Dorothy Miller, Chair
Advisory Neighborhood Commission 2A
2440 Va. Ave., NW
Washington, DC 20037

Re: BZA Case No. 17249—ANC-2A's Appeal of the Zoning Administrator Issuing a C of O for the use of a Commercial Restaurant and a Sidewalk Café in a Residential (R-5-D) District not specified in the ZC 01-21CF/16553

Dear Chairman Griffis and Board Members:

I am Dorothy Miller, Chair of ANC-2A, and ANC Commissioner for ANC-2A05, the Single Member District wherein the above property is located. The ANC, at a properly noticed public meeting on Wednesday, October 17, 2004, with 5 of 6 Commissioners present, voted unanimously that I represent ANC-2A in the above case.

As this Board knows, commercial operations, open to the public, are not allowed on residentially-zoned property, which is the designation for all of Square 43, without an exception. This was done to protect residential property from increased noise, traffic, and health issues—including deliveries, trash, and pests—related to commercial use. These uses can devalue residential property and impinge on residents' rights to quiet enjoyment of their domiciles. Our regulations go even further to protect the residential nature of communities throughout the City by allowing universities to operate in our neighborhoods only through the special exception process under an approved Campus Plan.

Under the special exception process, the Zoning Commission, in its Order No. 958 approved construction of a dormitory on Square 43. Condition No. 7 of this Order, states, "and spaces for three or four food venue services on the lower and first levels." Nowhere in the order is it stated, or implied, that these services would, or could, be commercial restaurant facilities serving both students and the public.

Prior to the Fall 2001 public hearing on this case, the university made two separate presentations—one to the ANC and another to the Foggy Bottom Association—on this project. The university had at least two opportunities to reveal its plans for commercial operations, including a sidewalk café on public space, at this location and failed to do so. The record shows that the University went on to deliberately sidestep discussing the planned commercial use of those spaces during the public hearings. While we can only speculate as to the university's motivation, the outcome is apparent: the Zoning Commission would assume that these "venues" were dining facilities—similar to Georgetown University's new South Campus dining facilities—for GWU students and OK the whole project as university use.

BZA
Case No. 17249
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO. 17249
EXHIBIT NO. 44

The community only learned of GWU's commercial plans for these university use "venues" prior to a September 23, 2004 permit request by Coggins before the Public Space Committee. Initially, the matter was pulled from the agenda and Coggins was told it would need to file with the Zoning Commission to obtain a Special Exception for use of the Public Space as the Zoning Administrator had exceeded his authority in granting the use of Public Space. Because the interim Zoning Administrator had, contrary to zoning regulations regarding commercial use in a residential zone, approved a C of O, the Director of Public Space overruled his staff and a permit was issued. When the ANC filed its appeal in this case, the new ZA sent an inspector to investigate, and Coggins Restaurant was found to be in violation of the Zoning Order, as issued, and was ordered to shut down.

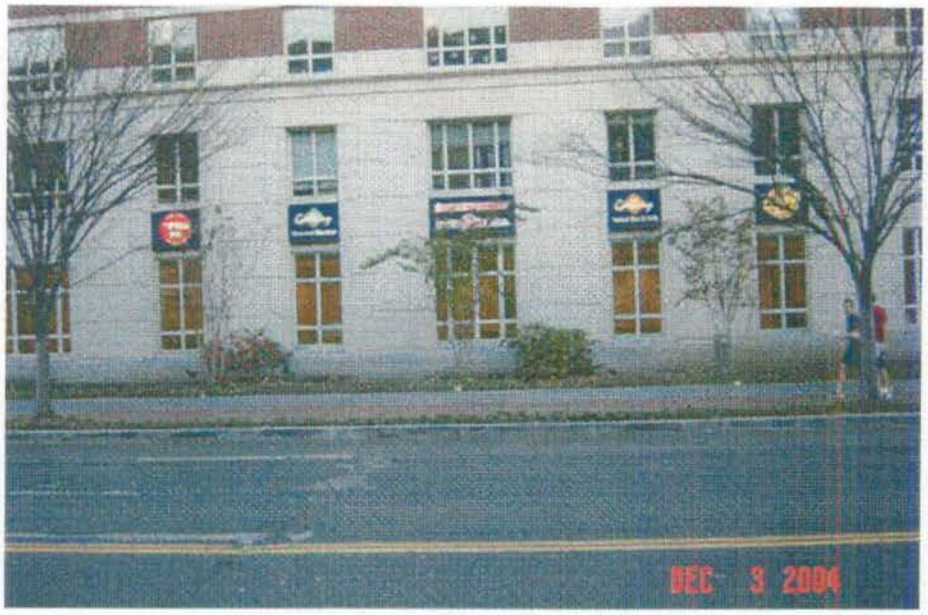
The location of commercial venues directly abutting the non-university residential area is already creating numerous problems, such as increased and late-night pedestrian traffic. Additionally, Foggy Bottom has to cope with an inordinate amount of tour bus traffic and, it is clear, that these commercial operations will become a magnet, as has Columbia Plaza a mere block away, for tour bus operations, particularly during the summer months, further degrading the residential nature of our community.

The ANC is not opposed to neighborhood-serving retail as demonstrated in the recent Columbia Hospital PUD. What the ANC is opposed to is shoehorning commercial operations onto residentially-zoned property under cover of university use without a full, public hearing and consideration. There are city-wide and precedent-setting implications in this case that needed to be discussed but weren't because of a lack of university disclosure resulting in a complete lack of community awareness during the ZC hearing. This commercial operation, located in the midst of our residentially-zoned community on R-5-D property, needs to be considered in a proper setting and with a full discussion. On behalf of the ANC and the community, I request that this case be remanded back to the Zoning Commission for a minor modification hearing that would allow such community input and consideration by the Zoning Commission.

Thank you for time and attention to these matters and I will answer any questions you might have.

Attachments:
1. Public Space Approval granted with a List of Conditions
2. City cites vendors (GW Hatchet December 6, 2004)
3. Plan submitted for ZC Case 01-21CP/16553

January 18, 2005



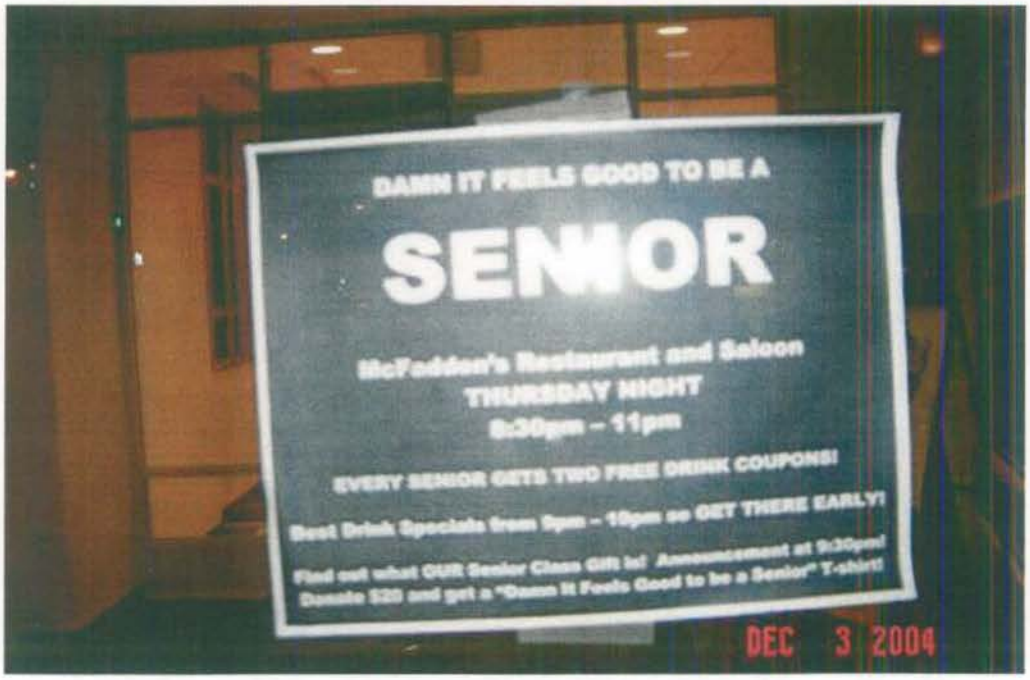
GWU Dorm @ 23rd and G Sts., NW
Five restaurant signs on face of bldg. on 23rd St. Lighted at night.



GWU Dorm @ 23rd and G Sts., NW
Coggins Restaurant signs on face of bldg. on G St. Lighted at night.



GWU Dorm @ 23rd and G Sts., NW
View from 23rd St. sidewalk at corner entrance



GWU Dorm @ 23rd and G Sts., NW
One of three signs on windows advertising McFadden's Restaurant and Saloon which is located elsewhere.

Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

December 1, 2004

Mr. Toya Bello, Zoning Administrator
DC DCRA
941 North Capitol Street, 2nd Floor
Washington, DC 20002

Dear Mr. Bello:

The Public Space Committee recently granted a request to George Washington University for a commercial restaurant with an outdoor sidewalk café in a residential neighborhood over the objections of ANC2A. In granting the request, the Office of Public Space made it subject to a list of conditions (see attached letter.) At this time, we are writing to notify you that the applicant is not adhering to the conditions set forth, specifically:

"8. That the property owner displays no logos, insignias or advertising of any kind on any structure, fixture or material in public space"

Not only does the applicant have several signs with the name of the café, they also have put up signs advertising special foods and drinks and advertising brand name products. We ask that you act immediately to have them remove all such signage and that you enforce the regulations you put in place by closing the sidewalk café if they do not immediately comply, or if adherence to the regulations is ignored again.

On behalf of the residents of ANC2A, I thank you for your prompt attention to this matter. Should you have any questions, please do not hesitate to contact me at 331-0191.

Sincerely,

Dorothy Miller

Dorothy Miller, Chair
Advisory Neighborhood Commission 2A

Attachment:
Public Space Conditions for Approval

RECEIVED
10-1-04

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

★ ★ ★

Office of Public Space
Management Administration

September 27, 2004

The George Washington University
2121 I Street, NW
Suite 701
Washington, DC 20052

Dear Property Owner:

On September 23, 2004, the District of Columbia Public Space Committee approved the request to use public space for an unenclosed sidewalk café for Coggins' Sandwich Manufactory, located at 616 23rd Street, NW. Approval was granted with the following conditions:

1. That the applicant secure the permit within six months of the date of this letter, or the approval granted herein will expire;
2. That the applicant secure a certificate of use within six (6) months of the issuance of the sidewalk café permit;
3. That a certificate of use be obtained yearly;
4. That the permit shall expire if the insurance to the benefit of the District of Columbia not be maintained;
5. That the permit is for the use of Coggins Sandwich Manufactory and is not transferable;
6. That there be no alcohol served;
7. That the property owner will be responsible for maintaining the area free of trash and debris;
8. That the property owner display no logos, insignias or advertising of any kind on any structure, fixture or material in public space;
9. That the applicant adheres to the hours of operation from 7:00am to 10:00pm seven (7) days a week;
10. That no material be placed in public space earlier than one half hour before opening and that all material be removed from public space within one half hour of the hours of operation;
11. That the applicant may use the café from April 1st through October 31st;
12. That the proposed installation shall be in accordance with the approved drawing, and no deviation from the drawing is allowed without prior approval from the Public Space Committee;
13. That the applicant adhere to the proposed use of 26 tables and 52 chairs with 5 umbrellas in the proposed design, for a total of 834 square feet;
14. That the use of public space to establish and operate an unenclosed sidewalk café at 616 23rd Street, NW, shall conform to all applicable provisions of Title 24 DCMR, Chapters 2 and 3; and
15. That the rental fee is paid annually in accordance with Title 24 DCMR, Chapter 3.

Please contact 202.442.4670 to arrange to pick up of your permit at 941 North Capitol Street, Suite 2300. If you have any questions, please contact me directly at 202.535.2699. Thank you.

Sincerely,

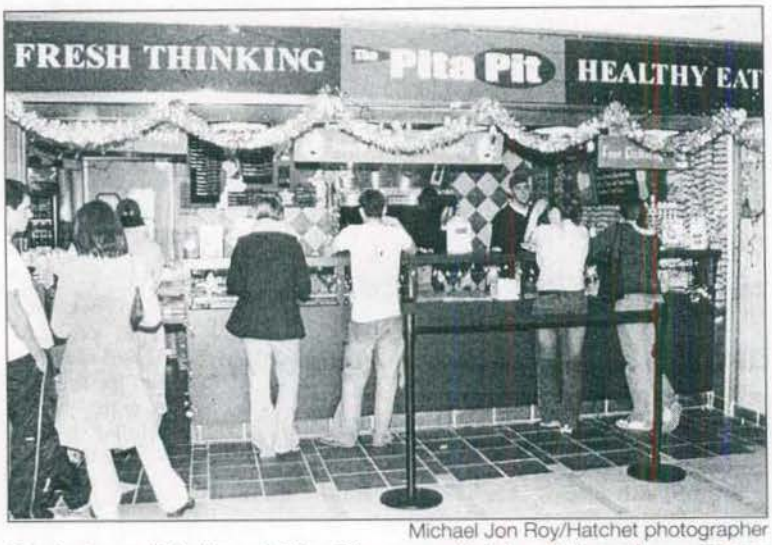
Denise L. Wiktor
Executive Secretary

Cc: Andrew W. Kline
ANC 2A

City cites vendors

■ D.C. says non-students cannot eat at Ivory Tower venues

by Michael Barnett
Senior News Editor



Michael Jon Roy/Hatchet photographer

Students wait in line at Pita Pit, once of at least three Ivory Tower venues ordered to stop serving the general public last week.

GW is contesting city and Foggy Bottom officials' efforts to prevent Ivory Tower eateries from serving non-students.

The food fight began Wednesday afternoon, when city officials told several Ivory Tower venues to immediately stop serving non-students because GW was violating zoning rules that forbid it to sell to anyone except students. University officials said they were able to secure a delay in the order's implementation while they appeal to a city panel, which will hear arguments in January.

Last week's events marked the latest in a long history of bitter battles between the University and some Foggy Bottom residents, who are protesting the 23rd Street residence hall as an example of what they say is GW's blatant disregard for city laws and Foggy Bottom's residential character.

In issuing cease and desist orders to at least three of Ivory Tower's five venues, D.C. Consumer and Regulatory Affairs officials acted on the longstanding complaints of the local Advisory Neighborhood Commission. The six-member commission is an elected body that advises the District on zoning issues.

On Wednesday, city inspectors cited Café Gallery, Coggins' and Pita Pit for "service to the general public" and the improper placement of signs on the Ivory Tower's exterior, according to a violation notice obtained from one of the vendors. The citations called for the venues to immediately "limit service to students only" and remove the outside advertisements.

ANC members filed a complaint against the Ivory Tower in September, claiming GW was ignoring residential zoning orders that keep it from selling food to non-students. They also protested the existence of a sidewalk entrance to Coggins', which is located on the building's ground floor.

"The order gave them venues to feed students only," said ANC chair Dorothy Miller, who has consistently opposed the construction of academic and residential facilities, which she and others claim have destroyed a neighborhood that 20 years ago featured primarily sleepy streets and low-rise townhouses.

In an interview Friday night, Miller said she was unaware that the city agreed to stay the cease and desist orders. "To my knowledge, I have not been notified it's been rescinded," she said.

University officials disputed the ANC's claim that city orders restrict Ivory Tower venues to serving only students. University Senior Counsel Charles Barber said he was optimistic that the city's Board of Zoning Adjustment will rule that the venues can have a diverse clientele and advertise on the building's facade. The BZA, which arbitrates zoning disputes, will hear arguments from city officials and GW lawyers beginning Jan. 18.

Residential zoning laws usually preclude the establishment of retail stores, but University officials secured permission to house venues in the Ivory Tower before the facility was built, Barber said.

"We think this doesn't have any legal merit," Barber said. "But this is something that has to be resolved with the BZA."

Barber noted that many D.C. college campuses keep venues open to the public. Shops at 1957 E St. and the Marvin Center, which are also located in areas zoned residential, have always kept their doors open to non-students.

Barber said "it's not really clear" to officials why city inspectors served citations, but speculated that a newly appointed D.C. zoning chief "may be misinformed."

Yvonne Rockett, the regulatory and consumer affairs inspector who issued violation notices to vendors Wednesday, did not return multiple messages left at her office Friday afternoon. Public information officers at the city's regulatory affairs and zoning offices also did not return calls from The Hatchet.

The Ivory Tower tussle is the latest manifestation of the ill will between GW and some Foggy Bottom residents.

What began almost a decade ago as a neighborhood zoning battle has spilled into the courts and the local political scene. University officials openly supported former Student Association President Kris Hart's failed effort last month to oust Miller from her ANC seat. While building the Ivory Tower two years ago, officials successfully fended off a resident's lawsuit that sought to halt construction of the 729-bed residence hall.

The battle has also morphed into a war of mutual recriminations. Miller and some other residents have routinely derided University officials as corporate criminals. University officials have called Miller and other residents "antagonistic" and "pests," and privately use harsher words to describe them.

For the Ivory Tower vendors caught in the middle of the fray, Wednesday's citations came as a surprise. On Friday, several managers who were unaware that the citations had been stayed were ignoring the city's order anyway. On Friday

See **TOWERS**, p. 10

TOWER

from p. 3

afternoon, the usual mix of Ivor Tower patrons – students, hospi tal workers in scrubs and work ers from the massive governmen buildings around the corner – at in the building, unaware of the order.

Sun Kim, a manager at Café Gallery, called the city's actions "unusual" and impossible to enforce.

"There's nothing we can do," he said. "We can check everyone's ID? This is a bar? It's not going to work like that."

Ron Boatright, vice president of operations for Coggins', said he did not blame GW for the city's actions.

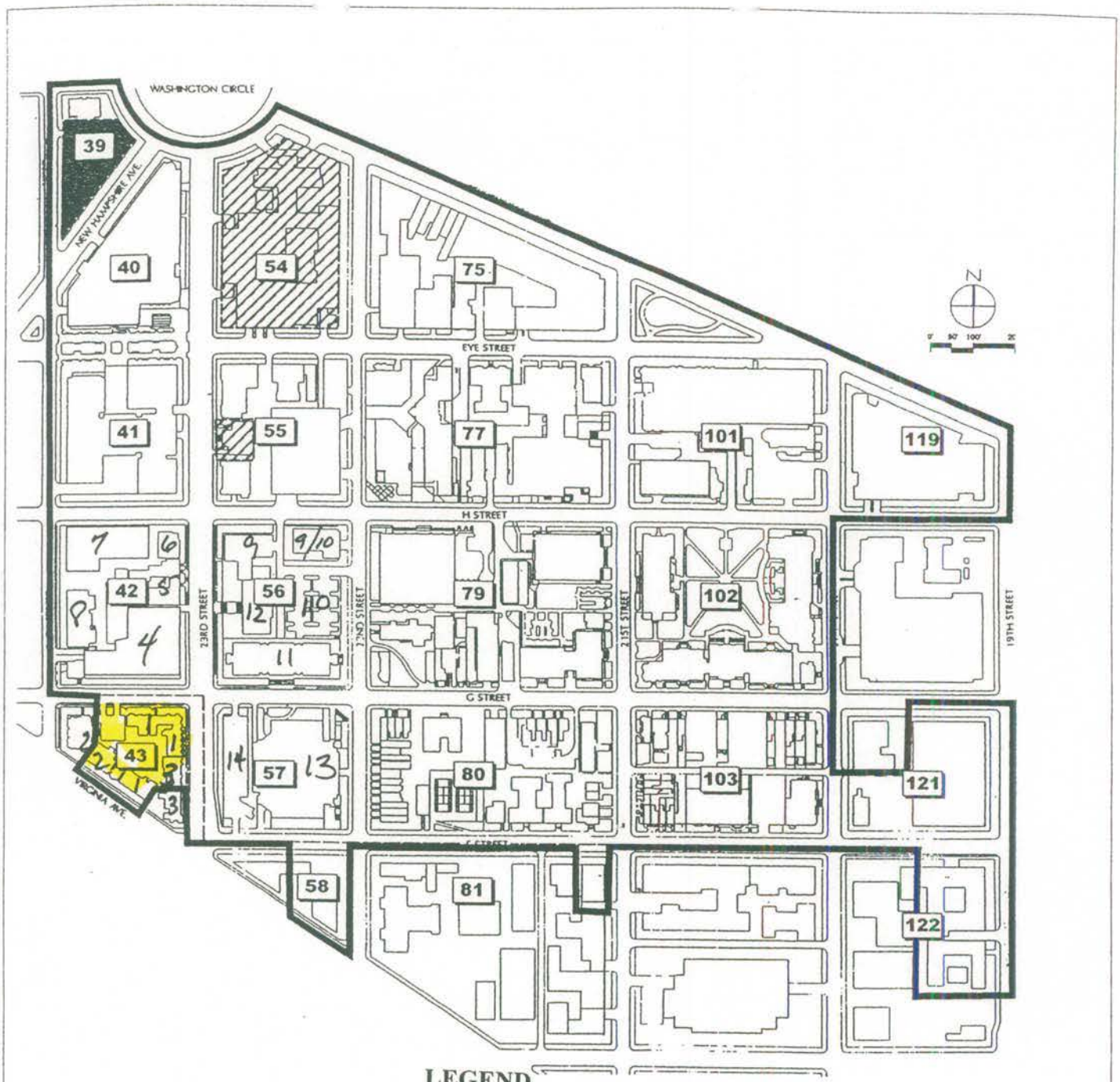
"No one knew about this," he said. "We would consider it public space."

"At this point I would not fault the University," he continued. "You have to assume that they didn't lease this space under false pretenses."

As he spoke, Boatright waved to three middle-aged women who were exiting his establishment.

"Thank you," said one of the women.

"I know you'll be back," he said as he bid them goodbye. ■



LEGEND

PREFERRED SITE

ALTERNATIVE SITE

1. Ivory Towers
2. The Remington
3. Resident Homes
4. GWU Health and Wellness
5. St. Mary's Episcopal Church
6. The Gerwiz Center (GWU)
7. New Hall (GWU Dormitory)
8. St. Mary's Court
9. Madison Hall
10. Parking Facilities
11. Funger Hall
12. Thompkins Hall
13. Smith Center (Under Const.)
14. Greek Townhomes (GWU)

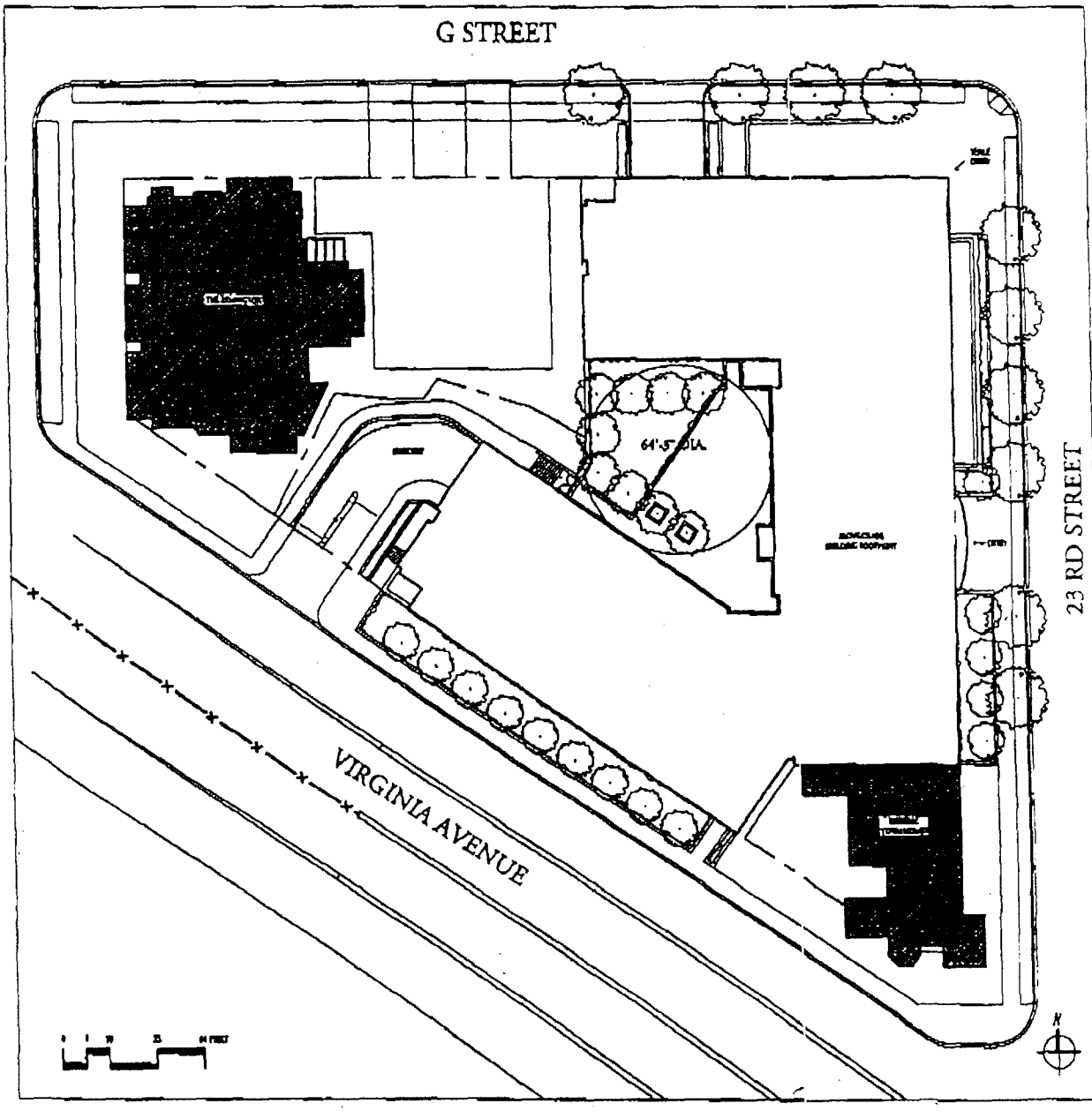
Figure N

Development Sites

Medical/Health

The George Washington University
WASHINGTON DC

SQUARE 43 STUDENT RESIDENCE HALL



ZS-2 • SITE PLAN

AYERS SAINT GROSS

NOVEMBER 16, 2001