GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION CORRECTED[1] ORDER NO. 08-27A
Z.C. Case No. 08-27
Consolidated Planned Unit Development and Related Amendment to the Zoning Map
American Institute of Architects and American Architectural Foundation
(Square 170, Lots 38 & 39)
June 22, 2009

Pursuant to proper notice, the Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 787, et seq.; D.C. Official Code § 6-641.01), held a public hearing on May 18, 2009 to consider an application from the American Institute of Architects ("AIA") and the American Architectural Foundation ("AAF") (collectively, the "Applicant"), for the consolidated review and approval of a planned unit development ("PUD") and a related Zoning Map amendment from the SP-2 to the C-3-C Zone District for Lots 38 and 39 in Square 170. The Commission considered the application pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR") Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

The Commission took proposed action to approve the PUD and related Zoning Map amendment application on May 18, 2009.

The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to §492 of the District Charter. NCPC, by action dated June 4, 2009, found that the proposed Consolidated PUD and related map amendment application is not inconsistent with the Comprehensive Plan for the National Capital nor would it adversely affect any other federal interests.

The Commission took final action to approve the PUD and related Zoning Map amendment application on June 22, 2009.

[1] On November 9, 2009, the Commission granted the Applicant's request for a technical correction to Z.C. Order No. 08-27 ("Original Order") as published in the July 17, 2009 edition of the *D.C. Register*. The Applicant asked that the Commission modify the second bullet item of paragraph number 8 in the Findings of Facts section of the Order, to change the word "immediately" to "one block". Except for necessary conforming revisions, no other changes have been made to the Original Order.

FINDINGS OF FACT

Procedural Background

1. On October 3, 2008, the Office of Zoning received an application from the Applicant requesting the Commission to approve a consolidated PUD and related Zoning Map amendment from the SP-2 to the C-3-C Zone District, with premises address of 1735 and 1799 New York Avenue, N.W., Lots 38 and 39 in Square 170 (the "Property").

2. On November 10, 2008, the Commission considered the Consolidated PUD and Zoning Map Amendment application and voted to set the case down for a public hearing. On March 13, 2009, the Applicant filed its pre-hearing statement with the Office of Zoning and a public hearing was scheduled before the Commission for May 18, 2009. Notice of the public hearing was given in accordance with the provisions of 11 DCMR §§ 3014 and 3015.

3. By a letter dated April 17, 2009, and received by the Office of Zoning on April 20, 2009, the West End Citizens Association ("WECA") requested to participate as a party in the proceeding.

4. On May 18, 2009 the Commission held a public hearing on the application, which was conducted in accordance with the provisions of 11 DCMR § 3022. Paul Tummonds of Pillsbury Winthrop Shaw Pittman, LLP and Christine McEntee, Executive Vice President and Chief Executive Officer of the AIA presented the case on behalf of the Applicant. As a preliminary matter, the Commission accepted the Applicant's architect, Marnique Heath of Studios Architecture, as an expert in architecture and considered the party status application of WECA. The Applicant had no objection to the granting of party status to WECA. WECA was granted party status by the Commission. Eric Malinen of ANC 2A testified on behalf of Advisory Neighborhood Commission ("ANC") 2A. Barbara Kahlow testified on behalf of WECA.

PUD SITE

5. The Property is located in Square 170, which is bounded by New York Avenue, N.W. on the south, 18th Street, N.W. on the west, F Street, N.W. on the north, and 17th Street, N.W. on the east. The Property is located at the corner of New York Avenue and 18th Street, with frontage on both streets. The Property is comprised of 39,546 square feet of land area. (Exhibit 12, p. 1.)

6. The Property is improved with a seven-story office building constructed in 1973. This office building serves as the headquarters building for the AIA. Development of the AIA headquarters office building was approved by the Board of Zoning Adjustment ("BZA") in BZA Application No. 10463. The Property is also improved with the Octagon House, a residence constructed in approximately 1801, which is now a designated historic

landmark. The AAF owns and administers the house. The Octagon House (with an address of 1799 New York Avenue, N.W.) and the AIA headquarters office building (1735 New York Avenue, N.W.) are separated by an open plaza that includes hardscape and softscape elements. (Exhibit 12, pp. 4-5.)

7. The Property is included in the High-Density Commercial Land Use category on the District of Columbia Comprehensive Plan Future Land Use Map. (Exhibit 12, p. 2.)

8. The area immediately adjacent to the Property is comprised of the following:

- GOV zoned property to the east;
- One block to the north is C-3-C zoned property;
- Immediately south of the Property across New York Avenue is SP-2;
- Immediately west of the Property across 18th Street is GOV.

(Exhibit 12, p. 3 & Exhibit A, p. ZA0.1.)

9. The Property is currently located in the SP-2 Zone District. This zone classification permits commercial and residential uses to a maximum building height of 90 feet and a maximum commercial building density of 3.5 FAR. (Exhibit 12, Exhibit A, p. ZA0.2.)

10. The Applicant requests a PUD-related map amendment to rezone the Property to the C-3-C Zone District, consistent with high-density commercial properties to the north and government properties to the east and west. The C-3-C Zone District is a commercial district that permits medium-high density development, including office, retail, housing, and mixed-use development. Buildings in the C-3-C Zone District may be constructed to a maximum height of 90 feet and maximum density of 6.5 FAR as a matter-of-right. (Exhibit 12, Exhibit A, p. ZA0.2.)

PUD APPLICATION AND PROJECT

11. The consolidated PUD application proposes the renovation and rehabilitation of the AIA headquarters office building in a manner that respects the integrity of the potentially historic headquarters building, maintains the existing appropriate relationship to the Octagon House, and achieves significant sustainability improvements to the headquarters building. The Applicant's goal is to use this process as a national demonstration project to show how the highest level of sustainable design features can be applied to an existing mid-20th Century office building. The Applicant will seek LEED Platinum certification for this project, and the project will seek to achieve carbon neutrality by the year 2030. A preliminary LEED checklist was submitted by the Applicant into the record of this case. Upon completion of this project, the AIA will occupy floors two and five through seven for office use, and floors three and four will be rented for other commercial office tenants, just as the building has been used since it opened in 1973. The project will not

increase the density of the existing building and will make minimal changes to the building's exterior. (Exhibit 12, p. 5.)

12. Christine McEntee, the CEO of the AIA testified that the proposed project addresses four major goals of the AIA:

- Demonstration of leadership by the AIA;
- Sustainability and Energy reduction;
- Creation of an innovative 21st Century Workplace; and
- Historic preservation.

Ms. McEntee noted that this project provides the AIA with the opportunity to demonstrate its commitment to its public policies and to demonstrate its leadership in the areas of sustainability and energy reduction, integrated project delivery and diversity. Ms. McEntee noted that AIA's Board has mandated that it have diversity in the design and construction teams working on this project, such that 15% of fees and construction dollars are awarded to minority-owned firms, 15% to women owned firms, and 15% to small and emerging firms. Ms. McEntee noted that the Applicant is well on its way to satisfying those mandates. Ms. McEntee also noted that one of the key design characteristics of the original design of the AIA headquarters office building is the harmony the modern building achieves with the Octagon House. The proposed renovations of the headquarters office building are intended to have no adverse impact on the building's eligibility for historic recognition in the future. Ms. McEntee noted that the Applicant has met with the District's State Historic Preservation Officer and staff members of the Commission of Fine Arts on numerous occasions to review the project and no objections have been made by either of these entities.

13. As noted in the testimony of the project architect and in written submissions, the renovation will include green design and increased efficiency, including water use, the heating/cooling strategy, the lighting scheme, and the stormwater management program. The proposed project will consume 60% less energy than it does today. This reduction will be accomplished through the use of passive strategies such as natural ventilation and daylighting, in addition to energy efficient lighting and lighting controls, water-side HVAC equipment and solar thermal collectors. The natural ventilation and daylighting strategies will be accomplished through the introduction of three air shafts into the building. Construction of three air intake structures on the main roof level of the building are necessary to achieve the natural ventilation and daylighting strategies. Each of the air intake structures will be 20 feet, seven inches tall, as measured from the roof level. (Exhibit 12, pp. 5-6, Exhibit A.)

14. As depicted in the pre-hearing statement and in the materials presented at the public hearing, the main roof level of the renovated building will include many sustainable design features. It will include a row of solar hot water collectors that are nine feet, two inches tall and are setback 14 feet, three inches from the exterior wall of the building.

The main roof level will also be covered with a high-albedo roofing material. Rainwater will be collected from the main roof level of the building and stored in a cistern. The harvested rainwater will be used to reduce the building's use of potable water. In addition, the main roof level includes an area on the wing of the building that extends towards New York Avenue that will include a photovoltaic array. At this time, the Applicant does not know the specifics of how this photovoltaic array will appear, but does expect that it will not be of any significant height. The Applicant will seek appropriate District approval for the photovoltaic array at the time this system is to be put in place. A vegetated green roof will grow above the second floor AIA boardroom. This green roof will be visible from within the building and the plaza. (Exhibit 12, pp. 7-8, Exhibit A.)

15. The sustainable design elements of the project will also extend to the plaza between the two buildings. The project will retain existing trees, incorporate recycled brick throughout the plaza, and include a bioretention cell in the landscape plan. At the request of the Commission, the Applicant submitted a modified landscape plan that included enhancements to the area of the Plaza adjacent to the Octagon House. (Exhibit 12, pp. 8-9, Exhibit A, p. ZA.03 and Exhibit 30, Exhibit A.)

16. The proposed project will include retail uses and multi-purpose spaces accessible directly from the plaza. The multi-purpose room will have direct access to the plaza area. The Applicant intends to lease the multi-purpose spaces to outside groups and organizations for meetings, receptions and events. The proposed bookstore use will draw pedestrians from 18th Street and New York Avenue into the plaza, and patrons may enter the bookstore directly from the plaza. Access to the plaza will not be limited at any time of the day or night. The Applicant anticipates that the book store will be open from the hours of 9:00 AM to 5:00 PM. (Exhibit 12, pp. 8-9.)

17. The Applicant and its representatives noted that the current SP-2 zoning for the Property does not allow the proposed use of the multi-purpose space as a matter-of-right and that such use could only be approved by the BZA through the granting of a use variance. The Applicant also noted that the proposed direct entrance to the retail uses, visibility of the retail uses from the sidewalk adjacent to the Property, and signage for the retail uses that was visible from the adjacent sidewalk are not permitted in the SP-2 Zone District.

18. Pursuant to 11 DCMR § 2405.7, the Commission has the authority to grant flexibility from the Zoning Regulations in connection with a PUD. The Applicant requested relief from the restriction on additions to non-conforming roof structures (§ 2001.3), from the single roof structure requirement (§ 411), and from the roof structure set back requirement and height limitation (§§ 411 and 770.6). The Commission finds that granting this requested flexibility is necessary for the project to achieve its significant sustainability goals, that the impact of granting this flexibility is acceptable given the quality of public benefits in the project.

SATISFACTION OF THE PUD EVALUATION STANDARDS

19. Pursuant to 11 DCMR § 2403, in evaluating a PUD application the Commission must "judge, balance, and reconcile the relative value of Project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." (11 DCMR § 2403.8.) The Commission finds that the related rezoning, development incentives and requested flexibility from the Zoning Regulations are appropriate and are justified by the benefits and amenities offered by this Project. As detailed in the Applicant's written submissions and testimony to the Zoning Commission, the proposed PUD will provide the following Project amenities and public benefits:

- Urban Design, Architecture, and Creation of Open Space: Section 2403.9(a) lists urban design and architecture as categories of public benefits and project amenities for a PUD. By combining sustainable design with the appropriate treatment of a potentially historic structure, this project embraces truly exemplary design. The public plaza between the Octagon House and the headquarters building will be a signature component of the project and will create a neighborhood destination and gathering spot that is otherwise unavailable in the immediate vicinity. Although the exterior of the building will remain largely unchanged, the Commission agrees that the renovated building respects the design and scale of the surrounding buildings. (Exhibit 12, p. 14.)
- Site Planning, and Efficient and Economical Land Uses: Pursuant to § 2403.9(b) of the Zoning Regulations, "site planning, and efficient and economical land utilization" are public benefits and project amenities to be evaluated by the Zoning Commission. Given the Subject Property's location in the downtown core, it is appropriate to have high density commercial uses as proposed in this PUD project. The creation of an enhanced, large public plaza (accessible from both 18th Street and New York Avenue) creates a respite for neighborhood denizens seeking a retreat in an area otherwise very dense with large office buildings and lacking in similar outdoor spaces. (Exhibit 12, pp. 14-15.)
- Environmental Benefits: According to § 2403.9(h), "Environmental benefits, such as (1) storm water runoff controls in excess of those required by Stormwater Management Regulations, (2) Use of natural design techniques that store, infiltrate, evaporate, treat, and detain runoff in close proximity to where the runoff is generated, and (3) Preservation of open space or trees" are deemed to be public benefits and project amenities. As a sustainable project seeking LEED Platinum certification, the renovated headquarters building will include an extensive stormwater management program that includes a bioretention cell in the redesigned plaza for stormwater collection and reuse on site. The green building materials, the cool and green roof systems, the use of natural ventilation to reduce the building's reliance on its cooling system, the low energy lighting scheme, the limited-use water system, the goal of achieving carbon neutrality by 2030, and the many other environmentally-friendly

elements of the building's design are public benefits and project amenities. (Exhibit 12, p. 15.)

- Historic Preservation: Pursuant to § 2403.9(d), "historic preservation of private or public structures, places or parks" is a public benefit and/project amenity. The headquarters building represents a period of architectural significance (Mid 20th Century Modernism) that is held in high regard in the District of Columbia and has drawn the attention of the District's historic preservation community. Indeed, as the national headquarters for the AIA, the headquarters building holds a particular prominence among architects, and it is a noteworthy building held in high esteem among preservationists in the District. (Exhibit 12, pp. 15-16.)

- Effective and Safe Vehicular and Pedestrian Access: The Zoning Regulations, pursuant to § 2403.9(c), state that effective and safe vehicular and pedestrian access, and transportation management measures can be considered public benefits and project amenities. The proposed project does not propose any modifications to the existing vehicular and loading entrances or the number of parking spaces. The pedestrian experience with cars and trucks accessing the parking garage and loading berths will remain the same as it has been since the headquarters building was constructed in 1973 and will not create any new conflicts that could prove problematic. In addition, the project includes bicycle parking spaces on site and showers for building tenants in the lower level of the building. (Exhibit 12, pp. 16-17.)

- Uses of Special Value: Under § 2403.9(i), "uses of special value to the neighborhood or the District of Columbia as a whole" are deemed to be public benefits and project amenities. The following aspects of the project can be considered to be uses of special value:

  - a national demonstration project for the highest levels of sustainable design;
  - landscaped plaza open to the general public;
  - retail uses on the ground floor of the headquarters building; and
  - AIA and AAF programs that are made available to the public.

  (Exhibit 12, p. 17.)

20. First Source Employment Program: According to § 240.9(e), "employment and training opportunities" are representative public benefits and project amenities. The Applicant has agreed to enter into an agreement to participate in the Department of Employment Services ("DOES") First Source Employment Program to promote and encourage the hiring of District of Columbia residents. (Exhibit 12, p. 17.)

21. The proposed PUD-related Zoning Map amendment to the C-3-C Zone District will facilitate the use of the Property for street-fronting retail uses that will assist in enlivening the plaza and the nearby streets. The PUD project will not increase density, height, or intensity of use on the Property as a result of the PUD related Map Amendment. The

PUD project actually results in a minor reduction of the AIA headquarter office building's gross floor area. The proposed PUD's FAR, height, and lot occupancy are all within the matter-of-right limitations for the C-3-C Zone District, and are therefore well within the PUD standards set forth in 11 DCMR § 2405.

22. The Commission finds that the proposed PUD and related map amendment is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan") and is fully consistent with the following components of the Comprehensive Plan:

- Central Washington Area Element: The Comprehensive Plan advances the policy that Central Washington should remain as the premier office location in the Greater Washington region, offering a range of office space to various users. (Policy CW-1.1.2 Central Washington Office Space). In addition, the Area Element promotes "active street life throughout Central Washington through the design of buildings, streets, and public spaces." (Policy CW-1.1.2 Creating Active Street Life and Public Spaces). The project will offer a newly renovated office building with a landscaped plaza, which is open to the public. The project will draw pedestrians from 18th Street and New York Avenue and will enliven a block of the City that is otherwise very quiet.

- Land Use Element: The Comprehensive Plan provides policies to offer "an attractive and accessible environment for shoppers" and to develop "outdoor sidewalks cafes, flower stands, and similar uses which 'animate' the street…" (Policy LU-2.4.10: Use of Public Space within Commercial Centers). The renovated plaza and street facing retail and multipurpose space are consistent with these policies.

- Environmental Protection Element: This element of the plan offers policies for energy efficiency and alternative energy sources (Policy E-2.2.5: Energy Efficient Building and Site Planning) and for major employers to implement energy conservation measures. (Policy E-2.2.6: Energy Efficiency at Major Employment Centers). In addition, the Comprehensive Plan provides polices promoting the use of permeable materials (Policy E-3.1.1: Maximizing Permeable Surfaces) and using construction practices that minimize impact on the environment. (Policy E-3.4.1: Mitigating Development Impacts) As a project that will attain LEED Platinum certification and will seek to achieve carbon neutrality by 2030, this project is entirely consistent with these policies. The stormwater and runoff containment measures that the project's design will include are equally consistent with these policies. In addition, the project will use recycled and environmentally-friendly building materials, which is consistent with these policies.

- Economic Development Element: The Comprehensive Plan states that the District should be promoted as having the qualities that favor it as a headquarters or branch

setting for multi-national corporations, including its economic, social, political and locational attributes. (Policy ED-2.1.2: Corporate Headquarters). Also, the Comprehensive plan promotes the construction of signature office buildings. (Policy ED-2.1.3: Signature Office Buildings). As a demonstration project for sustainable design, the renovated headquarters building will be a national symbol. In addition, the approval and development of this project will encourage other large national organizations to locate in the District and build similar projects. The sustainable design and historic preservation components of this project will be both a local and national emblem of commercial architecture.

- Urban Design Element: The Comprehensive Plan promotes "excellence in the design of Downtown buildings and landscapes." (Policy UD-2.1.4: Architectural Excellence). In addition, the Comprehensive Plan promotes polices to provide public spaces that stimulate and activate urban street life. (Policy UD-3.1.8: Neighborhood Public Space). The project will offer a unique combination of sustainable design components with particular attention paid to historic preservation of an existing office building. These elements will make the renovated headquarters building the hallmark of green commercial architecture. In addition, the plaza will enliven the area with a new public gathering space.

- Historic Preservation Element: The Comprehensive Plan encourages the preservation of historic buildings from the "recent past" or modern era. (Policy HP-1.1.4: The Recent Past). In addition, the Comprehensive plan promotes maintaining historic properties in the original uses. (Policy HP-2.4.2: Adaptation of Historic Properties for Current Use). The headquarters building was completed in 1973 and is part of the modern era of architecture. Accordingly, preserving this structure from the "recent past" is an important component of the project. In addition, the renovation of this historic structure maintains its use as a commercial office building.

GOVERNMENT REPORTS

23. The Office of Planning ("OP") submitted a report, dated April 24, 2009, that recommended approval of the proposed consolidated PUD and related Zoning Map amendment. The report stated, in part:

> OP supports the proposed LEED Platinum renovation and rehabilitation of an existing office building and plaza, with the addition of retail uses on the ground floor that is not inconsistent with the requirements of the 2006 Comprehensive Plan. The redevelopment would help to enliven a downtown street corridor, provide retail and park options, and deliver sustainability benefits to the surrounding neighborhood. OP also finds that the public benefits and project amenities are appropriate given the minimal amount of flexibility requested in the application.

OP also determined that, "a PUD with related map amendment provided the best vehicle for the modernization of the property and the inclusion of retail" and that the application supported numerous policies of the Comprehensive Plan. The OP report continued by stating that the Applicant met with the State Historic Preservation Officer to review its proposal for the headquarters building and that "the SHPO did not have any concerns regarding the proposed renovation." The OP representative reiterated OP's support for the application during his testimony at the May 18, 2009 public hearing. (Exhibit 18, pp. 1, 5-9.)

24. There were no other government reports in this case.

ANC REPORT

25. At the May 18, 2009 public hearing, Eric Malinen, a duly authorized representative of ANC 2A, submitted ANC 2A's resolution in opposition to the consolidated PUD and related Zoning Map amendment application into the record. Mr. Malinen indicated that the ANC voted unanimously to oppose the Application. The resolution stated in part, "the Applicant's proposed public benefits and community amenities package is inconsistent with DC law since it fails to include any amenities for the immediately impacted Foggy Bottom-West End community." ANC 2A also submitted a report to the Commission, dated May 11, 2009, that discussed the ANC's opposition to the PUD and related map amendment. (Exhibit 20.)

26. The ANC's report highlighted its opposition to the proposed PUD based on the selected procedure for modifying the headquarters building. The report stated, in part, "The modifications proposed by the applicant are the sort that can be accommodated through existing procedures utilized by the Board of Zoning Adjustment … [The Applicant's] requests could be accomplished under traditional BZA procedures." The report continued by expressing its support of the project under the BZA process: "Indeed, we anticipate that if the Applicant were to proceed with this case before the BZA, ANC 2A would support the requested relief." (Exhibit 20, pp. 3-5.)

    The report also expressed ANC 2A's opposition to the proposed PUD-related map amendment stating, "Upzoning to C-3-C has the potential for substantial development inconsistent with these policies of the existing buffer … Allowing the Applicant to obtain C-3-C zoning will violate the policy behind SP-2 zoning." (Exhibit 20, pp. 8-9.) The report also objected to the "precedent of a new C-3-C district…." However, the report also stated, regarding the bookstore use, that "ANC 2A would likely support" variance relief for this use. (Exhibit 20, p. 5.)

PARTIES IN OPPOSITION

27. At the May 18, 2009 public hearing, Barbara Kahlow testified on behalf of WECA in opposition to the proposed PUD and related Zoning Map amendment. Ms. Kahlow

testified, in part, "Today's proposed PUD would provide no amenities whatsoever to the impacted Foggy Bottom-West End community. Thus the Application is inconsistent with DC law and cannot be approved as submitted." Ms. Kahlow continued her opposition by stating, in part, "Upzoning for the instant Application could lead to multiple upzoning requests elsewhere in Foggy Bottom-West End. This would result in the destruction of our residential and mixed use community." (Exhibit 25, pp. 1-2.)

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide 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.) The development of this PUD project satisfies the goals and standards of Chapter 24 of the Zoning Regulations to encourage well planned developments which will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

2. Notice of the public hearing was provided in accordance with the Zoning Regulations.

3. The proposed PUD meets the minimum area requirements of 11 DCMR §2401.1.

4. Under 11 DCMR § 2402.5, the 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.

5. 11 DCMR § 2403 provides the standards for evaluating a PUD application. 11 DCMR § 2403.9 provides categories of public benefits and project amenities for review by the Commission. The objective of the PUD process is to encourage high quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right zoning. In this application, the Commission finds that the requested relief from the roof structure requirements can be granted with no detriment to surrounding properties and without detriment to the zone plan or map. The Commission concludes that the benefits and amenities provided by the Project are entirely appropriate for the development proposed in this application. The Commission agrees with the Applicant's written submissions and testimony and finds that the Applicant is requesting very few development incentives, as the Applicant is not requesting additional building height or density (the gross floor area of the AIA headquarters office building is actually decreasing) and the flexibility requested from the Zoning Regulations (solely related to the roof structures) is directly tied to the primary amenity of the project, the creation of a national demonstration project to show how the highest levels of Sustainable Design can be applied to a mid-20th Century office building.

6. The impact of the project on the surrounding area and the operation of city services and facilities is acceptable given the quality of public benefits in the project.

7. The Commission acknowledges the issues and concerns raised by ANC 2A and WECA and fully credits the unique vantage point that ANC 2A holds with respect to the PUD process and the impact of the PUD-related map amendment on the ANC's constituents. However, for the reasons stated below, the Commission does not find either the ANC's or WECA's positions persuasive.

8. The Commission does not agree with WECA and ANC 2A that the public benefits and amenities offered by the PUD are insufficient for the impacts that the PUD will have on the neighborhood and for the amount of zoning flexibility requested by the Applicant. Instead, the Commission finds that the Applicant is requesting a limited amount of flexibility from the Zoning Regulations and that the impacts of the PUD project on the surrounding community will be negligible. The Commission finds that the benefits and amenities offered by the PUD should correspond with the extent of relief and development incentives that the Applicant is requesting and with the extent to which the PUD adversely impacts the surrounding properties. The Commission finds that the flexibility requested from the roof structure requirements is limited in scope, and the resulting roof plan will not adversely affect nearby properties. Further, the Commission finds that the PUD will have negligible impacts on the surrounding properties because the use, scale, height, and density of the building will not change (the gross floor area of the AIA office building actually decreases). The Commission concludes that the benefits and amenities offered by the PUD: (i) the significant environmental benefits created by this project; (ii) the creation of a national demonstration project for Sustainable Design of a potentially historic mid-20th Century office building; (iii) the enlivened plaza; and (iv) the street-facing and accessible retail and multipurpose space are public benefits commensurate with the limited zoning relief requested and with the PUD's negligible adverse impact on the surrounding community.

9. The Commission finds that the PUD and related map amendment process is the best means to accomplish the modifications proposed by the Applicant. In order to accomplish the proposed modifications through the BZA process, the Applicant would have to seek multiple variances and special exception relief. The Commission finds this process inappropriate and unnecessary. The Commission does not agree with the ANC and WECA that variance relief from the BZA would be the proper course of action for the Applicant's proposed modifications. The requested areas of relief from the Zoning Regulations can best be assessed and granted through the PUD process, which allows the Commission to consider the requested relief collectively, as opposed to piecemeal variances and special exceptions required by the BZA.

10. The Commission finds that the PUD-related map amendment is the best means to accomplish the proposed project's goals for animating the ground floor uses of the

building. In particular, the Applicant would be required to seek a use variance for the proposed use of the multi-purpose room. The Applicant likely would be unable to meet the stringent criteria for a use variance, so this proposed multi-purpose room use would not be possible without the requested PUD-related map amendment. The Commission agrees with the Applicant that the proposed multi-purpose room use, and the bookstore use accessed directly from the exterior of the building, will enliven the pedestrian activity in the area and is consistent with numerous policies and goals of the Comprehensive Plan.

11. The Commission finds that the proposed PUD-related rezoning of the Property to the C-3-C Zone District is consistent with the surrounding uses, intensity of uses, and heights of surrounding properties. The rezoning of the Property is also consistent with the High-Density Commercial land use designation on the Future Land Use Map of the Comprehensive Plan. Approval of the PUD related map amendment application will result in no adverse effect on neighboring properties.

12. The Commission does not agree that its grant of the PUD-related map amendment will lead to an undesirable precedent or to multiple upzoning requests in the area. Each PUD and related map amendment application presented to the Commission is evaluated on its own merit. In this case, the Commission finds that the proposed PUD-related map amendment to the C-3-C Zone District does not violate the policy that supports buffer districts, like the SP-2 Zone District, between commercial and residential areas. The Property is surrounded by high-density commercial and government uses. No residential districts are adjacent to the Property, so the present SP-2 Zone District does not act as a buffer between commercial and residential land uses. The Commission finds that its granting of the PUD-related map amendment will maintain the integrity of the policy that supports buffer districts.

13. By virtue of the preceding discussion, the Commission has accorded the issues and concerns raised by ANC 2A the "great weight" to which they are entitled pursuant to D.C. Official Code § 1-309.10. The Commission fully credited the unique vantage point that ANC 2A holds with respect to the impact of the requested consolidated PUD and related map amendment on the ANC's constituents. However, for the reasons stated above, the Commission concludes that the ANC did not offer persuasive evidence that would cause the Commission to deny the consolidated PUD and related Zoning Map amendment requested.

14. The Commission concludes that approval of the proposed consolidated PUD and related Zoning Map amendment from the SP-2 to the C-3-C Zone District is not inconsistent with the purposes of the Comprehensive Plan and is consistent with the other requirements of the Zoning Act. The proposed consolidated PUD and related Zoning Map amendment is not inconsistent with the inclusion of the Property in the High Density Commercial Land Use category on the Comprehensive Plan's Future Land Use Map.

The Commission also concludes that the proposed consolidated PUD and related Zoning Map amendment is in the best interests of the District of Columbia and will benefit the community in which the Property is located.

15. Approval of the application will promote the orderly development of the Property 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.

16. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. The Commission concurs with OP's recommendation for approval and has given its recommendation the great weight to which it is entitled.

DECISION

In consideration of the Finding of Fact and Conclusions of Law contained in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the application for consolidated review of a Planned Unit Development and Zoning Map amendment application from the SP-2 to the C-3-C Zone District for Square 170, Lots 38 and 39. The approval of this PUD and related Zoning Map Amendment is subject to the following guidelines, conditions, and standards:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant marked as Exhibits 3, 12, and 30 of the record, as modified by the guidelines, conditions, and standards of this order.

2. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA and no building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia, that is satisfactory to the Office of the Attorney General 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 and use the Property in accordance with this order, or amendment thereof by the Zoning Commission. The applicant shall file a certified copy of the covenant with the records of the Office of Zoning.

3. 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 and construction of the Project must start within three years of the date of the effective date of this order pursuant to 11 DCMR §§ 2408.8 and 2408.9.

4. The change of zoning from the SP-2 Zone District to the C-3-C Zone District for the Property shall be effective upon the recordation of the covenant discussed in Condition No. 2, pursuant to 11 DCMR § 3028.9.

5. The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services in substantial conformance with the First Source Agreement submitted as Exhibit H to Exhibit 12 of the record. A fully executed First Source Employment Agreement shall be filed with the Office of Zoning and the Office of the Zoning Administrator prior to the issuance of a building permit for the PUD Project.

6. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender expression or identity, familial status, family responsibilities, matriculation, political affiliation, disability, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

On May 18, 2009, upon the motion of Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **APPROVED** the Application at the conclusion of its public hearing by a vote of 3-0-2 (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve; William W. Keating, III and Gregory N. Jeffries not present, not voting.

On June 22, 2009, upon the motion of Chairman Hood, as seconded by Commissioner Keating, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of 4-0-1 (Anthony J. Hood, William, W. Keating, III, Peter G. May, and Michael G. Turnbull to approve, Konrad Schlater, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Corrected Order became final and effective on July 17, 2009, the date upon which the original order was published in the *D.C. Register.*

ANTHONY J. HOOD
Chairman
Zoning Commission

JAMISON L. WEINBAUM
Director
Office of Zoning

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., September 18, 2008

Plat for Building Permit of SQUARE 170 LOTS 38 & 39

Scale: 1 inch = 30 feet Recorded in Book 157 Page 6

Receipt No. 08488

Furnished to: P.W.S.P.

Surveyor, D.C.

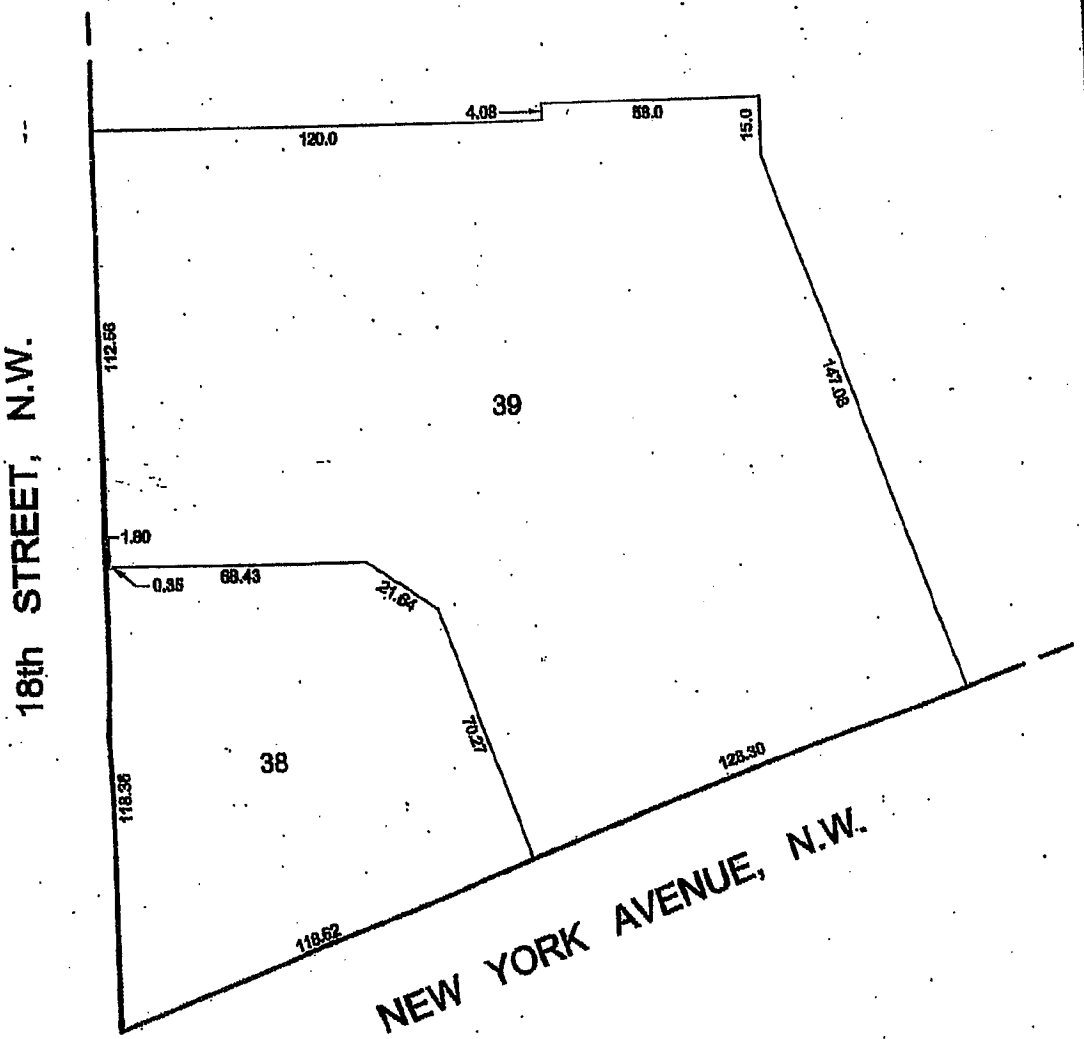
By: L.E.S.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: _____

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



Z.C. Case 08-27

SO-08488(2008)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

Z.C. CASE NO.: 08-27

As Secretary to the Commission, I hereby certify that on NOV 2 5 2009 copies of this Z.C. Order No. 08-27A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register*

2. Paul Tummonds, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037-1128

3. Armando Irizarry, Chair
ANC 2A
West End Branch Library
1101 24th Street, N.W.
Washington, DC 20037

4. Commissioner Eric Malinen
ANC/SMD 2A05
2440 Virginia Ave. N.W., #D-1207
Washington, DC 20037

5. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

6. Councilmember Jack Evans

7. DDOT (Karina Ricks)

8. General Counsel - DCRA
941 North Capitol Street, N.E.
Suite 9400
Washington, D.C. 20002

9. Office of the Attorney General
(Alan Bergstein)

10. West End Citizens Association
c/o Barbara Kahlow
800 25th Street, N.W. #704
Washington, D.C. 20037

ATTESTED BY: S. S. Schellin
Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning