

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 960-A

Case No. 01-13C

**(Motion for Reconsideration –
International Monetary Fund HQ2)**

September 9, 2002

By Zoning Commission Order No. 960 in Zoning Commission Case No. 01-13C, the District of Columbia Zoning Commission granted the application from the International Monetary Fund ("IMF") requesting consolidated review and approval of a planned unit development ("PUD") and a related amendment to the Zoning Map of the District of Columbia, pursuant to Chapters 24 and 30 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning.

The application, filed on May 15, 2002, requested a consolidated review and approval of a PUD and a related map amendment from C-3-C to C-4 for Lot 26, Square 119 located at 1900 Pennsylvania Avenue, N.W.

After proper notice, the Zoning Commission held public hearings on January 7 and 24, 2002. The parties to the case were the IMF, Advisory Neighborhood Commission ("ANC") 2A, the ANC within which the property is located, and the West End Citizens Association ("WECA").

On July 5, 2002, Zoning Commission Order No. 960 was published in the D.C. Register. Subsequently, Zoning Commission Order No. 960 (Revised) (the "Revised Order") was published in the D.C. Register on July 12, 2002. Pursuant to 11 DCMR § 3028.8, the Revised Order became effective on July 12, 2002.

Pursuant to 11 DCMR § 3029.5, the WECA filed a motion for reconsideration of the Revised Order by letter dated July 22, 2002. The WECA stated the following bases for its motion:

1. The WECA objected to the Zoning Commission's not serving the Revised Order on Barbara Kahlow, the WECA's *pro se* counsel;
2. The WECA questioned the propriety of the Zoning Commission issuing the Revised Order;
3. The WECA moved that the Zoning Commission suspend the effective date of its Revised Order until a thorough site specific security analysis is completed; and

4. The WECA alleged that the Commission's decision was erroneous due to the absence of information from the D.C. Metropolitan Police regarding security issues related to the application or, in the alternative, in the absence of a Federal security analysis by the National Capital Planning Commission.

In response to the WECA's motion, the IMF filed a response on August 9, 2002. In that response, the IMF requested waiver of the time requirements for filing a response as set forth in § 3029.7 of the Zoning Regulations. The IMF responded to the WECA's motion as follows:

1. No person connected with the IMF or its counsel had any *ex parte* communications with the Zoning Commission with respect to the Revised Order; and
2. The issue of security was discussed extensively at the public hearings and Zoning Commission public meetings and, therefore, did not warrant reconsideration of the case or the addition of any conditions. The IMF argued that the WECA presented no grounds to establish that the decision was erroneous and presented no new information that would impact or change the Zoning Commission's previous consideration of these issues. Furthermore, the IMF stated that the Zoning Commission clearly addressed the issue of security and that there was ample evidence in the record to support Finding of Fact No. 98, which addressed security issues. Finally, the IMF argued that a party's disagreement with the Commission's finding does not render the Commission's decision erroneous.

On September 9, 2002, at its regularly scheduled meeting, the Zoning Commission considered the WECA's Motion for Reconsideration of the Zoning Commission's July 12, 2002, Revised Order in Z.C. Case No. 01-13C, Consolidated Planned Unit Development and Zoning Map Amendment, International Monetary Fund Headquarters 2 ("HQ2"). The Zoning Commission waived its rules to accept the late-filed response from the IMF, acknowledging that there was no prejudice to any party.

At the September 9th meeting, the Commission requested Office of Zoning ("OZ") staff to clarify the circumstances surrounding the issuance and service of the revised order. According to OZ staff, the WECA was served with a copy of the Revised Order at its published post office box address. The Zoning Commission found that service of the Revised Order on WECA satisfied the requirements of § 3028.8 of Title 11 of the District of Columbia Municipal Regulations.

The Revised Order was issued at the initiation of the Office of Zoning to provide for three (3) minor changes from the original order published on July 5, 2002. The Zoning Commission found that these changes were non-substantive. Therefore, the changes were proper, and the Revised Order is consistent with the Zoning Commission's decision in this case.

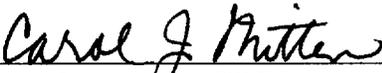
The Zoning Commission concluded that the issue of security was appropriately addressed in the public hearing process. The Zoning Commission found that the WECA provided no evidence during the public hearing process or as part of its motion to establish that the proposed development exacerbated any existing security issues. Furthermore, the Zoning Commission indicated that although it would have liked to have seen additional information from the Metropolitan Police Department, the Commission could rely on Chief Charles Ramsey's

statement that the Metropolitan Police Department had no security issues with the proposed development.

For all of the above-stated reasons, the Zoning Commission concludes that there is no basis for reconsideration of its decision as set forth in the Revised Order. Therefore, the WECA's Motion for Reconsideration is hereby **DENIED**.

Vote of the Commission taken at the regular public meeting on September 9, 2002: 5-0-0 (Carol J. Mitten, Anthony J. Hood, John G. Parson, Peter G. May, and James H. Hannaham to deny).

In accordance with 11 DCMR § 3028.8, this final order is final and effective upon its publication in the D.C. Register on NOV 1 2002.



CAROL J. MITTEN
Chairperson
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning