2,000 square feet.

The PUD Project

19. The Applicant proposes the construction of a new office building to be known as Station Place. The number of stories in the building varies from seven to ten, with the maximum number on the western portion of the Site facing Union Station and the rail yards. Station Place will have a gross floor area of approximately 1,396,950 square feet, not to exceed 5.9 FAR. The new building is estimated to accommodate approximately 5,000 employees.

20. The proposed development fronts on three streets. The highest point of the roof is 89.32 feet above the curb opposite the middle of the front of the building on H Street and 115.5 feet above the curb opposite the middle of the front of the building on F Street.

21. Station Place will include a two and one-half level, below-grade parking garage containing a minimum of 922 parking spaces on a self-park basis. With stacked parking, the parking garage can accommodate an additional 211 spaces, for a total of 1,133 spaces. The parking garage will also include a minimum of 190 bicycle parking spaces.

22. Station Place will include six thirty-foot loading berths with platforms located on the west side of the Site facing the Union Station rail yard. One service delivery loading space will also be located on the west side of the Site facing the Union Station rail yard. All access for the loading docks will be provided from the ramp from the H Street

overpass. Access to the loading docks on the northeast side of Union Station will be relocated from 1st Street (east) and F Street to the ramp from the H Street overpass.

23. Station Place will be constructed in three phases. Building 1 will include approximately 650,000 square feet of floor area and is proposed as the new headquarters for the SEC. Building 2 will include approximately 287,000 square feet of floor area. The SEC has an option to lease an additional 100,000 to 125,000 square feet in Building 2 at the end of five years, with a twenty-four month notice requirement, and a second option to lease 100,000 to 125,000 square feet ten and one-half years to twelve years out, again with twenty-four months notice. Building 3 will constitute the final phase of Station Place and will include approximately 460,000 square feet of floor area. The ramp from the H Street overpass will be constructed during the first phase of development.

24. The proposed gross floor area is approximately 46,900 square feet less than permitted under the existing matter-of-right zoning and approximately 168,000 square feet less than permitted as a matter-of-right under the proposed C-3-C District.

25. Station Place's design relates to its context and serves as a transition building between the various surrounding areas because of its stepped height, from the significant height of Union Station and its parking garage to the west to the lower rise, commercial and residential area to the east. The design of Station Place incorporates a north-south spine adjacent to the Union Station rail yards, with the primary bulk and highest portion of the building situated on the western portion of the Site. The building steps down from the west towards 2nd Street to a height of ninety feet as measured from F Street and then steps down again to a height of seventy-eight feet along 2nd Street as measured from F Street. The ninety-foot portion of the building is set back at least fifteen feet from the property line, which is a setback of more than one-to-one above the height of the streetwall. In Building 1, the highest portion of the building is set back to the west at least eighty feet more. Across 2nd Street's ninety-foot right-of-way, the permitted height steps down again to fifty feet in the C-2-A District. The fifty-foot height extends for a depth of approximately 100 feet, at which point the permitted height steps down to forty feet. The height of the cornice lines of the wings of Building 1 lines up with the height of the Judiciary Building. The scale of the building is appropriate for the area, which is transitional from medium densities to the west to moderate/low densities to the east.

26. Station Place's façade is primarily a nonreflective glass curtainwall with varying amounts of granite. The 2nd Street façade is broken visually into three separate buildings. Building 1 includes a 160-foot-deep landscaped courtyard that separates the two wings that extend to the property line. Each wing is set back ten feet at the corners and at the center. The lower two stories of Building 1 on F and 2nd Streets are clad in granite with a flowering trellis at the top of the granite. The entirety of Building 2 is set back twenty feet from the property line, and the façade includes granite facing 2nd Street and wrapping around the corners. A public plaza is created by the setback, for which the Applicant has

presented extensive landscaping plans, water features, and a managed vending program. A three-story stepped connection with landscaped plazas separates Building 2 from Building 3. Building 3 is to be built to the property line with a ten-foot setback at the southeast corner. Building 3 is clad in granite facing 2nd Street, which wraps around to the H Street façade. The façade of Building 3 is still subject to review and modification by the Commission on Fine Arts (CFA).

27. As a result of the setbacks along the 2nd Street façade, Station Place includes a significant amount of open space for a commercial office building. Approximately one-half of the streetwall on 2nd Street is set back from the property line. The average setback is 26.5 feet from the property line and 56.5 feet from the curb. Although lot occupancy of 100% is permitted as a matter-of-right, the proposed lot occupancy for Station Place is seventy-two percent, with approximately 23,409 square feet of private property devoted to open space adjacent to the 2nd Street sidewalk.

28. The F Street entrance, which will be the primary entrance to the SEC headquarters, will be an atrium entrance flanked by the same type of stone as used for the Judiciary Building. The entrance incorporates a curved wall, and the curtain wall is stepped away from Columbus Circle to the north. The eighth floor is set back five feet from the property line on F Street, the ninth floor is set back an additional fifty-eight feet, and the tenth floor is set back an additional twenty feet.

29. The design incorporates a vehicular ramp from the H Street overpass that enters the parking garage on two levels. Access to the loading docks for both Station Place and Union Station will be from this ramp.

30. Station Place's design has been significantly modified since it was originally submitted to the Zoning Commission in May, 2001. The following major design changes were made in response to meetings with and issues raised by the community, the Office of Planning, and the CFA: the appearance of three separate buildings facing 2nd Street, rather than the more unified design of the original proposal; addition of full height stone facing to provide variety and separate identities to Buildings 2 and 3; the setback of Building 2 and the incorporation of a public plaza with significant landscaping and water features; the combination of Buildings 3 and 4 to create one building on the north portion of the Site; the incorporation of the three-story stepped landscaped break separating Buildings 2 and 3; the incorporation of a lobby entrance at the third floor level for direct access to the H Street overpass as well as further articulation of the H Street façade; the elimination of the glass mansard roof and the setback of the eighth floor a distance of fifteen feet, reducing the height on 2nd Street to 78.25 feet as measured from F Street; the carving out of the center portion of the 2nd Street façade of the wings of Building 1; the setback of the tenth floor from F Street, to reduce the height as perceived from Columbus Circle; reduction of the allowable 18.5 feet penthouse height to eleven feet for sixty-five percent of the penthouse length; and further articulation of the west façade.

31. Under the C-3-C District, 775 parking spaces are required. The Applicant will provide a minimum of 922 parking spaces on a self-park basis and 1,133 spaces on a stacked basis. This parking supply will adequately serve the parking needs of the tenants of Station Place.

32. Station Place will be primarily a commercial office building and may include some tenant-serving retail. The report submitted by Asadoorian Retail Solutions, the Applicant's retail consultant, concluded that retail in Station Place would not be economically viable at the present time.

33. The following benefits and amenities will be created as a result of the PUD project:

a. Urban Design, Architecture, Landscaping, and Open Space. Station Place has been designed to complement the surrounding area and create a link between the industrial and intense uses of Union Station to the west and northwest, the moderate-density commercial and residential to the east, and the Judiciary Building and monumental core to the south. Station Place has been designed to have the appearance of three separate buildings, breaking up the length of the façade on 2nd Street. To provide further articulation to the 2nd Street façade, a deep courtyard will be included in Building 1. Building 2 will be set back an additional twenty feet, creating a public plaza with landscaping, benches, and water features. Building 3 will be clad in warm-colored, soft rose granite and built to the property line. Significant open space and extensive landscaping and streetscape improvements have been incorporated into the design.

b. Special Value to the Neighborhood. The Applicant will invest $200,000 in streetscape improvements along the H Street commercial corridor in coordination with the HSMPA to assist in the continued revitalization efforts for that area. Furthermore, the Applicant has incorporated a direct connection from Station Place to the H Street overpass through a third floor lobby in Building 3. This direct connection will provide easy access to the businesses on the H Street commercial corridor. Because this access will not be constructed until the final phase of development, the Applicant has agreed to improve the sidewalks on G Street, between 2nd and 3rd Streets, to provide a pedestrian friendly walk from Station Place to the H Street commercial corridor.

c. Transportation Features. Station Place is located adjacent to Union Station, which provides significant opportunities for public transportation to service the development, with Metrorail, Metrobus, and local and regional trains all serving Union Station. Station Place will include a direct connection to Union Station for this purpose. In addition, the Applicant proposes a Transportation Management Plan to be implemented at Station Place. Many of the measures included in the Transportation Management Plan are already in place at the SEC, which has a strong record of transit ridership. Furthermore, the Applicant has agreed to

construct the portion of the Metropolitan Branch Trail along 2nd and F Streets, adjacent to Station Place, as part of its streetscape improvements. To further encourage bike ridership, Station Place will include a minimum of 190 bicycle parking spaces.

d. Employment and Training Opportunities. Station Place promotes commercial development at an appropriate location and will add to the economy of the District as well as provide expanded employment opportunities for District residents. Furthermore, Station Place will stimulate economic activity in an area targeted for further revitalization by the Comprehensive Plan.

e. Revenue for the District. Station Place will generate additional tax revenues for the District in a total estimated amount of $9.6 million annually.

f. Local Business Opportunities. The Applicant has executed a Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent participation by small, local, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project. This memorandum contributes significantly to the District of Columbia goal of ensuring adequate opportunities for small and local businesses to participate in development projects throughout the city.

g. First Source Employment Opportunities. The Applicant has also executed a First Source Employment Agreement with the Department of Employment Services ("DOES") in order to achieve the goal of utilizing District residents for at least fifty-one percent of the new jobs created by the PUD project. The Applicant will use DOES as its first source for recruitment, referral and placement of new hires for employees whose jobs are created by the PUD. Furthermore, the Applicant has committed to give special consideration to the hiring of residents from the Near Northeast community as part of these programs. The Community Advisory Committee will be responsible for receiving information regarding available jobs created by Station Place and disseminating this information to the surrounding communities. Additionally, in an effort to retain its construction employees, the Applicant, in connection with its General Contractor, J.A. Jones/Tompkins, ("General Contractor") will implement a Fitness for Duty Policy for applicants for construction positions and employees at the work site. The Fitness for Duty Policy will include job training for skilled and semi-skilled professions in the construction field with a substance abuse plan to assist both trainees and workers who have a prior history of substance abuse.

34. The proposed PUD requests flexibility from Section 411.5 of the Zoning Regulations which requires that enclosing walls of the penthouse from roof level shall be of equal height. The roof structure for the proposed PUD is eleven feet in height with the

exception of two cooling towers which are eighteen-feet, six-inches in height. Originally, all penthouses were the same eighteen-foot, six-inch permitted height. In an effort to minimize the visual impact of the height, the main penthouses were reduced. The cooling towers, however, needed to remain at the permitted eighteen-foot, six-inch height. The cooling towers are located toward the center of the roof and are substantially set back from the edges of the roof and all property lines. The Zoning Commission finds that there will be no adverse impact from this deviation and that the deviation from the strict requirements of the Zoning Regulations serves to benefit the surrounding areas.

Office of Planning Report

35. By report dated November 5, 2001, and through testimony presented at the public hearings, the Office of Planning ("OP") recommended approval of the Applications with specified conditions. The OP supported the height as proposed, including the setbacks at upper floors. The OP found that the proposed PUD is consistent with the goals of the Comprehensive Plan and that the proposed PUD is consistent with the Comprehensive Plan's Generalized Land Use Map. The OP further found that the proposal is consistent with the objectives and evaluation standards of the PUD regulations. The OP conditioned its recommendation on the following requirements: provide pedestrian access to H Street from the building; require that the courtyard around Building 2 be open for public access with the landscape and water feature proposed in the developer's amended submission; require that the Applicant implement a managed vending program in the public courtyard; require implementation of the Transportation Management Program proposed by the Applicant; and require implementation of a Construction Management Plan and agreement with the neighbors to protect nearby houses from construction-related damage.

36. The OP identified the public benefits outlined by the Applicant in its submission, including exceptional urban design, architecture, and landscaping; transportation features (primarily the direct connection to Union Station), employment and training opportunities, first source employment opportunities, and local, small, or disadvantaged business opportunities. The OP stated that although the Applicant claims exceptional urban design, architecture and landscaping, some members of the community had been very critical of the design. The OP further stated that the design had been significantly modified to address these concerns. The OP further indicated that the Site is within the jurisdiction of the CFA, which should ensure a quality design for the Site. Furthermore, the OP stated that with respect to transportation features, the Applicant primarily relied on the Site's proximity to existing transit infrastructure. However, the OP further noted that strong transit ridership is already present at the SEC and the transportation management plan proposed by the Applicant enhanced the proposal.

37. The OP further recognized additional benefits offered by the Applicant, but not included in the initial submission, including the provision of a pedestrian connection from the building to H Street and instituting a managed vending program in the landscaped plazas.

38. The OP recognized the agreements with the Local Business Opportunity Commission and DOES as other amenities proffered by the Applicant. The OP requested that the Applicant supply confirmation from these agencies that these documents are adequate or provide executed copies. The Applicant satisfied that request by providing the Zoning Commission with an executed copy of the First Source Agreement at the November 8, 2001, public hearing, and an executed copy of the Memorandum of Understanding for Local, Small, and Disadvantaged Business Enterprises at the November 29, 2001, public hearing.

Commission of Fine Arts Recommendations

39. The CFA initially reviewed the design for Station Place on September 20, 2001. The CFA requested modifications to the design and the project was again presented to the CFA on October 18, 2001. At that time, the CFA voted to approve the design of Buildings 1 and 2 along with the below-ground parking levels and vehicular access ramps for the entire project. By letter dated October 31, 2001, the CFA set forth its approval of Buildings 1 and 2 and made certain recommendations for further study and modification to the design of Buildings 3 and 4.

40. The CFA reviewed and approved the overall massing and setbacks for Building 3 (which included the previously presented Buildings 3 and 4) on November 15, 2001, confirmed by letter dated November 27, 2001. The CFA requested that the elevations of Building 3 be furthered studied and submitted for further review.

Department of Public Works Report

41. In its report dated November 1, 2001, and through testimony at the November 29, 2001, public hearing, the District Division of Transportation, Department of Public Works ("DPW") stated that, in consideration of the accessibility of the Site provided by the road network, pedestrian access, the excellent proximity to mass transit, access to the Metropolitan Branch Trail, and availability of on-site parking, DPW supported the proposal with the following three conditions: the cost of any modification to the Massachusetts Avenue and 1st Street (east) intersection signal light will be borne by the Applicant, with modifications being in place by the time any part of the development is operational; development of a more detailed construction traffic management plan including the truck routes for accessing the Site during the construction phase; and the Applicant's commitment to work with DPW in constructing portions of the Metropolitan Branch Trail adjacent to Station Place.

42. In addition, DPW agreed with the Applicant's traffic consultant's capacity analysis and level of service calculations at the critical intersections in the vicinity of the Site. The results of the analysis indicate that most of the intersections will experience only a slight change due to Station Place and will operate at levels of service D or better during the peak hours.

43. The DPW further found that the amount of parking provided at Station Place is more than adequate to meet the parking needs of the project (employees and visitors) and to encourage the use of other modes of transportation such as public transit, bicycle, and pedestrian.

44. The DPW issued another report on December 14, 2001 that responded to supplemental information provided by the Applicant regarding the proposed truck route for the Construction Management Plan. The DPW stated that it supports the truck routes proposed by the Applicant for the construction phase of Station Place. The DPW further reported that the proposed routes minimize routing along residential streets and cause the least amount of traffic congestion within the District.

ANC 6A Report

45. By letter dated November 1, 2001, Advisory Neighborhood Commission ("ANC") 6A supported the PUD project with the following conditions:

a. The Applicant should provide a workable construction management plan that will not impact residential properties during the construction phase, especially with regard to the exit artery north from 2nd Street onto M Street.

b. Neighborhood residents should retain access to Union Station through F Street.

c. The proposal should incorporate a design that will support pedestrian access from Station Place onto the H Street corridor.

d. The Applicant should attempt to comply with the 64-foot setback at the southern most point of the project to conform to the current setbacks.

e. The Applicant should conduct a survey of homes within an acceptable range to document present conditions.

f. A community advisory committee should be established prior to the construction of Station Place.

g. The Applicant should donate funds for community improvements to be administered by the advisory committee, with the H Street CDC acting as the conduit for the funds and technical liaison for ensuring that the funds are used to improve the H Street community, both residential and retail. The initial contribution to the community should be .005 of the project gross revenue deriving from the lease agreement with the SEC, with the same percentage for a period of six years if the remaining portion of the project is still vacant and not contributing to the H Street community.

h. District of Columbia residents should be the first source for hiring with no less ~~than 51% total work force of District residents, with a set-aside for local and~~ disadvantaged businesses. Residents from the H Street, Benning Road corridor should be given special consideration for hiring and the community advisory committee should receive notices of available job vacancies for distribution to the surrounding communities.

i. Job training should be provided for skilled and semi-skilled professions in the construction field, with a substance abuse plan to assist both trainees and workers who have a history of substance abuse in order to assist in stabilizing the work force. The community advisory committee should work in partnership with the developer, general contractor, and Federal and District government agencies to implement these conditions.

Party Testimony in Support

46. The HSMPA testified as a party in support of the project. HSMPA testified that Station Place would provide a positive impact on the business corridor of H Street and help stimulate the needed economic revitalization for the H Street commercial corridor.

Party Testimony in Opposition

47. The CHRS and the SPNA formed a task force (the "Task Force") to review and evaluate the proposed project. The Task Force stated that it conditionally supported the project and raised several conditions that became the basis of the contested issues for this case. The Task Force's primary concerns included an additional setback of the building from 2nd Street, based on asserted aesthetic and security concerns and construction management issues.

48. The Near Northeast Neighborhood Task Force was admitted as a party in opposition to these proceedings. Venious Parker submitted a statement on behalf of the Near Northeast Neighborhood Task Force and indicated support for the project with the organization's one concern being the proposed construction truck route.

CONTESTED ISSUES

Sixty-Four Foot Setback on 2nd Street

49. The Task Force testified that an additional setback of thirty-four feet from the property line on 2nd Street, for a total setback of sixty-four feet from the curb, was necessary for this project. The Task Force based the request primarily on the stated need for a greater transition area to the low-rise commercial and residential neighborhood to the east and the need for greater security protection for the SEC in Building 1.

50. The testimony of the project architects and the Applicant's submissions to the record ~~show that the design of Station Place as revised minimizes any impact on adjacent areas.~~ The project serves as a transition building for the four very distinct surrounding areas, including the monumental core to the south, the rail yards to the west, the H Street overpass to the north, and the low-rise commercial and residential neighborhood to the east. The most dense portion of Station Place has been placed on the western spine of the building, with the heights of the building stepping down to a height of seventy-eight feet as measured from F Street along 2nd Street. The side of the building facing 2nd Street is broken up by two large courtyards and by other setbacks in the façade, such that approximately one-half of the streetwall is set back from the property line. Additional setbacks occur at higher floors. The F Street entrance serves as a background building for Columbus Circle and the monumental core. Furthermore, the north façade on the H Street overpass is designed in a scale that fits well with the existing buildings and incorporates an entrance to encourage pedestrians to enter and exit on H Street. The height of mechanical penthouses has been reduced to only eleven feet, except for two cooling towers.

51. The design was submitted to the CFA for its approval. The CFA first reviewed the design of Station Place at its September 20, 2001, public hearing. Members of the Task Force attended that public hearing and presented their arguments as to why a sixty-four foot setback was important to the project. The CFA reviewed a revised design on October 18, 2001, when representatives from the Task Force again requested a 64-foot setback along 2nd Street. The CFA approved the design of Buildings 1 and 2, as set forth in a letter to the Commission dated October 31, 2001, which did not require or suggest additional setbacks for Building 1.

52. On November 15, 2001, the CFA reviewed the design of Building 3 (a combination of the previous Buildings 3 and 4) and approved the overall massing and setbacks for Building 3 and requested that Building 3's elevations receive additional study. At this hearing, representatives of the Task Force again appeared before the CFA and requested the incorporation of an additional setback. The CFA again did not accept this request and approved the massing and setbacks of the entire project as now before the Zoning Commission.

53. Kevin Roche, an expert in architecture and design and architect for the Applicant, testified that no additional setback should be incorporated into the 2nd Street design, because a setback of sixty-four feet from the curb line for the entire project would cause a loss of approximately 200,000 square feet. Possible infill of courtyards to recover a portion of the lost square footage would not be in accordance with the SEC design parameters, would create an unappealing, continuous façade along 2nd Street, and would still result in a loss of 108,000 square feet.

54. Donald Sherman, Operations Officer for the Office of Administrative and Personnel Management at the SEC, testified that the incorporation of an additional setback along 2nd Street would not fit within the SEC's design parameters. Mr. Sherman testified that the solicitation for the project included specific requirements for the building, including a high ratio of glass to office space, minimum floor plate sizes for contiguous space, and proximity to Metro. Mr. Sherman testified that any changes to the design as proposed would be a serious concern to the SEC and would cause the SEC to reconsider its position of moving to the area.

55. One specific concern described by Mr. Sherman was the fact that the requested setback would cause divisions to be broken apart and change the way the offices fit together from a departmental perspective. The architects for the project prepared blocking and stacking plans to show how the SEC's functions and programs would be accommodated in this space, which was one basis for the SEC's selection of this project.

56. In response to questions from the Zoning Commission, Mr. Sherman testified that although cantilevering additional space over the driveway could make up some lost space, the SEC solicitation requirement specifically prohibits cantilevered space around the building.

57. The Task Force also based the request for an additional setback on the Architect of the Capitol's Master Plan ("Master Plan"), alleging that this master plan dictates this setback. Mr. Roche testified that the Master Plan's discussion of this setback does not include the Site. Specifically, the transition zone to which the Task Force referred is applicable only to the south of the intersection of 2nd and F Streets and does not apply to the north side of that intersection.

58. Steven Sher, the Applicant's land planning expert, testified that the Master Plan was intended to provide a design framework for accommodating the physical needs of the Capitol, that it was not binding in any sense and was not legally binding on private property. The subject property has not been acquired nor is it proposed to be acquired for Congressional use.

59. Mr. Sher testified that most references within the Master Plan do not include the subject property. Notwithstanding the depiction of a "peripheral garage" in two places in the Plan, the most specific reference to 2nd Street in the Master Plan is the section dealing with the "Periphery and Historic District Transition Area." The Master Plan states that this zone starts at the corner of 2nd and F Streets, and extends south along 2nd Street to C Street, S.E. The zone does not include the Site.

60. At the conclusion of the hearings, the Zoning Commission requested that the Applicant further study and evaluate the possibility of the additional setback and advise on its feasibility. The Applicant and the SEC provided analysis of how the additional setback prevents compliance with the SEC's stated design parameters. Specifically, the

additional study and evaluation established that changes to the design and floor plate by reducing the length of the wings of Building 1 by an additional thirty-four feet adversely affect the SEC's space and program requirements and create a building that does not meet the SEC's design parameters.

61. Specifically, the Applicant and the SEC provided evidence establishing that the additional setback would cause a loss of 207 of the SEC's windowed offices, with a total loss of 299 offices, and a loss of approximately 65,202 square feet for Building 1. Various alternatives for recouping space were described; however, none of these scenarios solved the problems with the setback while working within the SEC's design parameters and within the permitted height of the building. Specific problems included the continued loss of windowed offices, failure of the layout to conform to SEC functional and programmatic requirements, the prohibition against cantilevered space, and the addition of floors increasing the height of the building beyond that permitted under the Act of 1910. Furthermore, the Applicant provided additional information regarding the adverse impacts that an additional setback would have on the internal operations of Station Place, including relocation of parking garage entrances, as well as analysis of the results of the setback being contrary to the CFA' approval of the design for the Site.

62. The Zoning Commission finds that the design as presented adequately serves the transition function requested by the Task Force representatives. The Applicant and its architects have been responsive to concerns and directions as articulated by the CFA, OP, and the community at large, including the Task Force. The present design includes significant reductions in the height of the building from west to east, and the ninety-foot width of 2nd Street and the permissible height of the commercial zoning on the east side of 2nd Street further provide for the transition to the residential area. In consideration of SEC concerns, the Zoning Commission finds that no additional setback is necessary even though it is desirable.

63. The Zoning Commission finds that the Master Plan does not apply to the Site and that, taken in its entirety, the Plan does not suggest that 2nd Street north of F Street should be afforded the same kind of treatment as is applied to 2nd Street south of F Street.

Security Issues Related to the SEC

64. As stated above, one basis for the Task Force's request for the additional setback were security issues related to the SEC. Mr. Sherman testified that the SEC did not have any security concerns regarding the location of the wings of Building 1 at the property line and that, although the SEC was reviewing security issues, the SEC believed that Building 1 as proposed is defensible.

65. The Zoning Commission requested that the SEC provide additional information regarding its plans for perimeter security. The SEC's security analysis indicates that the SEC is not

a primary target for security threats and that the emphasis of security for its headquarters is personal safety of individual employees and preventing unauthorized access to SEC space. With respect to perimeter security measures, the SEC intends to incorporate security bollards at the curb along the curve of the main building entrance on F Street as well as retractable bollards at the F Street garage entrance. The exact design and placement of the bollards has not been finalized, although it is anticipated that the form of the bollards will follow those used at the White House and Lafayette Square. The Applicant agreed that the exact design and placement would be subject to review by the CFA and the DPW (Public Space Division).

66. The Zoning Commission finds that the additional setback of Building 1 is not necessary for the security of Building 1. The Zoning Commission further finds that concerns about the impact of any exterior visual security measures can be addressed, in that such measures must go through the appropriate approval process, including review by the CFA and the DPW (Public Space Division).

Community Advisory Committee

67. As part of its amenities package and Construction Management Plan, the Applicant proposed the creation of a Community Advisory Committee ("Committee") to oversee and coordinate community concerns and issues during the construction phase of Station Place.

68. The Applicant further proposed that the Committee meet monthly and that the meetings include a representative of the Applicant and of the General Contractor. The Applicant proposed allowing any member of the Committee to convene a meeting at any time to respond to immediate concerns.

69. In its Post-Hearing Submission, the SPNA stated that the Committee provides a suitable vehicle for the conveyance of community opinion to the Applicant and general contractor during the development of Station Place, and for interaction on construction issues of importance to the community.

70. The Zoning Commission finds that the proposed Community Advisory Committee is an appropriate means to address neighborhood concerns that arise in conjunction with development of Station Place. The Commission encourages broad representation from the affected areas on the Committee.

Pre-Construction Condition Survey and Possible Damage to Property

71. As part of its Construction Management Plan, the Applicant proposed to conduct a pre-construction survey of residential properties within 200 feet of the property line of the Site in order to document the pre-construction condition of homes. The Applicant later agreed to expand the scope of the pre-construction condition survey for the construction

of Building 1 to include properties on the west side of 3rd Street, from the midpoint of the block between E and F Streets, to the houses on the north side of G Street. The Applicant agreed further that it would expand the pre-construction condition survey prior to the construction of Buildings 2 and 3 to include the block between G and H Streets and 2nd and 3rd Street. This expansion results in a radius of greater than 400 feet from the 2nd Street property line. Furthermore, the Applicant agreed to provide a checklist of the areas reviewed in a typical pre-condition survey to those individual property owners outside of the survey area who want to document the pre-construction condition of their homes.

72. The Task Force testified that the pre-construction condition survey should be expanded to include each home or building in the blocks bounded by 2nd Street, H Street, 3rd Street, and E Street. Further, the Task Force representatives recommended that surveys should be available upon request by home and building owners in the blocks between 3rd, 4th, E, and H Streets as well as by owners of all homes and buildings along the route for construction vehicles between 2nd and H Streets and Florida Avenue. The Task Force stated that the surveys should include appropriate monitoring of each home or building to determine the impact of construction activities stemming from the building of Station Place.

73. The Applicant also agreed to designate a representative to be the key contact for interaction with members of the community regarding construction. The representative will have a local office, phone, fax, and voice mail and be accessible during all hours of construction activity operation. In the event that any problem begins to occur with respect to residents' homes or property, this representative could be contacted immediately.

74. The Applicant also agreed as part of its Construction Management Plan to monitor construction dewatering during excavation of the below-grade levels and the installation of building foundations and below-grade walls. In addition, the Applicant agreed to monitor vibrations during pile driving operations to confirm that potentially damaging vibrations do not extend into the adjacent residential development. Seismographs will be placed on the east side of 2nd Street and an additional set will be placed at the 200-foot limit. Seismographs will also monitor vibrations at Union Station, the Judiciary Building, and the H Street overpass piers. The Applicant further agreed to implement a comprehensive monitoring program for the settlement of structures, including the installation of three-dimensional reflectors, tilt plates, and ground water monitoring wells to monitor any settlement of buildings facing Station Place across 2nd Street.

75. In its Post-Hearing Submission, the Applicant agreed to expand the scope of the pre-construction condition survey for the construction of Building 1 to include properties on the west side of 3rd Street, from the midpoint of the block between E and F Streets, to the houses on the north side of G Street. The Applicant agreed further that it would expand the pre-construction condition survey prior to the construction of Buildings 2 and 3 to

include the block between G and H Streets and 2nd and 3rd Street. This expansion results in a radius of greater than 400 feet from the 2nd Street property line. Furthermore, the Applicant agreed to provide a checklist of the areas reviewed in a typical pre-condition survey to those individual property owners outside of the survey area who want to document the pre-construction condition of their homes.

76. The Commission finds that the Applicant's proposed Construction Management Plan is a good-faith effort to address concerns raised by neighboring residents. Those plans for surveying properties are more than sufficient in light of the expert testimony and expert information presented.

Request for Arbitration Panel

77. The Task Force and other residents in the area requested that the Zoning Commission establish an arbitration panel to serve as an impartial body to deal rapidly and at no cost to the residents with any and all damage claims. The Task Force requested that all findings by the panel be made binding on all parties.

78. The Applicant objected to the request for the binding arbitration board, stating that the Zoning Commission has no authority to appoint, establish, or monitor such a board and such a board is not feasible or appropriate within the legal relationships of a developer and general contractor.

79. The Zoning Commission finds that this issue is outside the scope of the zoning process and cannot serve as a basis for consideration of this PUD. The Zoning Commission recognizes the concerns of the community but finds that it does not have jurisdiction to oversee or adjudicate these claims.

Other Construction Management Issues

80. As part of its Construction Management Plan, the Applicant proposed that construction traffic traveling from Maryland and Virginia utilize North Capitol Street and Route 395 to New York Avenue (Route 50). From Route 50, the flow of traffic will turn onto 4th Street, Florida Avenue, 3rd Street, M Street, 2nd Street, adjacent to the Trash Transfer Station, south to the Site. Traffic leaving the Site will go north on 2nd Street to M Street, turn right to 3rd Street to Florida Avenue, eliminating any traffic between G Street south to F Street.

81. Greg Ferrell, the ANC 6A representative, also testified in opposition to the proposed construction truck route and expressed concern regarding the signal light at the intersection of M Street and Florida Avenue.

82. Venious Parker, on behalf of the Near Northeast Task Force, testified that, although the Near Northeast Task Force supported the project, it did not support any construction

truck route which calls for the use of 3rd and M Streets, N.E. Mr. Parker testified that his community was already faced daily with noise, odors, and truck traffic produced by the Uline Arena Trash Transfer Facility located at 3rd and M Streets and that any additional truck traffic would upset his once quiet residential community.

83. This proposed construction truck route was submitted to the DPW on November 30, 2001, for comment. In its December 14, 2001, memorandum to the OP, the DPW stated that it supports the proposed construction truck route. The DPW found that the proposed construction truck route minimizes routing along residential streets and causes the least amount of traffic congestion within the District.

84. The Zoning Commission notes the DPW's recommendation that the proposed construction truck route is the best alternative. This proposed construction truck route minimizes routing along residential streets and causes the least amount of traffic congestion within the District. To the extent that issues arise, the Applicant must work with DPW to determine the best route for construction traffic.

85. The Task Force requested that the Zoning Commission establish appropriate penalties for truck and other service traffic that violates the established construction truck route. The Task Force based this request on its assertion of the vulnerability of the surrounding residential neighborhood.

86. The Applicant described its disciplinary procedure for construction trucks that violate the construction truck route. The General Contractor has put such procedures in place for this project. All subcontractors and suppliers will be provided with written instructions and maps showing the approved truck routing to and from the job-site, and all contracts will include the requirement that the routing be followed. Violators of the truck route will be issued a notice that a repeat offense will result in that driver not being allowed to enter the job-site in the future. Violations may be reported to the job-site office of the General Contractor by the public by providing the license plate number and state plus the truck company identification on the side of the truck.

87. The Zoning Commission finds that the Applicant has attempted to address community concerns and has spelled out an appropriate and credible enforcement procedure for violations of the construction truck route.

88. The Task Force and other residents requested that construction traffic be minimized on neighborhood streets by using the ramp from H Street or by using rail to remove and deliver construction materials.

89. The ramp to the H Street overpass will be constructed prior to occupancy of Building 1. The ramp will be used for truck traffic for the loading docks of both Station Place and Union Station. Due to the configuration of the ramp, excavation of the Site for Building 1 must be completed prior to initiating construction of the ramp. Therefore, construction

vehicles from the excavation and construction of Building 1 will not be able to use the ramp for ingress and egress to the Site.

90. The Applicant, along with its General Contractor examined the possibility of using the ramp during excavation for Buildings 2 and 3 and concluded that it could not be used for several reasons. The excavation for Building 2 will be supported by sheeting and shoring on the west, south and east sides and will be sloped toward the north. Therefore, the logical location for the ramp utilized by trucks leaving the excavation site is to the north. In order to use the ramp to leave the Site, the truck ramp would have to be oriented toward the west, and this would require construction of a temporary ramp within the Building 2 construction footprint.

91. In addition, the Building Code requires a wash-down area for all trucks leaving an excavation site. If the ramp were used for trucks leaving the Site, there would be no room at the west side of the project to install such a facility without having the wash-down water fall back into the excavation. Furthermore, the Applicant indicated that, if the ramp was used by fully-loaded dump trucks, there will be a constant conflict with the trucks entering and leaving the construction site, cars entering and leaving the parking garage for Building 1, and trucks entering and leaving the Union Station loading docks.

92. The Applicant also stated that the ramp is not available for use during the excavation of Building 3. The construction of Building 2 reduces the distance available on the ramp and does not allow for sufficient clearance required for any construction vehicles to enter or exit the Site safely. Fully loaded dump trucks would have to make a three point turn on the flat section of the ramp to clear the west side retaining wall. During these times, it will be necessary to stop all traffic on the ramp in both directions, which will cause a back-up of vehicles on the ramp and possibly onto the H Street overpass. Furthermore, the requirement to stop all traffic will cause conflicts on the ramp with cars from Building 1 and trucks for the Union Station loading docks.

93. The Zoning Commission finds these arguments persuasive and finds that use of the ramp for use by construction trucks during the excavation is not practical and presents safety issues.

94. The Applicant described the problems associated with trying to bring in and remove materials by rail. Notwithstanding that the Site immediately adjoins the rail yard, that yard is controlled by Amtrak, which will not permit freight operations which would interfere with its passenger service.

95. The Commission finds that the use of rail for construction traffic is not feasible or reasonable for this project.

Measurement of Height and Height as a Development Incentive

96. The SPNA and the Task Force testified that Station Place's height should not be measured from the H Street overpass. Mr. Drury Tallant, representative of the SPNA, testified that he believed measurement from the H Street overpass should be rejected but that it did not preclude the requested height. Mr. Tallant indicated that the change in measuring points creates an application that requests significant development incentives because the project gains an additional 200,000 square feet, and therefore, design alterations and a significant amenity package are appropriate and necessary.

97. In its report, the OP noted that all proposed conditions except building height are within the limits of the matter-of-right requirements of the new zone. The OP indicated that it was informed verbally by the Zoning Administrator's office that it felt that F Street was the appropriate measuring point. A written ruling from the Zoning Administrator was not entered into the record.

98. The OP cited Section 1703.1(u) of the Comprehensive Plan, which requires any building located directly adjacent to the H Street overpass to measure its allowable height (from street level to parapet and permissible penthouses) from the existing grade of 2nd Street, N.E., or 1st Street, N.E., and not from any part of the overpass itself. The OP, accordingly, stated that the Applicant should seek flexibility from the height requirement and that a corresponding increase in the amenities package was required as a result of this development incentive.

99. Through the architectural plans and drawings and testimony of Mr. Roche and Mr. Sher, the height of Station Place was established from both the H Street overpass and F Street. When measured from the curb on H Street, the highest point of the roof is at 89.32 feet. When measured from F Street, the highest point of the roof is at 115.5 feet.

100. Mr. Sher further testified that the Applicant has the absolute right to take its height from the curb either on H Street or F Street. As measured from H Street, the height is within that permitted as a matter of right under the Zoning Regulations. As measured from F Street, the height is within that permitted as part of a PUD in the C-3-C District.

Notwithstanding the arguments of OP and the parties, the Zoning Commission finds it unnecessary to decide the appropriate point of measurement. Even if measured from F Street, the height of Station Place is within limits allowed under the Zoning Regulations for PUDs in a C-3-C District. Although the Commission agrees that the additional height allowed for a PUD in a C-3-C District would constitute a development incentive, the provision of open space on the Site as well as the other public benefits and project amenities proffered as part of this development are sufficient to allow for the grant of this additional height.

Additional Density

101. In its testimony to the Zoning Commission, the OP testified that when the height is measured from H Street, the Applicant gains approximately 200,000 square feet in additional density. Mr. Tallant also testified that using H Street as the measuring point for the height of Station Place creates an additional 200,000 square feet, and therefore, design alterations and a significant amenity package are appropriate and necessary.

102. Mr. Sher testified that no additional density is gained by the height of the project. Specifically, Mr. Sher indicated, as shown on the architectural plans and drawings submitted as part of the record, that the proposed project is in fact 47,000 square feet less than the current (C-M-3) matter-of-right zoning. As a matter-of-right under the proposed C-3-C zoning, the project could be built to an FAR of 6.5 with ninety feet. Mr. Sher reviewed several buildings currently built in the District of Columbia which have achieved an FAR of 6.5 with a height of ninety feet. Furthermore, Mr. Sher pointed out to the Commission that the maximum height of the building was only reached on the west side of the building and therefore, had minimal impact on adjacent properties.

The Zoning Commission finds that the project is proposed to be developed at less than the matter-of-right density of the existing zone and that if the height of the building was measured from H Street, the Applicant does not gain additional density. The Zoning Commission therefore finds that no additional amenities are necessary to off-set additional density or to counter any impact.

Environmental Issues

103. The Task Force, Norman Williams, and Richard Blackford requested that an environmental impact statement ("EIS") be required for the project.

104. The OP testified at the public hearing that an EIS is not required. The OP testified that the D.C. Environmental Policy Act exempts properties within the Central Employment Area from the EIS requirement. The Site is within the boundaries of the Central Employment Area, as defined in the Zoning Regulations and the Comprehensive Plan and, therefore, no EIS is required.

105. The Applicant concurred in the position taken by the OP. The Applicant further stated that, even though the lead tenant proposed for Building 1 is a Federal agency, such tenancy does not constitute a "major federal action" under the National Environmental Policy Act ("NEPA"). The privately developed building can be occupied by both public and private commercial office uses. Thus, approval of the Applications under the District's zoning law and regulations does not trigger a requirement for an EIS under Federal law.

106. The Zoning Commission finds that the project is exempt from review under the District's Environmental Policy Act because the Site is located within the Central Employment Area. The NEPA does not require the Zoning Commission to prepare an EIS because approval of the Applications is not a major Federal action.

107.

Compliance with PUD Standards

108. The Task Force, the SPNA and other individuals asserted that the application did not provide sufficient benefits to the community to warrant approval of the PUD. This argument was advanced in large part as the basis for imposing a greater setback on the project as it faces 2nd Street.

109. Greg Ferrell, the ANC 6A representative, and the Task Force suggested that phasing of the project resulted in an insufficient amenities package for Building 1, prior to the construction of Buildings 2 and 3.

110. The Applicant argued that the proposed amenities and benefits are sufficient for a project which proposes less density than that currently permitted on the Site as a matter-of-right.

111. The Zoning Regulations require that an application for a PUD be evaluated and approved or disapproved according to the standards set forth in Chapter 24 of DCMR. The Zoning Commission must judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.

112. The Zoning Commission finds that the Applicant's proffered project amenities and public benefits sufficiently offset any potential adverse effects of the project.

113. The Zoning Commission finds that the Applicant does not request any additional density, as the proposed gross floor area is less than that permitted as a matter-of-right under the existing zoning and is substantially less than that permitted as a matter-of-right under the proposed zoning.

114. With respect to the proposed height, the Commission, earlier in this order, found that even if height is measured from the curb on F Street, the maximum height of 115.5 feet would have no potential adverse impacts and is balanced by the package of amenities presented by the Applicant, including the provision of significant open space adjacent to the public sidewalk on 2nd Street.

Consistency with the Comprehensive Plan

115. The Task Force asserted that Station Place does not comport with the policies and objectives of the Comprehensive Plan. The Task Force focused on specific elements of the Ward 6 element and generally concluded that Station Place is inconsistent with these provisions.

116. The Applicant's Land Planner asserted that the project was not inconsistent with the Comprehensive Plan noting that

a. The Generalized Land Use Map designates the Site in the mixed-use, medium-high density commercial/production and technical employment land use categories;

b. The property is in the Central Employment Area, defined to be the business and retail heart of the District of Columbia and the metropolitan area;

c. The property is in the Northeast No. 1/Eckington Yards Special Treatment Area, which targets the area south of Florida Avenue for an office district;

d. The property is in the Northeast No. 1/Eckington Yards Development Opportunity Area, which includes areas that represent unrealized development potential and where development can be used to improve neighborhood quality and stability;

e. The project meets the policies of the Economic Development element, to generate job opportunities and tax revenues;

f. The project meets the goals of the Transportation element to simplify and economize transportation services;

g. The project meets the goals of the Urban Design element, to create appropriate arrangements of materials, height, scale and massing to complement the immediate arrangements; and

h. The project is consistent with the Ward 6 element, in that it located more intensive development in an area which can accommodate that type of use.

117. The OP reported that the Applicant's proposal is consistent with the goals of the Comprehensive Plan, citing the following specific components of the proposal:

a. Pedestrian connection to H Street;

b. Pedestrian plaza on 2nd Street with a managed vending program;

c. A design approved by the CFA;

d. Landscaping and stormwater removal;

e. A coordinated construction management plan to minimize neighborhood disruption;

f. Pedestrian connection to Union Station and a transportation management plan;

g. Participation in the H Street revitalization process; and

h. First Source and local and disadvantaged business opportunities.

118. The Zoning Commission credits the testimony of the Applicant's Land Planner and the OP and finds that the project is not inconsistent with the Comprehensive Plan.

119. The Commission finds that Station Place is consistent with many of the Comprehensive Plan's major themes and that the development is not inconsistent with Comprehensive Plan. The Comprehensive Plan encourages making maximum use of the District's location at the center of the region's Metrorail and commuter rail systems. Station Place takes advantage of this asset by its proximity and direct connection to Union Station, which is served by Metrorail, Metrobus, and local and regional rail lines. Furthermore, the expansion of the quantity of employment opportunities is a central theme of the Comprehensive Plan. Station Place furthers the District's goal of establishing more jobs, as this facility will create more than one million square feet of additional commercial office space and a significant number of jobs being created by and associated with Station Place.

120. The Economic Development element sets a goal to encourage development, economic diversification, and job generation in portions of the Central Employment Area outside the Downtown. In addition, the District seeks to generate new and productive uses of currently underused commercially- and industrially-zoned lands. The Comprehensive Plan also recommends continuing to promote economic development in the District's neighborhoods by attracting grocery stores and other retail to the city's underserved markets, promoting neighborhood retail along the city's commercial corridors, and moving government agencies into the neighborhoods in an effort to spur private investment. The Zoning Commission agrees with the OP's assessment and finds that the interface of Station Place with the H Street commercial corridor in light of the direct connection to the H Street overpass furthers these goals. Furthermore, the Zoning Commission finds that the improvement of G Street, which is the primary route to H Street from Station Place, will lead to revitalization and economic development of the H Street commercial corridor as well. The placement of Station Place in this neighborhood with the SEC as the primary tenant will lead to revitalization of the commercial areas in underserved markets. The Zoning Commission notes that the proposed development will

replace a surface parking lot and will further screen the view of the rail yards from the neighborhood to the east.

121. Furthermore, the Comprehensive Plan states that the District seeks to generate new and productive uses of currently underused commercially- and industrially-zoned land. The Site exemplifies a currently underused industrial site that will be converted into productive commercial office space which encourages job generation within the Central Employment Area outside of Downtown.

122. The Zoning Commission finds that the landscaping components of the project provide the opportunity for trees and other plantings to enliven the space and provide positive environmental effects. Similarly, the street trees and plantings,, incorporated into the streetscape design, foundation plantings, and trellis system will soften the hardscape and provide shade, pollution absorption, oxygen, and decreased stormwater runoff.

123. Furthermore, stormwater management is an important environmental concern according to the OP report, and the Zoning Commission finds that the development of Station Place furthers goals associated with stormwater management. By decreasing the impervious area in comparison to the existing situation, the development will potentially decrease runoff and pollution. The Zoning Commission agrees with the OP report that the significant landscaping proposed will significantly decrease stormwater runoff and pollution from the Site. Finally, the construction management plan proposed by the Applicant furthers the environmental goals established by the Comprehensive Plan.

124. The Transportation element of the Comprehensive Plan identifies the need for the efficient movement of people and goods within the District. The Zoning Commission finds that proposed development ties into the existing transportation network and provides transportation measures to minimize and mitigate the impacts of the development. Additionally, the creation of a minimum of 922 parking spaces on a self-park basis will adequately accommodate the market parking demand for Station Place. Finally, the Applicant will construct the portion of the Metropolitan Branch Bike Trail along the frontage of the Site.

125. The Urban Design element seeks compatibility of the development with its environs. Important factors include architectural compatibility, materials, scale, massing, and streetscape. The Zoning Commission finds that the height and massing of the building furthers the goal of designing buildings using an appropriate arrangement of building materials, height, scale and massing, and buffering to complement the immediate region. The Commission notes the approvals given by the CFA for the design, massing, and setbacks of the project, with only the final exterior façade of Building 3 still to be approved by the CFA. The Commission finds that the building fits well within the context of the four differing sides of the building, including the monumental core to the south and the Victorian row structures to the east. The stepping down of the height and the reduction of the penthouses reduce the impact on adjacent areas, as do the setbacks

within the 2nd Street façade. The Zoning Commission notes that the east side of 2nd Street directly across from the Site is not in a historic district.

126. The Zoning Commission finds that Station Place serves as a transitional development and reduces negative physical impacts through the use of open-space and traffic circulation. The ingress and egress to the Site has been developed to protect the residential area, with primary access, including all access for trucks and service vehicles, being provided from the H Street overpass. The direct connection to Union Station and public access to H Street promote the establishment and growth of mixed-use commercial centers at appropriate Metrorail stations to reduce automobile congestion, improve air quality, and reduce reliance on the automobile.

127. The Ward 6 element identifies commercial development that is compatible with current neighborhood uses and historic districts as a goal. The development of office uses in the Ward's commercial zones is encouraged to relieve pressures for conversion of residential neighborhoods to commercial and office uses. Station Place furthers this goal.

128. Furthermore, the Environmental Protection element of the Ward 6 element encourages restricting heavy vehicle through traffic on residential streets lacking sufficient supporting structure and street width to prevent damage to surrounding buildings. The Zoning Commission finds that the Applicant's proposed construction truck route furthers this goal as well as the requirement of all trucks accessing the loading docks of both Station Place and Union Station to use the H Street overpass.

129. The Transportation element of the Ward 6 element seeks to ensure that development adjacent to Ward 6 Metrorail stations enhances ridership. The Zoning Commission finds that Station Place's location next to and direct connection to Union Station will enhance ridership and that the Transportation Management Plan proposed by the Applicant, and the strong history of transit usage by the SEC will further this goal of the Ward 6 element. Furthermore, the Zoning Commission finds that construction of the ramp from the H Street overpass, the distribution of traffic among the three driveways, and the requirement of truck and service deliveries accessing Station Place from the H Street overpass further the goal of establishing traffic management strategies to separate local traffic from through-traffic within adjacent residential neighborhoods.

130. The Zoning Commission also finds that the Urban Design element of the Ward 6 element is furthered by the proposed development. Station Place encourages a high quality of architecture that is consistent with the styles and characteristics of buildings in Ward 6. Station Place also ensures that redeveloped and new structures in Ward 6 commercial corridors strengthen the urban design image of those areas and relate to adjacent residential neighborhoods. The connection to H Street will strengthen the H Street commercial corridor, and the design of the façade along 2nd Street relates to adjacent residential neighborhoods. Furthermore, the significant streetscape and landscaping improvements associated with Station Place as well as the improvements within the

public plaza enhance the environment in Ward 6 and continue to improve the design and upkeep of public spaces, including streets, sidewalks, small open spaces, and large formal squares of Ward 6.

131. The Zoning Commission finds that the location of Station Place at the Site is appropriate under the Land Use element of the Ward 6 element, which has as a goal the location of more intensive and active uses in areas of Ward 6 that, by virtue of existing and planned infrastructure, can accommodate and support these types of uses. The Land Use element of the Ward 6 element also encourages redevelopment of the Ward 6 portion of the Northeast No. 1/Eckington Yards Special Treatment Area as a primary and secondary commercial area, and the Zoning Commission finds that Station Place furthers that goal.

Impact on Traffic

132. The Task Force presented generalized concerns that the development would cause an increase in congestion and result in more traffic on neighborhood streets

133. Issues were raised concerning the SEC's shuttle bus and access to parking from the garage entrance on F Street.

134. Martin Wells, the Applicant's traffic consultant, was recognized by the Commission as an expert in traffic and transportation engineering and testified on behalf of the Applicant in support of the Applications. Mr. Wells evaluated the Site in terms of potential traffic impacts created by the PUD, parking requirements, and location of the three garage entrances.

135. Mr. Wells' analysis concluded that all intersections that were studied operated at acceptable levels of service and that these intersections would continue to operate at acceptable levels of service in 2011, with full build-out and occupancy of Station Place. Mr. Wells stated the additional trips generated by Station Place would be distributed among three driveways. All trucks would use the ramp from the H Street overpass.

136. Mr. Wells also presented the elements of the Transportation Management Plan ("TMP") to be implemented at Station Place. The TMP incorporates various elements, including an Employee Transportation Coordinator, encouraging use of public transportation modes, encouraging use of bicycles and walking, limiting parking to encourage transit use, encouraging carpools, encouraging Station Place tenants to implement alternate work schedules and telecommuting, providing information regarding Guaranteed Ride Home programs, establishing an Employee Commuter Center, and conducting periodic promotional activities.

137. The TMP reflects a modal split of 75% based on the SEC's strong transit usage history. The goal of the TMP is to reduce single occupancy vehicle trips and increase carpools and public transit trips during peak hours in order to support community and national

efforts to reduce traffic congestion and vehicle emissions. The specific goal of the Station Place TMP is to achieve a seventy-five percent non-auto driver mode split. The SEC currently achieves a seventy-five to seventy-seven percent non-auto mode split at their downtown offices, and this non-auto mode split is anticipated to increase with the SEC's relocation to Station Place.

138. The DPW supported the analysis and conclusions of the Applicant's traffic expert.

139. The Zoning Commission finds that, based on the DPW's reports and the Applicant's traffic expert, the proposed development will not have an adverse or unmanageable impact on the street system and other traffic conditions in the area.

F Street Garage Entrance

140. The Task Force urged that the Zoning Commission restrict the garage entrance on F Street to official vehicles and very few visitors and that the F Street garage entrance provide access to no more than 100 spaces with no vehicle connection to the rest of the parking area.

141. According to the Applicant's traffic analysis, three driveways, from which any parking space can be accessed, results in the best traffic movement into and out of Station Place. This solution: (1) provides the most direct access to Station Place from the many approach routes on the public street network; (2) distributes traffic most evenly over the public street network, rather than concentrating it at only one or two driveways; and (3) results in the least traffic impact on nearby residential neighborhoods.

142. According to Mr. Wells, the F Street driveway is projected to accommodate approximately 183 A.M. peak hour trips and 201 P.M. peak hour trips. In his expert opinion, 1st Street (east) and F Street can adequately accommodate these traffic volumes. The F Street/Judiciary Building garage driveway and F Street/Station Place driveway intersections are forecast to operate at acceptable levels of service during both the A.M. and P.M. peak hours, with full access at the F Street Station Place driveway. Furthermore, all truck traffic currently serving the Union Station loading docks from F Street will be removed from F Street.

143. According to Mr. Wells, limiting F Street traffic would concentrate more traffic at the two other driveways, particularly the 2nd Street driveway, which would carry twice as much Station Place traffic at project build-out. This would result in greater traffic impact to nearby residential neighborhoods to the north. Mr. Wells stated that traffic entering the F Street driveway must use Massachusetts Avenue and 1st Street (east) to access the F Street garage, since F Street operates one-way eastbound. This traffic would, therefore, be precluded from using residential neighborhood streets to the east. Mr. Wells concluded that the use of the F Street garage entrance as proposed will lead to the most efficient and

effective operation of the Station Place parking garage and the distribution of vehicular traffic on the public road network.

144. The DPW supported the Applicant's expert's conclusions regarding traffic impacts and levels of service. The DPW did not raise any concern or issue regarding the use of the driveway in any of its reports on the Applications. The DPW's position about the location of the driveway is discussed elsewhere in this order.

145. The Commission finds Mr. Wells' expert opinion persuasive and finds that the number of parking spaces to be accessed from the F Street driveway should not be limited by conditions in this order. The Zoning Commission further notes that the submissions and recommendations by the DPW did not raise or cite this issue as a problem which needed to be addressed.

Proposed SEC Shuttle Service

146. The Task Force testified and requested in its submissions that the Zoning Commission prohibit the Applicant or the SEC from providing shuttle bus or similar service that would use the 1st Street (east) – F Street connection with Columbus Plaza and 2nd Street.

147. The SEC shuttle buses are sixteen passenger vans that make round trips between the SEC's Washington, D.C. office and its Alexandria, Virginia office. The two shuttle vans are active from 8:15 A.M. to 5:00 P.M. Monday through Friday. Only one van is at the Washington location at any given time. The shuttle vans pause for no more than five minutes at the Washington location before leaving for their return trip to Virginia. Use of the shuttle reduces the number of private trips that would be required to commute between the two facilities.

148. The Applicant indicated that if the shuttle was required to use the H Street overpass, it would be required to pick up its passengers in the loading dock area. This location would cause problems for pedestrian safety and handicap accessibility to the building from the vans, due to a four-foot difference in elevation between the loading berth area and the ramp serving Building 1.

149. The Zoning Commission finds that the SEC shuttle will not cause adverse impact on traffic or the surrounding area due to the short length of time that the shuttle van is present at the F Street entrance. The Zoning Commission also finds that the shuttle service reduces single occupancy vehicle trips that would be required to commute between the two offices. Furthermore, the Zoning Commission recognizes the difficulties and safety issues with accessing Building 1 from the H Street overpass and finds that restricting access of the shuttle service to that location is not necessary.

SEC's Option to Purchase Building 1 and Tax Implications of Same

150. The Task Force raised questions regarding the SEC's option to purchase Building 1 and its expansion options within Station Place. The Task Force suggested that if the SEC purchased Building 1, a substantial portion of the economic benefits for the District from Station Place would not be realized.

151. Bolan Smart, Applicant's expert witness on economic benefits, indicated that the SEC purchase option is only exercisable before the commencement of the lease term, at a very high annual rate compared with the lease without purchase. It was Bolan Smart's expert opinion that the government is not likely to exercise the option, because it would have to obtain a separate Congressional appropriation within the next two years.

152. Bolan Smart stated that, even if the government was to exercise the option before the lease commencement, the District would continue to collect real estate property taxes for the first fourteen years on Building 1. Bolan Smart opined that, during that period, the District would still receive well in excess of $100 million in real estate tax revenue from Station Place. After the fourteen-year period, the District would continue to receive close to $5 million per year in real estate tax revenue on the remaining portion of the property.

153. The Zoning Commission finds the expert report of Bolan Smart persuasive and finds that the construction of Station Place will provide significant economic benefit to the District, whether or not the SEC exercises an option to purchase its portion of the Site.

Response to Issues and Concerns of ANC 6A

153. In its report, ANC 6A supported the project with conditions that the Applicant was to address. With respect to those issues and concerns, the Commission finds that:

a. Construction management and truck route issues have been adequately addressed by the Applicant.

b. The project includes improvement of the G Street sidewalks to enhance access to the H Street corridor prior to the construction of Building 3.

c. Access to Union Station will be provided along the improved sidewalk and bike path in the F Street right-of-way. Access to Union Station through the F Street lobby of the building cannot be provided due to the security requirements of the SEC.

d. The project includes a direct public connection from the third floor of Building 3 onto H Street.

e. The Applicant and the SEC have demonstrated why a setback of sixty-four feet from the curb of 2nd Street should not be required.

f. The Applicant has increased the area to be surveyed prior to construction to include properties up to 3rd Street.

g. The Applicant has proffered to establish a community advisory committee.

h. The Applicant has proposed to commit funds to help with the revitalization of H Street. The Commission finds that the Applicant's proposal, as part of its overall package of amenities and benefits, is an appropriate balance with the impacts of the project and the development incentives requested. The Commission is not persuaded that a percentage of the gross revenue of the project deriving from the lease with the SEC is an appropriate formula to be diverted to community projects.

i. The Applicant has signed agreements with the Department of Employment Services and the Local Business Opportunity Commission. The Applicant has further demonstrated a commitment to undertake activities that will make these agreements successful.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

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

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

4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, the height and density will not cause a significant adverse effect on any nearby properties and will, in fact, include less density on the Site than is permitted as a matter of right. The office use for this project is appropriate on this Site, which is located in the Central Employment Area and within immediate proximity to mass transit. The impact of the project on the surrounding area is not unacceptable. As set forth in the findings of fact, the 2nd Street façade has been appropriately designed to respect the surrounding areas, including the monumental core to the south and the low-rise commercial and residential area to the east.

6. The Applications can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.

7. The project benefits and amenities, particularly the quality of the design of the building and the provision of open space, are a reasonable trade-off for the development incentives requested. The proposed development is both an F Street building and a 2nd Street building, and the use, height, bulk and design are appropriate for all sides and all contexts of the building.

8. Approval of the Applications is appropriate because the proposed development is consistent with the present transitional character of the area.

9. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan, including the designation of the Site as part of the mixed-use, medium-high density commercial/production and technical employment land use categories.

10. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval with conditions. The Commission has addressed, through the conditions imposed in this order, the ANC's specific issues and concerns.

11. The approval of the Applications will promote the orderly development of the Site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

12. The Applications are subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

13. The Applicant is exempt from preparing an Environmental Impact Statement under the District of Columbia Environmental Policy Act.

14. The Architect of the Capitol's Master Plan for the United States Capitol does not apply to the Site and does not require a setback of sixty-four feet.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the Applications for consolidated review of a Planned Unit Development and for a Zoning Map amendment from C-M-3 to C-3-C for property located on the west side of 2nd Street, N.E., between F and H Streets, N.E., in Square 720, Lots 178 and 179. This approval is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans prepared by Kevin Roche John Dinkeloo and Associates, dated November 8, 2001, as supplemented by drawings dated November 29, 2001, marked as Exhibits 67 and 95, respectively, in the record, as modified by the guidelines, conditions, and standards herein.

2. The PUD shall be a commercial office development, with retail and service uses, consisting of approximately 1,396,950 square feet of gross floor area. The PUD project shall not exceed a density of 5.9 FAR. The building shall not exceed a height of 115.5 feet, as measured from F Street, or 89.32 feet as measured from the H Street overpass, with setbacks as shown on the plans.

3. The façade elevations of Building 3 shall be as finally approved by the Commission of Fine Arts.

4. Bollards may be placed outside the main entrance to Building 1 on F Street and retractable bollards may be placed at the entrance to the garage on F Street. All exterior, visual security measures shall be as approved by the Commission of Fine Arts and, if in public space, the Department of Public Works.

5. Station Place shall include a direct pedestrian connection to Union Station.

6. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and as approved by the Department of Public Works (Public Space Division). The Commission also recommends submission of security elements located in a public right of way to the National Capital Planning Commission to assure consistency with the recommendations of the federal interagency security task force.

7. There shall be a minimum of 922 parking spaces and six loading berths, as shown on the plans submitted to the record.

8. As part of its streetscape improvements, the Applicant shall construct the portion of the Metropolitan Branch Trail in the public right-of-way on the west side of 2nd Street between H and F Streets and on the north side of F Street, between 2nd Street and First Street (east).

9. The Applicant shall construct the ramp to access Station Place from the H Street overpass. The ramp shall be constructed and operational prior to the occupancy of Building 1.

10. After the completion of Building 1 and prior to the construction of Building 2, the Applicant may utilize the northern portion of the Site for a surface parking lot in accordance with the plans marked as Exhibits 93 and 94 of the record.

11. The Applicant shall follow the Construction Management Plan, with the specified exceptions stated herein, filed as Exhibit 120 of the record.

12. As part of the Construction Management Plan, the Applicant shall establish, in consultation with the community, a Community Advisory Committee. It is recommended that the Committee include representation of ANC 6A, the H Street Merchants and Professionals Association, the H Street Community Development Corporation, the Stanton Park Neighborhood Association, the Union Station Redevelopment Corporation, the Administrative Office of the U.S. Courts, the Capitol Hill Restoration Society, the Near Northeast neighborhood, and the residential community bounded by H Street, 2nd Street, E Street, and 4th Street. The meetings of the Community Advisory Committee should also include a representative of the Applicant and of the General Contractor, J.A. Jones/Tompkins.

13. The purpose of the Community Advisory Committee will be to oversee and coordinate community concerns and issues during the construction of Station Place. The bylaws of the Community Advisory Committee should be worked out upon its convocation and the duties and responsibilities of the Committee will be defined during the process of creating bylaws.

14. The Applicant shall conduct a pre-construction condition survey prior to the construction of Building 1, to include all residential properties between 2nd Street and the west side of 3rd Street, N.E., from the midpoint of the block between E and F Street, N.E., to and including the houses on the north side of G Street, N.E. For the construction of Buildings 2 and 3, the Applicant shall expand the scope of the survey area to include all residential properties in the block between G and H Streets, N.E. and 2nd and 3rd Streets, N.E.

15. The Applicant shall make a checklist of the areas reviewed in a typical pre-construction condition survey available to homeowners outside of the survey area so that these homeowners can document the pre-construction condition of their homes.

16. The Applicant shall designate a representative to be the key contact for interaction with members of the community regarding construction. The representative shall have a local office, phone, fax, and voice mail and be accessible during all hours of construction activity operation. In the event that any problems begin to occur with respect to resident's homes or property, this representative can be contacted immediately.

17. The design of Building 3 shall include a pedestrian entrance directly from the H Street overpass. This entrance will be open to the public.

18. To support pedestrian access from Station Place to the H Street commercial corridor prior to the construction of Building 3, the Applicant shall upgrade and beautify the sidewalks along G Street, N.E., between 2nd and 3rd Streets, N.E., in connection with the Department of Public Works.

19. The Applicant shall make or cause to be made specific landscaping, façade, and streetscape improvements along the H Street Commercial Corridor. The specific improvements will be reviewed by the Community Advisory Committee and ANC 6A, in coordination with and with consensus from the HSMPA. The Applicant shall invest a minimum of $200,000 for such specified improvements over a two year period from the effective date of this order.

20. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Local Business Opportunity Commission in order to achieve, at a minimum, the goal of thirty-five percent participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. The Applicant shall provide information regarding available jobs created by Station Place to the Community Advisory Committee and the ANC 6A, which both will be responsible for disseminating this information to the surrounding communities. After the completion of construction of each building, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

21. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent of the jobs created by the PUD project. In addition, the Applicant will give special consideration for hiring of residents from the Near Northeast community. The Applicant shall provide information regarding available jobs created by Station Place to the Community Advisory Committee and the ANC 6A, which both will be responsible for disseminating this information to the surrounding communities. After the completion of construction of each building, the Applicant shall provide a written status report to the Zoning Commission and the Department of Employment Services regarding compliance with this agreement after the construction of each building.

22. The Applicant, in connection with J.A. Jones/Tompkins Builders, its General Contractor for the construction of Station Place, shall implement a Fitness for Duty Policy for applicants for construction positions and employees at the work site. The Fitness for Duty Policy will include job training for skilled and semi-skilled professions in the construction field with a substance abuse plan to assist both trainees and workers who have a prior history of substance abuse.

23. The Applicant shall institute a managed vending program for the private space located in front of Building 2. As part of the managed vending program, the Applicant shall encourage use of the public space for vendors consistent with the District of Columbia Regulations.

24. The Applicant shall maintain the courtyard surrounding the entrance to Building 2 open for public access, with the landscape and water features proposed in the plans prepared by Kevin Roche John Dinkeloo and Associates, dated November 8, 2001, as supplemented by drawings dated November 29, 2001, marked as Exhibits 67 and 95, respectively, in the record.

25. The Applicant shall bear the cost of the modification to the Massachusetts Avenue and First Street (east) intersection signal light, which should be in place by the time any part of the development is operational.

26. The Applicant shall evaluate its Transportation Management Plan two years after the SEC occupies Building 1, and thereafter every two years. Employee surveys and/or peak hour traffic and parking counts shall be conducted to measure the effectiveness of the program. This information shall be submitted to the Department of Public Works and the Zoning Commission. If the Department of Public Works recommends that modifications are necessary, the Applicant shall modify the approved Transportation Management Plan activities or add new Transportation Management Plan activities in a manner consistent with the goals of the Transportation Management Plan.

27. The size of the shuttle bus which provides shuttle service for the SEC shall not exceed a sixteen passenger van. The shuttle bus shall not block traffic and shall not be permitted to idle in front of the subject site in excess of the time permitted under D.C. law.

28. The Applicant and the U.S. General Services Administration shall execute a mutually acceptable easement modification agreement so that the Applicant may construct a portion of its improvements within this easement area.

29. Building 1 shall be occupied as office space for the SEC during the initial lease term of 14 years. Any change in the occupant of office space in Building 1 during this period shall require the consent of the Zoning Commission through the PUD modification process.

30. The Applicant shall have flexibility with the design of the PUD in the following areas:

a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;

b. To vary the location and design of the direct connection to Union Station, consistent with arrangements approved by the Union Station Redevelopment Corporation;

c. To vary the number and location of parking spaces, not to decrease below the minimum of 922 spaces on a self-park basis;

d. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction;

e. To make architectural changes initiated and required by the Commission of Fine Arts to be consistent with the final approval of the Commission of Fine Arts; and

f. To make minor refinements to exterior details and dimensions, including belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the D.C. Building Code or that are otherwise necessary to obtain a final building permit.

31. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owners and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

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

33. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit for Building 1 as specified in 11 DCMR § 2409.1. Construction shall begin on Building 1 within three years of the effective date of this order. Within two years after the issuance of a certificate of occupancy for Building 1, an application must be filed for a building permit for Building 2, and construction shall begin on Building 2 within three years after the issuance of a certificate of occupancy for Building 1. Within two years after the issuance of a certificate of occupancy for Building 2, an application

must be filed for a building permit for Building 3, and construction shall begin on Building 3 within three years after the issuance of a certificate of occupancy for Building 2. Notwithstanding the forgoing, if the construction of Building 3 does not commence within ten (10) years of the effective date of this order, the PUD shall expire with respect to that building.

Pursuant to the Human Rights Act of 1977, D.C. Code § 1-2531 (1991), the Applicant is required to comply fully with the provisions of the Act, and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the Applicant fails to comply with any provision of the Human Rights Act

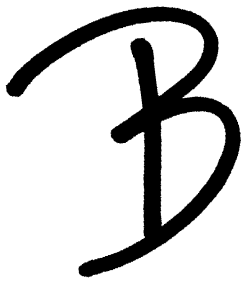
The Commission on January 14, 2002, voted to approve the application on a vote 5-0-0 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, Peter G. May, James H. Hannaham to approve)

The order was adopted by the Zoning Commission at its public meeting on February 11, 2002, by a vote of 5-0-0 (Anthony J. Hood, John G. Parsons, Peter G. May, and James H. Hannaham voting to adopt, Carol J. Mitten voting to adopt by absentee ballot).

In accordance with the provisions of 11 DCMR § 3028, this order shall become final and effective upon publication in the *D.C. Register*; that is on MAR 15 2002.

Carol J. Mitten
CAROL J. MITTEN
Chairman,
Zoning Commission

Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director
Office of Zoning



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Zoning Commission Order No. 03-31 (955-A)
Zoning Commission Case No. 03-31/01-09C
(Modification to a Consolidated Planned Unit Development and Zoning Map Amendment for Station Place)
October 20, 2003

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia was held on October 20, 2003. At the meeting, the Zoning Commission approved an application from Louis Dreyfus Property Group (the "Applicant") for a minor modification to an approved planned unit development ("PUD") and Zoning Map amendment for Station Place, pursuant to Chapter 24 and the Consent Calendar Regulations of Chapter 30 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. Because the modification was deemed minor, a public hearing was not conducted.

The Commission determined that this modification request was properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 955, dated February 11, 2002, the Commission approved a PUD and related Zoning Map amendment for property located on the west side of 2nd Street, between F and H Streets, N.E. (the "Site"). The Site consisted of Lots 178 and 179 in Square 720 and is now known as Lots 824, 825, and 826 in Square 720. The office building approved in Zoning Commission Order No. 955 is to have approximately 1,396,950 square feet of gross floor area, not to exceed a density of 5.9 FAR, with a maximum building height of 115.50 feet, as measured from F Street or 89.32 feet as measured from the H Street overpass. The project will provide a minimum of 922 parking spaces.

The Applicant seeks a minor modification to permit the substitution of four (4) water features with sculptures and planters in the courtyards along 2nd Street, N.E., as indicated in the plans submitted with the request for minor modification. The circular water features in the courtyards for Buildings 1 and 2 may be substituted with sculptures. For the courtyard of Building 1, a sculpture depicting a small crowd of people may be constructed in the center of the courtyard in place of the water feature. For the courtyard of Building 2, a sculpture resembling a horizontal body, lying face down and looking forward, may be constructed in the center of the courtyard in place of the water feature. The rectangular water features shown for the courtyards for Buildings 2 and 3 may be replaced with planters.

These changes are requested to allow the Applicant to have the option to introduce art into the area and to create an important public gathering space. In addition, substitution of the water features with sculptures and planters may eliminate the risk of water leaking to the below-grade facilities. Finally, the sculptures and planters will accomplish the same purpose as the water features by providing street animation but are superior as they can be enjoyed year-round.

The requested minor modification does not affect the essential elements of the approval given by the Zoning Commission for this project, including use, height, gross floor area, lot occupancy, setbacks, or number of parking spaces. Additionally, the modification is consistent with the approved elements of the amenity package.

Copies of the Request for Minor Modification were hand-delivered to all parties to the approved PUD, including ANC 6C (the successor ANC to ANC 6A), the Stanton Park Neighborhood Association, the H Street Merchants and Professionals Association, and the Near Northeast Neighborhood Task Force.

On October 20, 2003, at its regular monthly meeting, the Zoning Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modification to the approved PUD.

The Zoning Commission concurs with the Applicant that approving the application is appropriate and is not inconsistent with the intent of 11 DCMR, §§ 2409.9 and 3030.

The Zoning Commission further finds that its decision is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zone Plan as embodied in the Zoning Regulations and the Zoning Act.

CONCLUSIONS OF LAW

Upon consideration of the record in this application, the Zoning Commission concludes that the proposed modification is minor and does not change the intent of the previously approved Zoning Commission Order No. 955. Further, the Commission concludes that its decision is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the proposed modification does not impact the essential elements of the approved PUD, including use, height, gross floor area, lot occupancy, setbacks, or number of parking spaces. Other than the potential substitution of the water features with planters and sculptures, no other condition of the approved PUD will be affected. The material facts relied upon by the Commission in approving the PUD in Zoning Commission Order No. 955 have not changed. The modification is minor such that consideration as a Consent Calendar item without public hearing is appropriate.

DECISION

In consideration of the Findings of Fact and Conclusions of Law provided herein, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a minor modification of an approved PUD for the property located on the west side of 2nd Street, between F and H Streets, N.E. (now known as Lots 824, 825, and 826 in Square 720). The Applicant shall have the flexibility to substitute sculptures or planters as indicated in the plans marked as Exhibit 1 in the record for any of the four (4) water features.

Pursuant to the intent of 11 DCMR § 2409.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs ("DCRA") for the minor modification until the Applicant has recorded a "Notice of Modification" of Zoning Commission Order No. 955 with the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 955 along with this Order, which the Director of the Office of Zoning has certified. The recordation of the Notice of Modification shall bind the Applicant and any successors in title to construct on and use the site in accordance with this Order and any amendments thereof.

After recordation of the Notice of Modification, the Applicant shall promptly file a certified copy of the Notice of Modification with the Office of Zoning for the records of the Zoning Commission.

The minor PUD modification shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit for the modification as specified in 11 DCMR §§ 2409.2 and 2409.3 of the Zoning Regulations. Construction of the minor modification shall start within three (3) years of the effective date of this Order. The grant of this minor modification does not relieve the Applicant from complying with the time requirements applicable to the development of this PUD, as stated in Condition 33 of Zoning Commission Order No. 955.

Vote of the Zoning Commission taken at its public meeting on October 20, 2003, by a vote of 4-0-1 (John G. Parsons, Carol J. Mitten, Anthony J. Hood, and Peter G. May to approve; James H. Hannaham, not present, not voting).

In accordance with the provisions of 11 DCMR 3028.8, this Order shall become final and effective upon publication in the D.C. Register; that is on DEC 24 2004.

Carol J. Mitten

CAROL J. MITTEN
Chairman
Zoning Commission

Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director
Office of Zoning

Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 03-31/01-09C (Modification to PUD @ Square 720, Lots 178 and 179 – Station Place)

As Secretary to the Zoning Commission, I herby certify that on DEC 15 2004 copies of this Z.C. Order No. 03-31 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. Whayne S. Quin
   Holland & Knight LLP
   2099 Pennsylvania Avenue, N.W.
   Washington, D.C. 20006-6801

2. Joseph V. Fengler, Chair
   ANC 6A
   815 F Street, N.E.
   Washington, D.C. 20002

3. H Street Merchants & Professionals Association
   c/o Anwar Saleem, President
   1017 H Street, N.E.
   Washington, D.C. 20002

4. Stanton Park Neighborhood Assoc.
   c/o Drury Tallant, Designated Rep.
   730 3rd Street, N.E.
   Washington, D.C. 20002

5. Near Northeast Neighborhood Task Force
   c/o Venious Parking, Designated Representative
   1131 3rd Street, N.E.
   Washington, D.C. 20002

6. City Councilmember Sharon Ambrose (Ward 6)

7. Office of Planning (Ellen McCarthy)

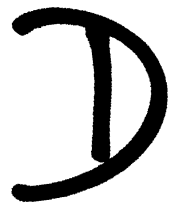
8. Zoning Administrator

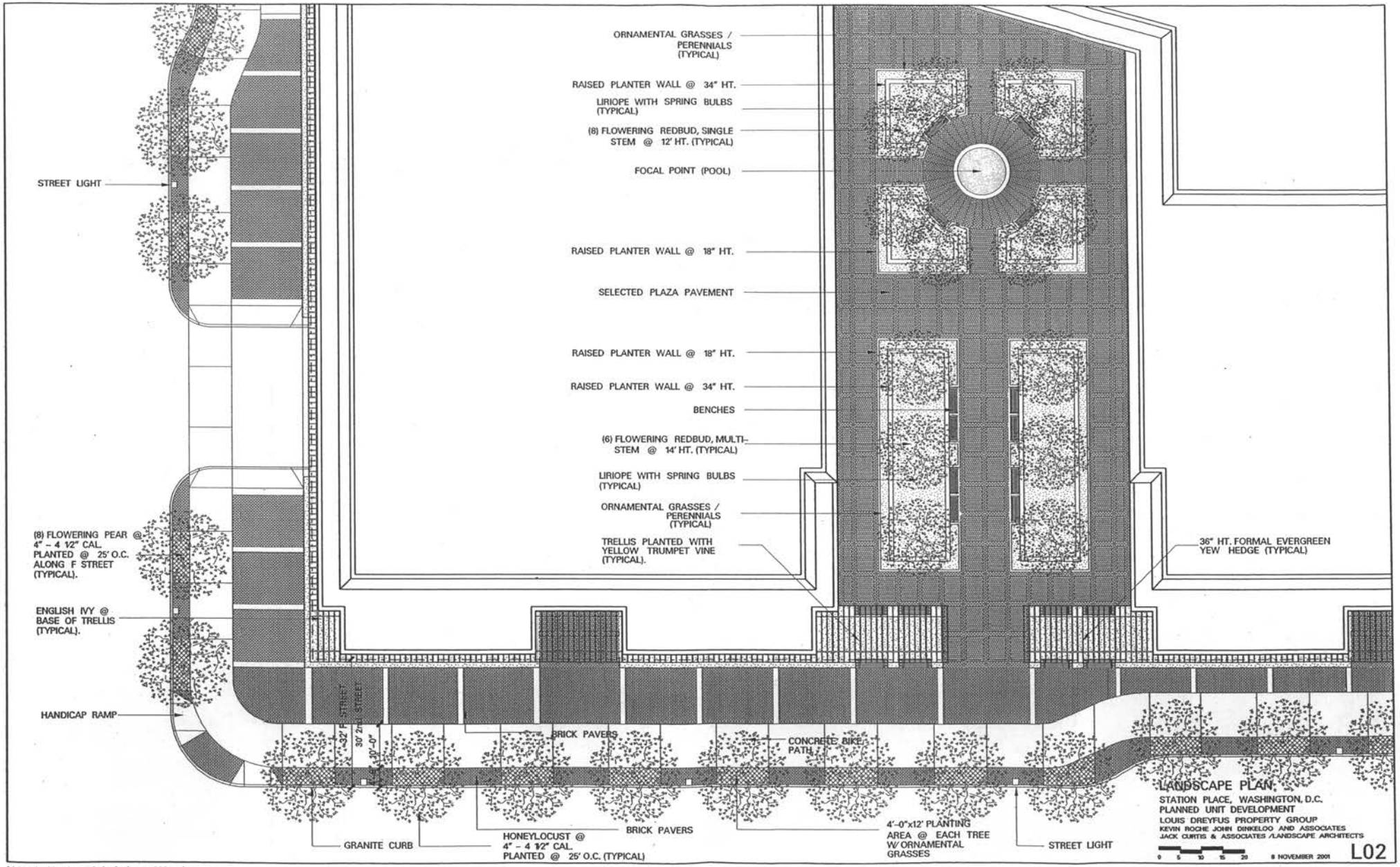
9. Office of Attorney General (Alan Bergstein)

ATTESTED BY: _____
Alberto P. Bastida, AICP
Secretary to the Zoning Commission

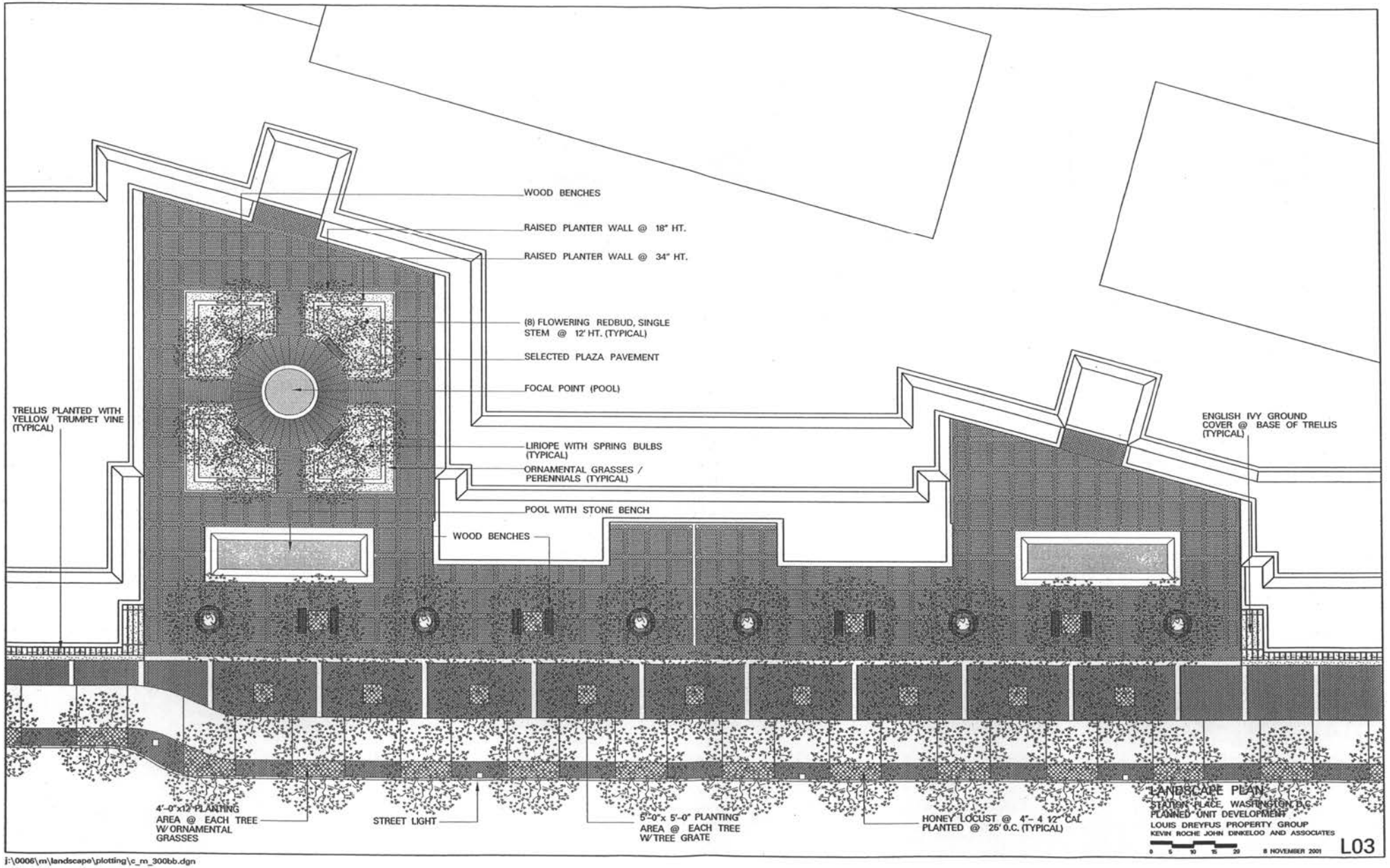


PLANS FOR PROPOSED PLAYGROUND
SUBMITTED SEPARATELY





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LANDSCAPE PLAN
STATION PLACE, WASHINGTON D.C.
PLANNED UNIT DEVELOPMENT
LOUIS DREYFUS PROPERTY GROUP
KEVIN ROCHE JOHN DINKELOO AND ASSOCIATES

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8 NOVEMBER 2001

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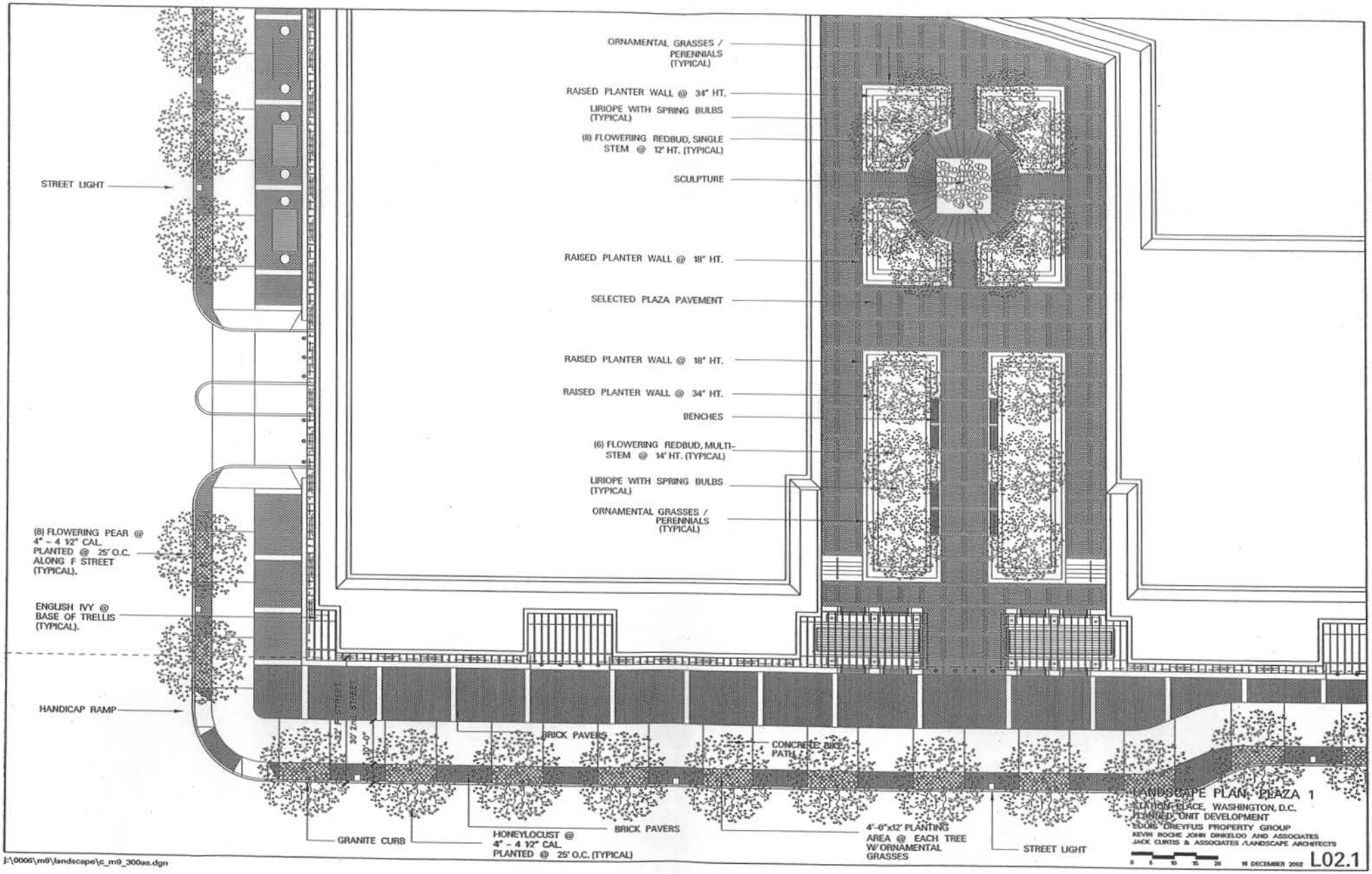
Proposed Station Place Public Sculptures and Plantings

Courtyard 1
The Illuminated Crowd by Raymond Mason
Changes Requested by the Owner
Description by the Artist
Architect's Amended Landscape Plan
Architect's Landscape Plan Enlarged
Front View of the Sculpture in Position
Side View of the Sculpture in Position
Front View of the Sculpture
Side View of the Sculpture
Back View of the Sculpture

Courtyard 2
Eve by Pierre Edouard
Changes Requested by the Owner
Description by the Artist
Architect's Amended Landscape Plan
Front View of the Sculpture in Position
Side View Photograph of the Sculpture
Front View Photograph of the Sculpture

Courtyard 3
Changes Requested by the Owner
Architect's Amended Landscape Plan
Front View of Planter
Side View of Planter

Courtyard 1



LANDSCAPE PLAN, PLAZA 1

STATION PLACE, WASHINGTON, D.C.

PLANNED UNIT DEVELOPMENT

TUDOR DREYFUS PROPERTY GROUP

KEVIN ROCHE JOHN DINKELOO AND ASSOCIATES

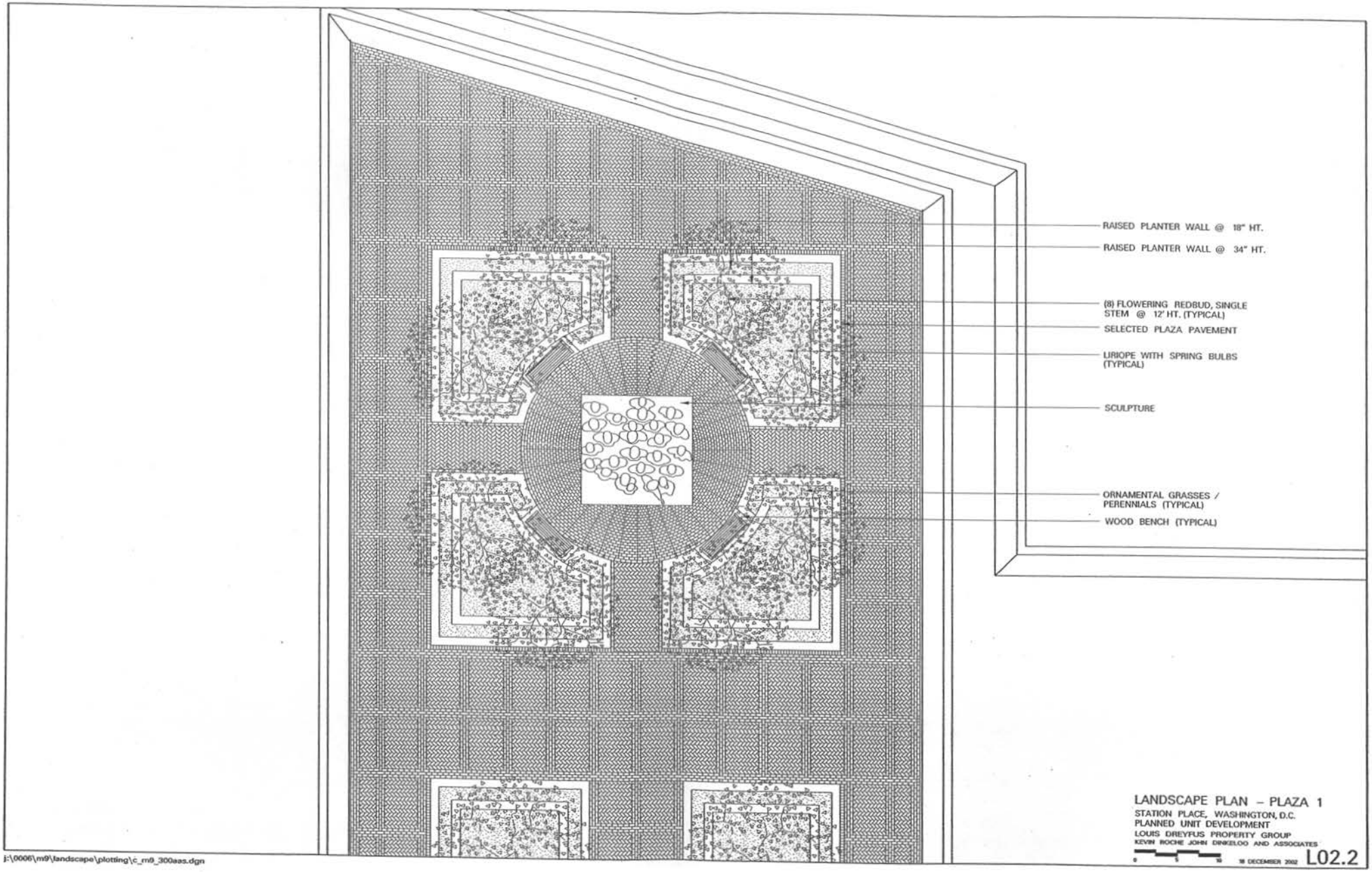
JACK CURTIS & ASSOCIATES /LANDSCAPE ARCHITECTS

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18 DECEMBER 2002

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LANDSCAPE PLAN – PLAZA 1

STATION PLACE, WASHINGTON, D.C.
PLANNED UNIT DEVELOPMENT
LOUIS DREYFUS PROPERTY GROUP
KEVIN ROCHE JOHN DINKELOO AND ASSOCIATES

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An Illuminated Crowd *2003-2004, Painted Polyester Resin,12' 8" x 11' 4" x 14"*

Mr. William Louis-Dreyfus
Louis Dreyfus Holding Co. Inc.

Dear William,

You asked me to add a sculpture to the handsome construction of Station Place, which in a year or so will be rising in Washington D.C. Naturally, coming from you as client, and intended for the capital city of the United States of America, I have accepted.

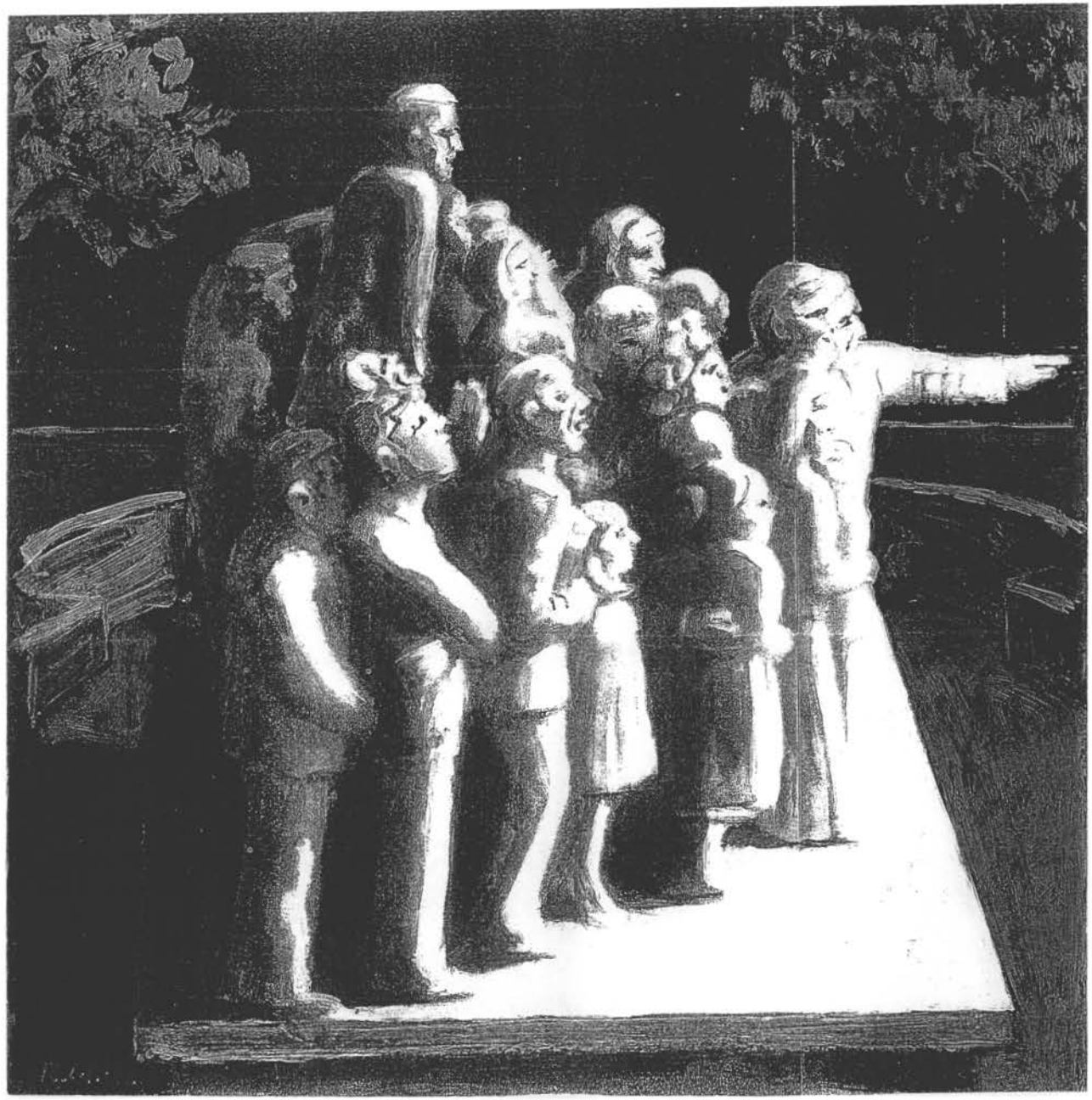
In the center of Courtyard No. 1 of the future building I intend to place a sculpture of twenty-eight figures, four metres wide, three metres deep and three and a half metres high. The material will be stratified polyester resin on a structure of cortone steel.

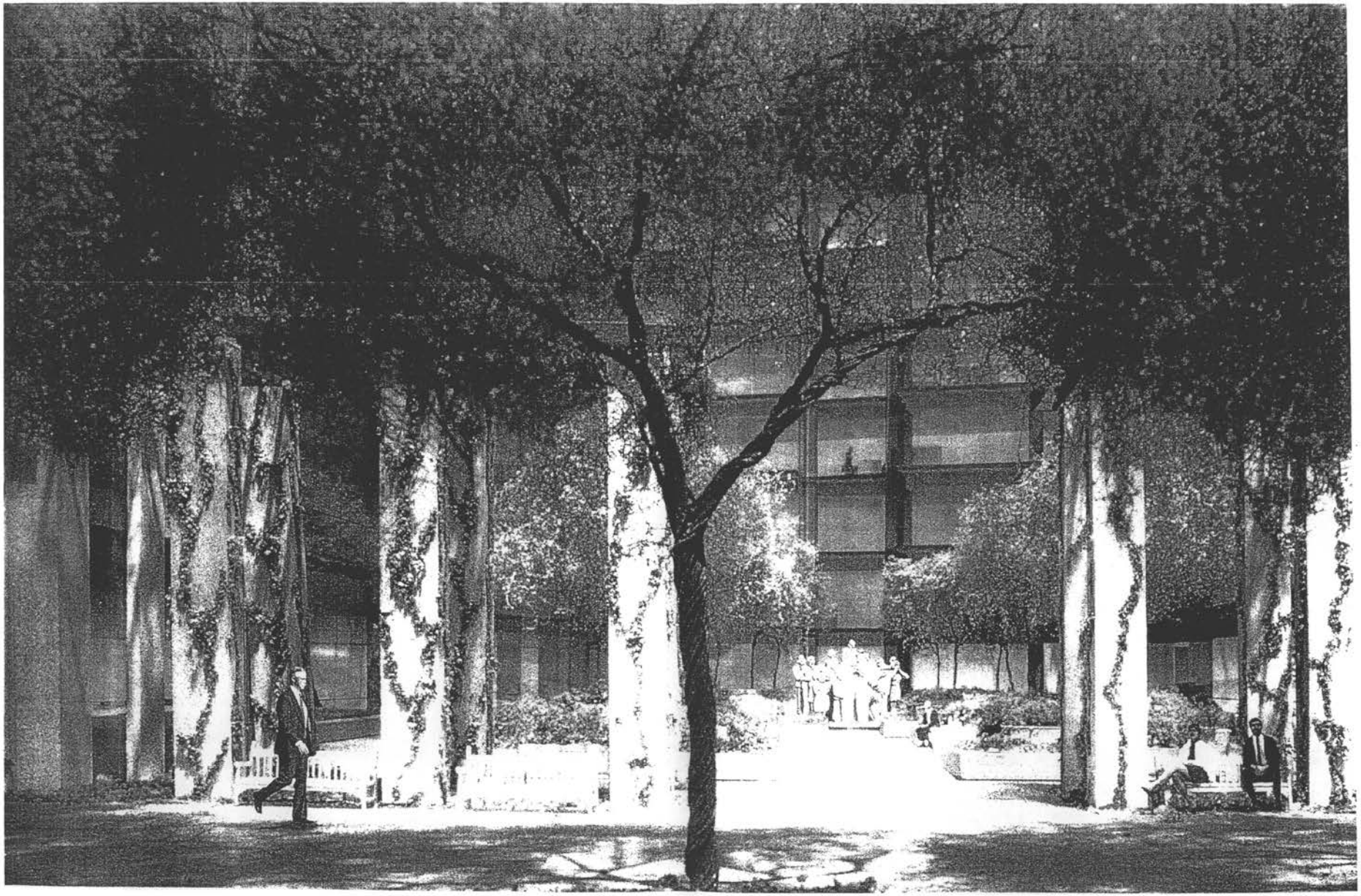
The work will suggest a small crowd of people illuminated horizontally and this effect will be obtained by the painting of the work in polyurethane paint, basically light ochre with brown and purple shadows and accents of red.

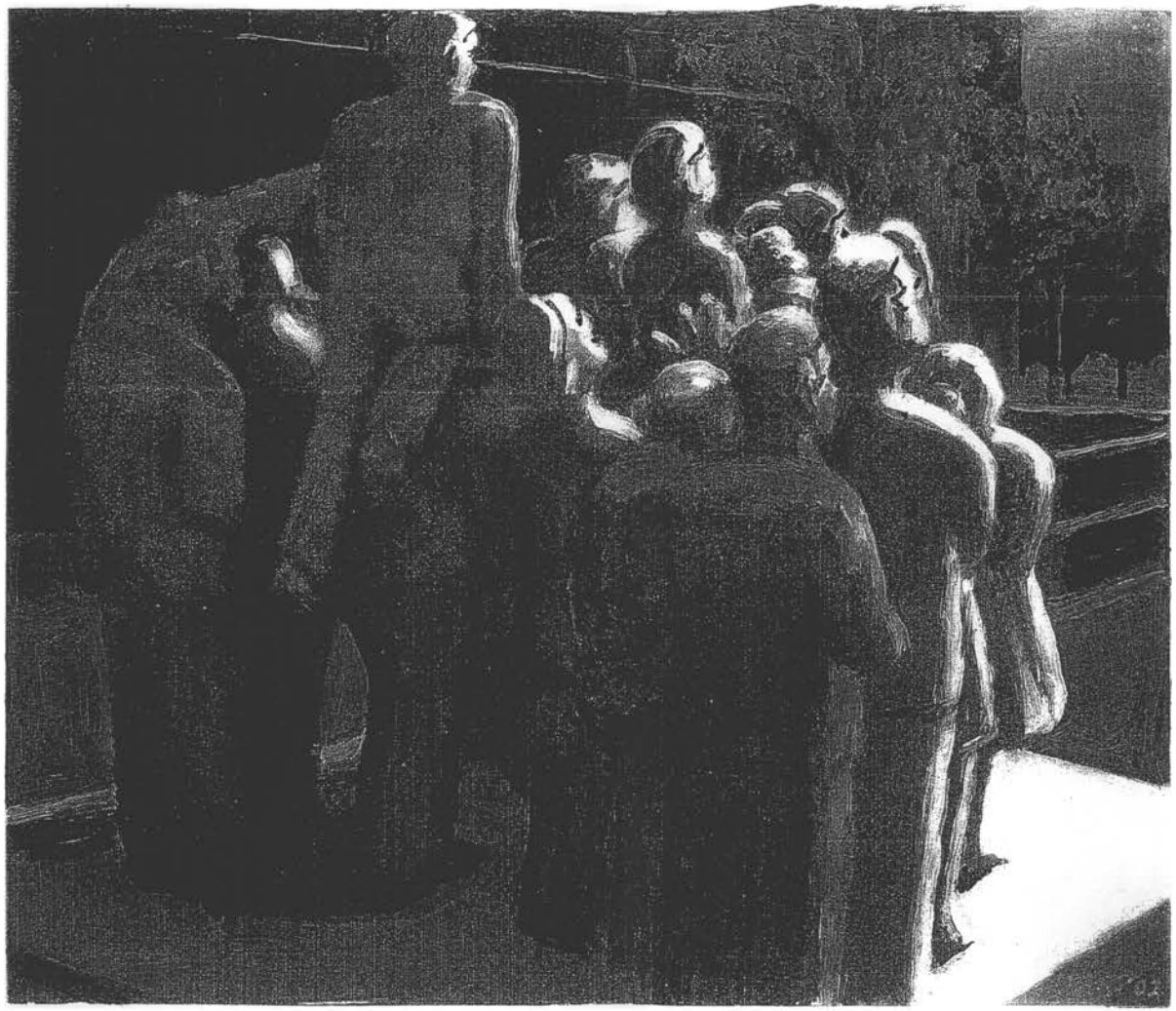
Yours ever sincerely,

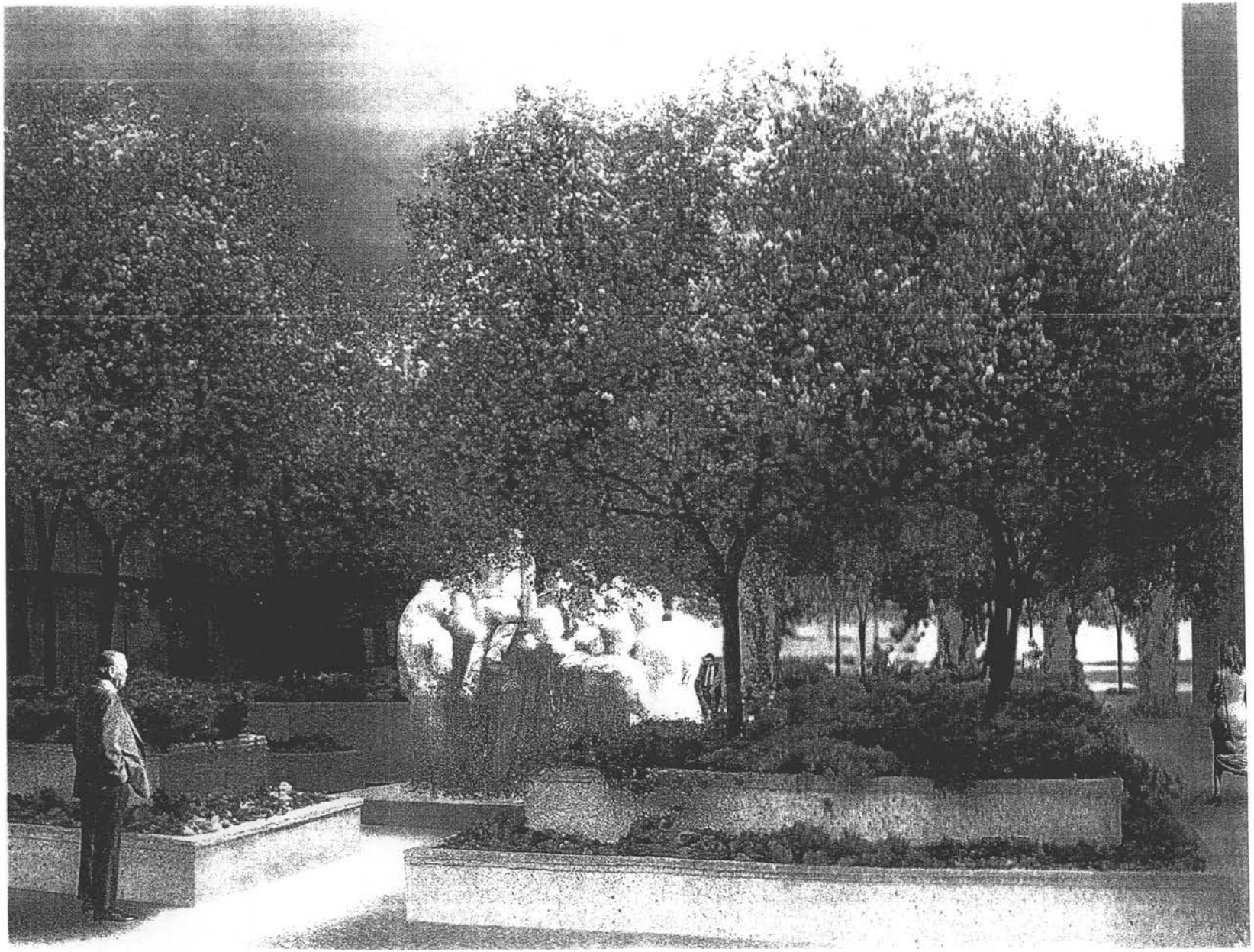
Raymond Mason
January 28th, 2003


RM'02

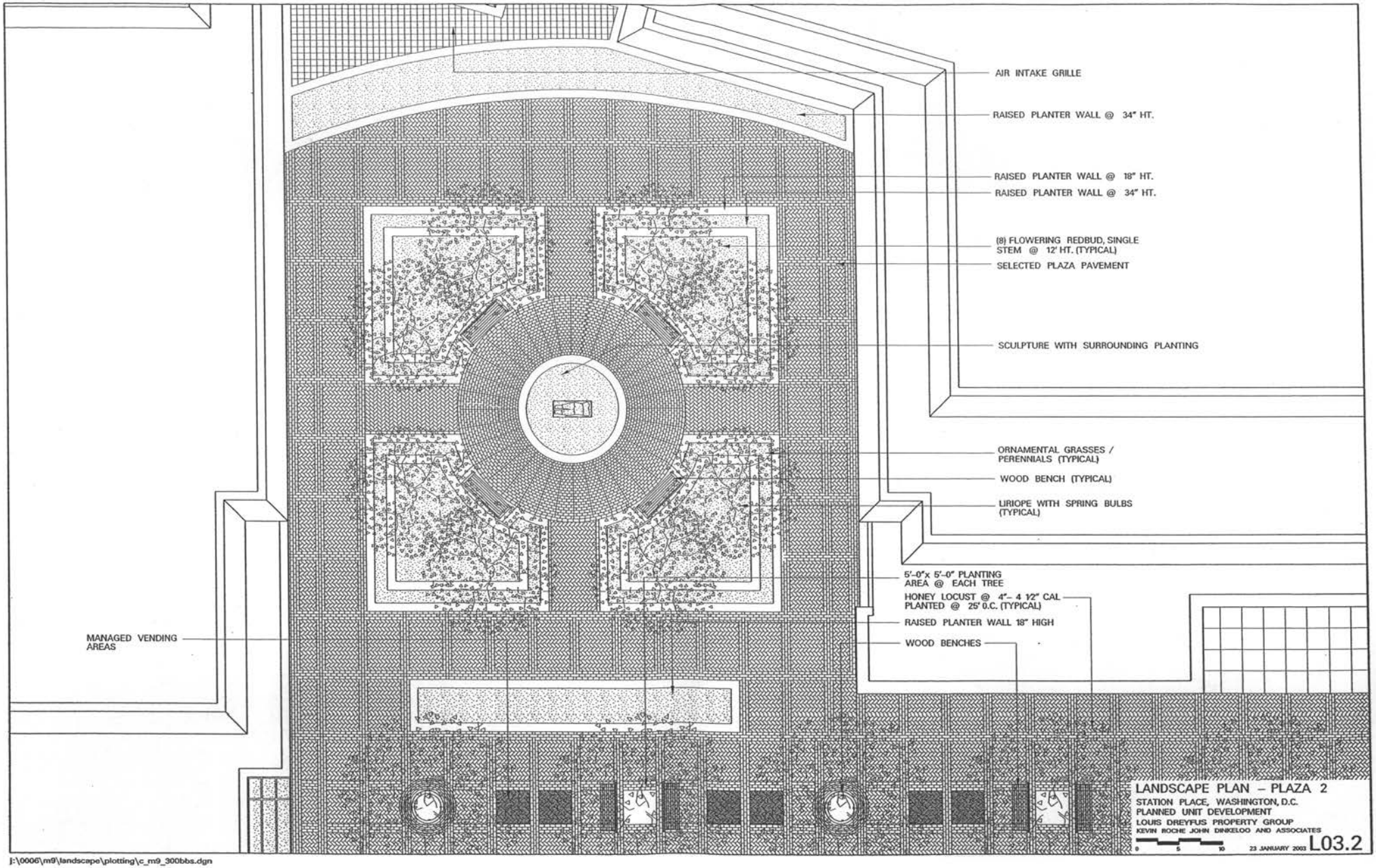




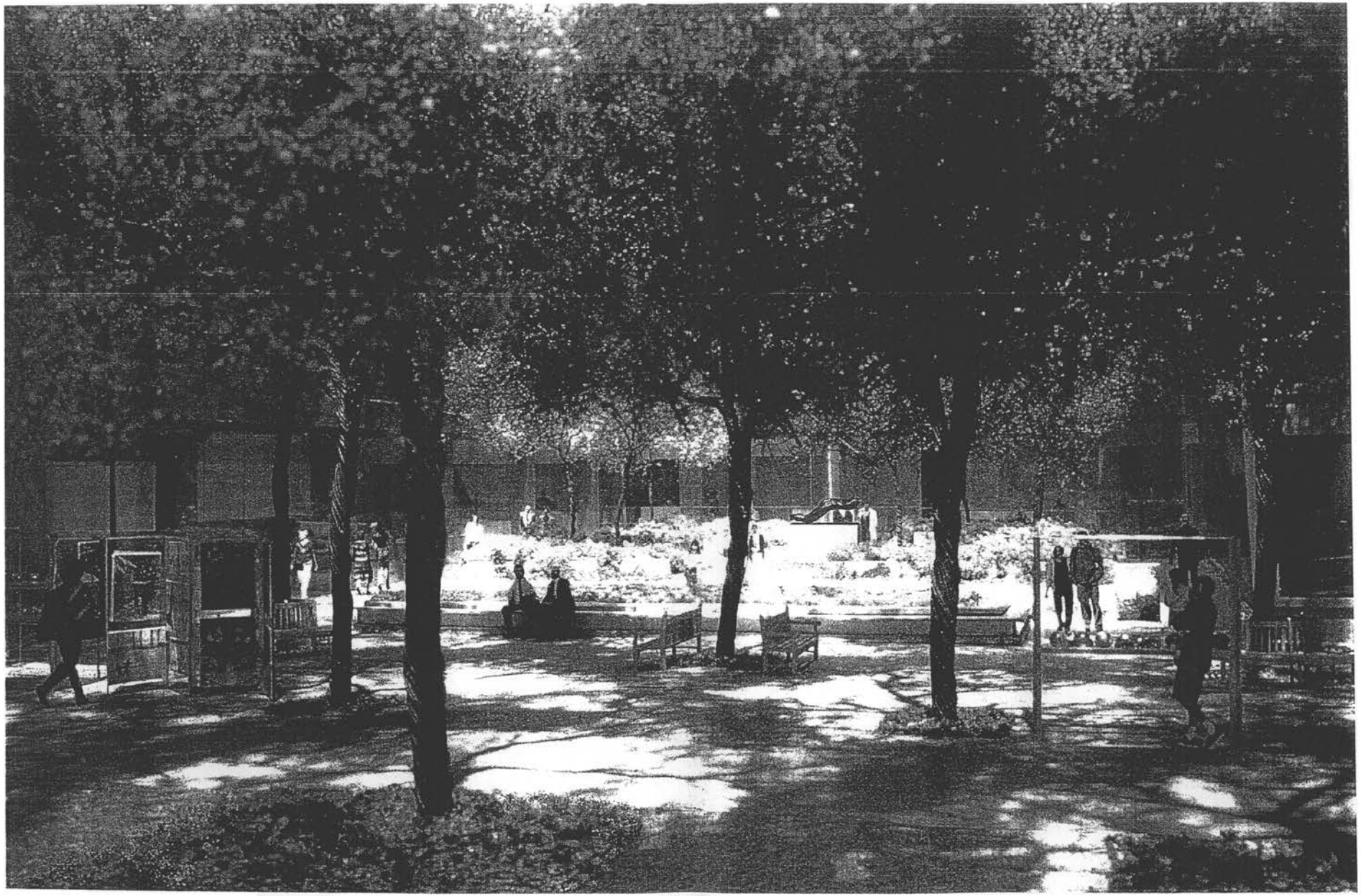




Courtyard 2



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Eve *2002, Bronze,17 3/4" x 55 1/8" x 24"*

This sculpture (the title is an homage to Gislebertus, the Romanesque sculptor whose work can be seen at the Cathedral of Saint-Lazare in Autun) looks like a horizontal body, lying face down and looking forwards. Almost totally suspended, she leans only on parts of her knees and exists mainly in a void. Her general silhouette draws a sort of fragmented arch.

This sculpture is the last step in a project which has lasted about a decade. I worked on this theme in a smaller scale between 1993 and 1997. The first version of Eve was shown at an exhibition at the Galerie Claude Bernard in Paris in 2001. Afterwards, I produced a new one version which became a half-size model. Then I enlarged it and entirely remade it to adapt the modeling to the new scale. For me, this is the definitive size of Eve. Even while working on the smaller version, I always visualized it as a larger piece.

I often thought about the ancient Egyptian fresco representing Nout, the Celestial Vault goddess, a feminine body arching itself above men, animals and things. This feeling of an arch may come from her. That is why I insist on the sculpture being displayed quite high from the ground (47 inches) so it can never be totally enveloped by the eye. She must give the impression of enveloping us, but we should not feel below her.

It is almost impossible to put into words what one has tried to do in a work of art. I won't even try. But sometimes along the way, things become obvious: the shape I was working on was a gap, a breach into the space where we live but which we ignore. This breach creates this totally abstract place in which everything lies.

The real drawing is mostly the drawing of this echo to the shape. Building a shape looking like a human body in the midst of that totally unknown three-dimensional space is a strange undertaking, whose result can only be scraps and fragments – directions taken, then abandoned, then taken again.

That's probably why I made this sculpture out of emptiness. I used wax (which does not ask for an armature like clay) and I worked with successive fragments, the wax leaf wrapping the emptiness, without any pre-established direction, progressing blindly among the innumerable combinations of space.

My idea of sculpting is a bit particular: the sculpture cannot be totally embodied but must have this immateriality which may exist in drawing. I think I have always tried to annihilate one of the fundamental laws of sculpting: the physical mass and gravity. I can only see the life of shapes when they break their natural links and seem to come out of the space they inhabit. We are then entering a different logic whose law is a melodic line, totally free.

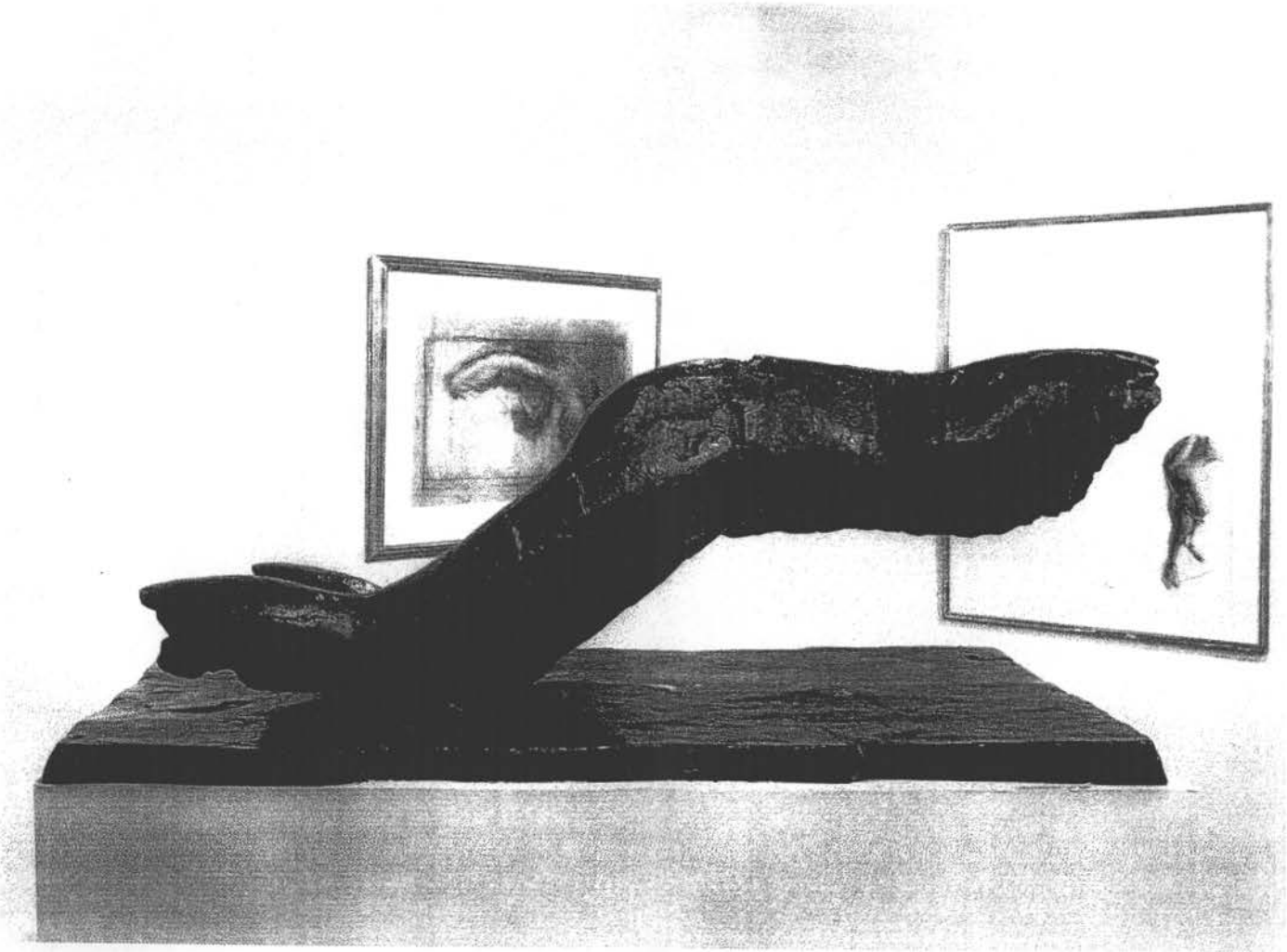
Completing a project has never been a problem for me. I have the feeling that the sculpture was unfinished at the beginning and still is. I need to keep this impression of "suspended work" or "work in progress" without which life stops. At a certain step of the work the sculpture had no legs, and still has neither head nor arms: the idea of completion is something I had preferred not to deal with.

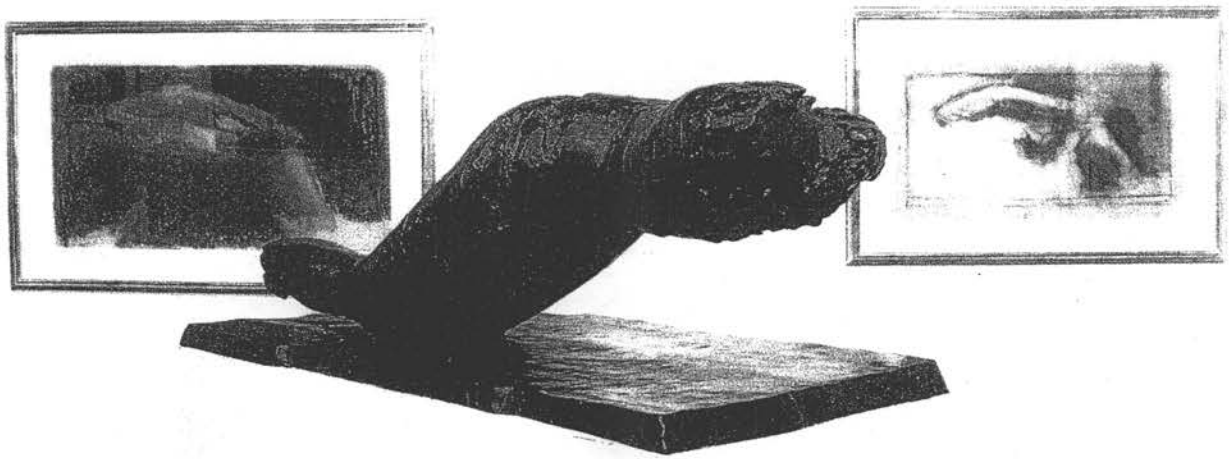
The reason for this is probably the ancient sculptural dream: the modeling by light and darkness should be the only master, the only guide to deciding where the shape begins and ends. So at the end a human figure emerges almost as a surprise.

It is true that this sculpture is made of pieces gradually fitting in and finally giving birth to a body whose anthropomorphic proportions existed before. The representation of the human body is essential to me – in art, it is ourself who is the subject – but I can only conceive it as something that appears and surprises me.

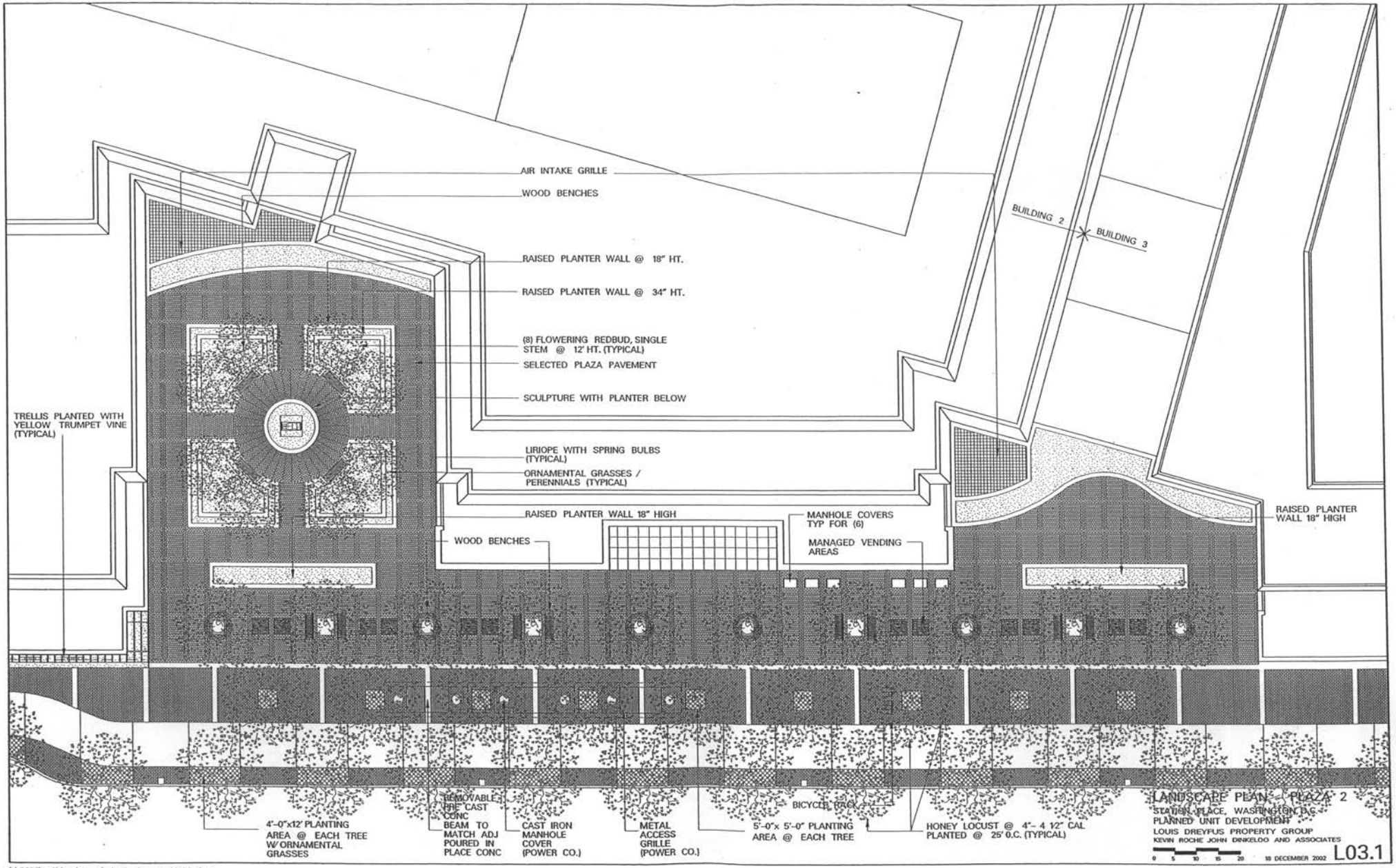
Your project reminds me that the real challenge of sculpture is not to be isolated but to be surrounded by people. Certainly because I am intimately convinced that only the inner rhythms of life can generate shapes and that, if these shapes reached a completeness, they could fit in with our daily life.

Pierre Edouard
January 16, 2003





Courtyard 3



LANDSCAPE PLAN - PLAZA 2
STATION PLACE, WASHINGTON D.C.
PLANNED UNIT DEVELOPMENT
LOUIS DREYFUS PROPERTY GROUP
KEVIN ROCHE JOHN DINKELOO AND ASSOCIATES

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