CONSORTIUM OF UNIVERSITIES
OF THE WASHINGTON METROPOLITAN AREA

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January 14, 2005

Mr. Jeffrey Griffis
Chair
D.C. Board of Zoning Adjustment
441 Fourth Street, N.W.
Suite 225 South
Washington, D.C. 20001

Re: Board of Zoning Adjustment Appeal No. 17249

Dear Mr. Griffis:

The following comments are submitted for the record of the above titled appeal on behalf of the Consortium of Universities of the Washington Metropolitan Area (The Consortium). On behalf of our potentially affected District member institutions, the Consortium of Universities strongly recommends the Board deny ANC 2A's appeal and uphold the Zoning Administrator's previously issued Certificate of Occupancy permitting a food service venue operated by the Coggins Sandwich Corporation (Coggins Sandwich) to continue within a dormitory building located at 616 23rd Street N.W. on the campus of The George Washington University.

The Consortium is a regional organization representing the fourteen major institutions of higher education in the greater Washington community. The issue of zoning regulation in the District of Columbia is primarily of interest to the eight D.C. institutions that are governed or may be governed in the future by the campus planning process. Those institutions are: American University, The Catholic University of America, Gallaudet University, The George Washington University, Georgetown University, Howard University, Southeastern University and Trinity University.

The Consortium periodically comments on pending zoning matters where the case or appeal may effect more than one member institution depending on the eventual decision. In this case, the Consortium has evaluated and submits comments on the above titled appeal because most District of Columbia universities provide retail related establishments that operate similarly to the one at issue on the campus of George Washington University.

These establishments provide a variety of services to the university community in which they are located including food venues, banking facilities, dry cleaning services, and entertainment (theater and sports) venues. Such uses are customary and incidental to the principal university use, and are located in university facilities, on campuses situated in residential zones. These establishments operate primarily for the benefit of university students, faculty and staff. They are also typically accessible to the public who may find themselves on campus.

The zoning authorities have previously routinely ruled that these establishments are in compliance with existing Zoning Regulations. Such rulings permit universities to establish

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retail venues that provide students, faculty and staff with a useful and necessary range of services and an enhanced quality of life on campus. Limiting public access other than university related people would be at odds with the universities' missions to promote an open environment that can inspire learning. Many campuses view their campus food courts, for example, as a "town square," where all members of the university community can mingle. Opening such places to the public has contributed to a positive commingling of university and non-university residents in a friendly atmosphere and reflects the universities' attitudes that they are an integral part of their surrounding community, not an island onto themselves.

On a more practical note, the company behind Coggins Sandwich chose the GWU location as the first in what it hopes to be a chain of sandwich shops across the Washington region.[1] Presumably, part of its business plan will be to familiarize the region with its products, a goal that will be served by the public being allowed to access the venue. Should Coggins Shop be limited to just students and university staff, other vendors may be loath to open outlets on D.C. university campuses. Universities may therefore have trouble attracting contractors to perform necessary campus functions.

From a policy standpoint, a reversal in the current long-standing and legally validated practice[2] of permitting accessory uses on college campuses that may also serve members of the general public would create uncertainty and confusion. Every campus in the District that operates such an establishment in a residential district would have to reexamine whether its operations must either undertake costly measures to restrict all outside use of these establishments, or close them down entirely. The Board should carefully consider the wider ramifications of its actions should it grant the ANC's appeal.

For all of these reasons, the Consortium of Universities urges the Board to deny the ANC appeal of the Zoning Administrator's decision to grant Coggins Sandwich a Certificate of Occupancy. We welcome the Board's consideration of our position and stand ready to provide any additional information the Board may wish on this position.

Sincerely,

Sally Weinbrom Kram
Director of Government and Community Relations
Consortium of Universities

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[1] Please see Eleni Kretikos, "Franchise vets put fixin's on sandwich shop chain in region," Washington Business Journal, August 6, 2004.

[2] The D.C. Court of Appeals determined in the Georgetown co-generation case, Citizens Coalition v. Board of Zoning Adjustment, 619 A, 2d 940 (D.C. App. 1993), that retail related uses that are located on campus, in a residential zone, do not diminish their status as "accessory" to the university's mission by allowing access to the public.