



September 21, 2006

By Hand Delivery

Carol J. Mitten, Chairperson
District of Columbia Zoning Commission
Office of Zoning
441 4th Street, NW
Suite 210
Washington, DC 20001

ZONING COMMISSION

CASE No. 06-12

EXHIBIT No. 77

Re: **Zoning Commission Case Nos. 06-11 and 06-12
The George Washington University Foggy Bottom Campus Plan: 2006 –
2025 and related First-Stage PUD and Map Amendment
Response to Requests for Additional Information**

Dear Chairperson Mitten and Members of the Commission:

During the course of the September 14, 2006 public hearing regarding the above-referenced applications, the Commission requested that the Applicant file additional information to further clarify several of the proposed conditions included in the University's Campus Plan application, including the following:

- Discussion of the standards for a determination of “substantial compliance” as set forth in proposed Condition 7;
- Clarification of the University’s commitment not to acquire residentially-zoned properties in the Foggy Bottom/West End area for university use as set forth in proposed Condition 8;
- Additional documentation on the categories of student enrollment set forth in proposed Condition 10, the rationale for determining Foggy Bottom student enrollment, and the rights, privileges and practices associated with various student categories;
- Additional documentation on the categories of faculty and staff (including clarification of the categories of contractors that provide “ancillary” services) set forth in proposed Condition 11, the rationale for determining Foggy Bottom faculty and staff counts, and the rights, privileges and practices associated with various faculty and staff categories;

- Listing of fraternities, sororities and further clarification of the term “other programs” as it relates to proposed Condition 12;
- Description of the University’s reporting procedures for student conduct incidents, including the follow up action taken by the University as described in proposed Condition 16; and
- Clarification of the implementation of the streetscape plan described in Exhibit X of the Campus Plan and referenced in proposed Condition 21, and the sharing of costs between the University and the District.

In addition, the Commission also requested the University provide information regarding sustainable design issues with respect to the Square 103 PUD (Potomac House residence hall).¹

In response to the Commission’s request, the University provides the following discussion and attached exhibits.

Condition 7 – Substantial Compliance

The proposed text of Condition 7 provides that “No PUD application filed by the University for second-stage review under the Foggy Bottom Campus Plan: 2006 – 2025 may be granted unless the University is in substantial compliance with Conditions 1-25 set forth herein as demonstrated by the most recently filed Foggy Bottom Campus Plan Compliance Report submitted to the Zoning Administrator.” This proposed condition carries forward language from Condition 20 of the existing 2000 Campus Plan, which provides that “No special exception application filed by the University for further processing under this plan may be granted unless the University proves that it has consistently remained in substantial compliance with Conditions 1 through 19 set forth in this Order.” BZA Order No. 16553-I, at 11. This term is also used in similar provisions in other campus plans. *See, e.g.,* The American University Campus Plan Order No. 949, dated July 19, 2001.

Legal Standards

The term “substantial compliance” is a common legal term that ensures the purpose of a statute or regulation is achieved by compliance with its essential provisions. The term articulates a legal standard where compliance is subject to agency or judicial discretion, based on whether the purpose of the regulation or statute has been achieved. *See, e.g., Wheeler v. District of Columbia Bd. of Zoning Adjustment*, 395 A.2d 85, 90 (D.C. 1978)

ⁱ On a related but broader issue, as the University plans to address the Commission’s direction that the Campus Plan include discussion of sustainable development planning principles at the September 28, 2006 public hearing.

(citing *In re Opinion of Justices*, 275 A.2d 558, 562 (Del. 1971) (“[Substantial compliance means] ‘such compliance with [the] essential requirements of the . . . provision as may be sufficient for the accomplishment of the purposes thereof.’”)); *Wolf v. District of Columbia Bd. of Zoning Adjustment*, 397 A.2d 936, 945 (D.C. 1979) (same); see also *In re Opinion of Justices*, 275 A.2d at 562 (“[T]here has been substantial compliance, we think, when there has been a partial compliance and when it is reasonable to conclude that the objective sought by the . . . provision has been as fully attained thereby, as a practical matter, as though there had been a full and literal compliance.”)).

Further, courts have stated that substantial compliance “means actual compliance in respect to the substance essential to every reasonable objective of the statute. But when there is such actual compliance as to all matters of substance then mere technical imperfections of form or variations in mode of expression . . . should not be given the stature of noncompliance and thereby transformed into a windfall . . .” *Stasher v. Harger-Haldeman*, 372 P.2d 649, 652 (Cal. 1962). Rather, substantial compliance “involves conduct which falls short of strict compliance with the . . . requirements, but which affords . . . the same protection that strict compliance would offer.” *Jones v. Short*, 696 P.2d 665, 667 (Alaska 1985).

Indeed, the Zoning Regulations permit the Zoning Administrator to exercise discretion in the enforcement of strict numerical requirements in the Regulations. Section 2522 authorizes the Zoning Administrator to permit certain deviations if the Zoning Administrator determines that the deviation “will not impair the purpose of the otherwise applicable regulations.” 11 DCMR § 2522; see also 11 DCMR § 407 (providing similar discretion in residential zones); 11 DCMR § 2409 (providing similar discretion for minor modifications to PUD plans as approved by the Commission). Under the above-cited provisions of the Zoning Regulations, the Zoning Administrator is permitted to deviate up to 2% from various requirements enumerated in the Zoning Regulations.

The University believes that the Commission’s continued use of the “substantial compliance” requirement as a prerequisite for approval of further processing applications in campus plan orders indicates an intent to grant the Zoning Administrator the appropriate level of flexibility that is consistent with the above-described standards. **The requirement of substantial compliance in Condition 7 and similar conditions clearly indicates that the purpose of the condition is at its heart: *the University must consistently strive to maintain compliance with all conditions of the Plan in order to minimize the potential for any objectionable land use impacts on surrounding communities.***

Condition 8 – Residentially-Zoned Properties

The University’s position is clear—it does not intend to acquire, either as purchaser or contract purchaser, any residentially-zoned properties outside the Campus Plan boundaries in the Foggy Bottom/West End area for university use, and accordingly, the University will add the term “contract purchaser” to proposed Condition 8. This is a real

and significant commitment by the University that directly responds to concerns raised by the community, and, specifically, the Advisory Neighborhood Commission (ANC) 2A during the 2000 Foggy Bottom Campus Plan proceedings. See Statement of ANC-2A, at 3, dated Sept. 13, 2000, attached as Exhibit A.

Condition 10 – Student Enrollment

Background

Modern institutions of higher education are complex, organic institutions that evolve over time, serving as open centers of learning for the exchange of ideas. While the modern university still includes core constituencies of full-time undergraduate, graduate, and professional students as well as the full-time faculty and staff that participate in the day-to-day operations of the university, it also includes a number of ancillary constituencies—including researchers, visiting faculty, and private professionals with full-time jobs off-campus—that play an important role in enhancing the educational experience delivered by the University. These constituencies often have limited, and in some cases no physical impact on the campus itself. Also, as part of the educational experience, both faculty and students often leave the campus for extended periods of time—for study abroad, sabbaticals, and research in other locations—which removes their impacts altogether.

The manner in which education is delivered in today's marketplace is in many respects place-oriented. For example, the broader GW population includes students studying not only at other campuses (e.g., Mount Vernon and the Virginia Campus in Loudoun County), but also at various learning centers as well as on-site private corporate and government locations. In fact, by program design and practicality, students studying in many of these programs—for example, at GW's Naval School of Health Science in San Diego, California—have no physical relationship or impact on the Foggy Bottom campus whatsoever. Their studies and activities are focused at their on-site location, their coursework and resources materials are provided on-line through the Bb@GW (Blackboard) system², and they are not entitled to various privileges associated with the Foggy Bottom campus (such as use of the Lerner Health & Wellness Center).

The George Washington University, as an urban institution integrated into the fabric of the District of Columbia, is, to a large degree "open to the public". In particular, the Foggy Bottom Campus is an important center of economic and intellectual capital and improves the city with numerous public benefits merely by carrying out its mission. The University operates two additional campuses that have particular relationships with the

² Bb@GW is an on-line course management system based on the Blackboard Learning System™. It enables students to access syllabi, course-related materials, assignments, assessments, and communication features provided by their instructors.

Foggy Bottom campus.³ The Mount Vernon campus, which is governed by a separate campus plan, operates as a full-service college campus, providing academic, residential, and recreational opportunities, which accordingly removes a significant set of potential impacts from the Foggy Bottom campus. The Loudoun County, Virginia campus serves a different set of students. It consists primarily of nontraditional students pursuing executive and other part-time programs, and graduate students engaged in research.

Foggy Bottom Campus Student Enrollment

In order to assist the Commission in its consideration of proposed Condition 10 of the Foggy Bottom Campus Plan: 2006 – 2025, additional documentation on student enrollment is attached as Exhibit B.

The starting point from which the broad “universe” of GW students is determined (i.e. the **Total GW Student Body Head Count** reported annually to the U.S. Department of Education) is based upon the definition of student enrollment established by the Integrated Post-Secondary Education Data System (IPEDS), the standard reporting mechanism for United States institutions of higher learning. The IPEDS definition of student enrollment includes: “students enrolled in courses creditable toward a degree or other formal award; students enrolled in courses that are part of a vocational or occupational program, including those enrolled in off-campus centers; and high school students taking regular college courses for credit.” Introduction to the Integrated Postsecondary Division, at <http://nces.ed.gov/ipeds/AboutIPEDS.asp>.

The IPEDS test is whether that student is enrolled in a creditable course. As detailed more fully in Exhibit B, this test includes many students that do not have a primary relationship with the Foggy Bottom campus, and therefore have limited physical impacts on the Foggy Bottom campus. Accordingly, as detailed in the enrollment methodology included in Exhibit Q of the Campus Plan application and disclosed in numerous compliance filings made by GW under the existing Foggy Bottom Campus Plan, various

³ Most of the universities in the District of Columbia have multiple campuses, both within DC and in the surrounding jurisdictions, and the BZA and Zoning Commission orders for those universities provide enrollment and faculty/staff caps for each of the campuses. Howard University, for example, has four campuses, three in the District of Columbia (Central Campus, West Campus and East Campus) and a 108-acre Beltsville Campus in Prince Georges County. The enrollment cap for Howard’s Central Campus does not include students at the other campuses. The impacts from students and faculty who may visit other campuses is addressed in the same way as are the impacts from other visitors to the campus, such as persons attending meetings on campus, parents and prospective students visiting the campus, and even community residents who use the campus facilities. Cars coming to the campus are limited by the availability or cost of parking, and other modes of transportation such as Metro and university-operated shuttle buses provide convenient access with limited impact. Indeed, the draft Comprehensive Plan includes, as one of its Educational Element policies, the promotion of satellite campuses (EDU-3.31).

categories of students are deducted from the broad IPEDS definition to determine the **Foggy Bottom Total Student Body Headcount**.

In response to the request of the Commission, Exhibit B includes information regarding the various locations where students are educated by GW. In addition, information is provided on the categories of students enrolled at GW, as well as each category's rights, privileges and practices with respect to the Foggy Bottom campus, to provide guidance as to why certain categories are included in the proposed Foggy Bottom campus enrollment methodology. The information indicates those categories of students that are primarily associated with the Foggy Bottom campus, those categories associated with other campuses or educational centers, and students who are not otherwise present or active on the Foggy Bottom campus. This information supports the definitions proposed by the University in Condition 10 to reflect the appropriate land use impacts associated with the Foggy Bottom campus.

It is important to note that for all other GW locations, including the Mount Vernon Campus, the need to physically travel to the Foggy Bottom Campus to access Gelman Library or academic information housed at other campus facilities is greatly reduced by GW's comprehensive use of the Bb@GW (Blackboard) system, as well as branch libraries offered at the Mount Vernon and Loudoun campuses. Furthermore, texts and journal articles at Gelman may also be accessed electronically and, where a physical text is necessary, such resources can be delivered to educational centers around the metropolitan area through a comprehensive inter-library loan system. The growing use of computer-based learning systems that disseminate knowledge to remote locations on a 24-hour basis obviates the need for much travel to the Foggy Bottom campus. Indeed, the main function of the Gelman Library facility is as a physical repository for printed texts and as a quiet place for students to study.

Condition 11 – Faculty and Staff

Faculty and Staff Categories

In order to assist the Commission in its consideration of proposed Condition 11 of the Foggy Bottom Campus Plan: 2006 – 2025, additional documentation on faculty and staff is attached as Exhibit C. The University has provided information on the categories of GW faculty and staff, as well as each category's rights, privileges and practices with respect to the Foggy Bottom campus, to provide guidance as to why certain categories are included in the proposed Foggy Bottom campus faculty and staff methodology. The information indicates those categories of faculty and staff that are primarily associated with the Foggy Bottom campus and those associated with other campuses and educational centers, as well as those whose status indicates that they are otherwise not present or active on the Foggy Bottom campus. The information also includes a description of the contractors that provide ancillary services on the Foggy Bottom campus. This information supports the methodology proposed by the University in

Condition 11 to reflect the appropriate land use impacts associated with faculty and staff on the Foggy Bottom campus.

Also detailed in Exhibit C is a proposed modification to the University's current methodology which would include affiliated faculty employed by the Medical Faculty Associates in the Foggy Bottom campus faculty and staff population.

Condition 12 — Fraternities, Sororities, and Other Programs

In order to assist the Commission in its consideration of proposed Condition 12 of the Foggy Bottom Campus Plan: 2006 – 2025, additional documentation regarding fraternities and sororities is included as Exhibit D. Specifically, this Exhibit includes a listing of all fraternities and sororities recognized by the University, and a notation indicating which of the above-referenced organizations that maintain residential facilities (e.g., fraternity and sorority houses) within the Campus Plan boundary.

The language in proposed Condition 12 referring to “other programs recognized by or affiliated with the University and located within the campus plan boundary” is intended to include residential programs that could be established on campus by affiliated organizations that are not fraternities or sororities. For example, if Hillel at the George Washington University (an organization affiliated with but not part of the University) operated a residential facility on campus in which full-time Foggy Bottom undergraduate students resided, such a program would be included within the scope of proposed Condition 12.

Condition 16 — Incident Reports and Disciplinary Interventions

In order to assist the Commission in its consideration of proposed Condition 16 of the Foggy Bottom Campus Plan: 2006 – 2025, the following information regarding student incident reporting is provided by the University. Copies of the University's Neighborhood Request for Service Form (also referred to as the “Incident Report”) and the “*discover GW*” booklet, which is distributed by the University to the Foggy Bottom/West End community are both included as Exhibit E. Further, the University provides the following information on its incident reporting procedure:

- Community concerns are captured by calls to the University Police Department at both the 994-6110 line for immediate response and the 994-TIPS line for anonymous calls as set forth in the 2000 Foggy Bottom Campus Plan order. These numbers have been published in University guides, GW's neighborhood website (www.neighborhood.gwu.edu), the *Foggy Bottom Current*, Councilmember Jack Evans' newsletter, and notices to Advisory Neighborhood Commission 2A and the Foggy Bottom Association. In addition, community concerns are captured by calls made to other senior University officials, as well as calls received from the Metropolitan Police Department and Columbia Plaza management thought to involve

GW students. All of these concerns are transferred to a *Neighborhood Request for Services Form* (the "Incident Report") for tracking and response.

- The forms are forwarded to the Dean of Students Office, the Office of District of Columbia and Foggy Bottom/West End Affairs, and University Relations. When valid contact information is provided, University officials follow up with 100% of the community residents who initiate calls.
- GW has engaged in extensive tracking of community concerns during the 2004 – 2005 and 2005 – 2006 school year. For school year 2004 – 2005, the University received 144 concerns and in school year 2005 – 2006, the University received 215 concerns.⁴ In each year, approximately 80% of the concerns involved complaints of noise.
- Of those incidents where the University was able to verify that a GW student was engaged in misconduct, 100% of these students were subjected to University disciplinary action. The Student Code of Conduct provides for a range of possible disciplinary actions in order to ensure appropriate and just treatment. The selection of a specific sanction will depend on the facts of each case and will take into account such factors as the nature of the offense, the presence or lack of a record of prior discipline, the demeanor of the student, and other mitigating or aggravating factors. The progressive disciplinary actions imposed by the University include:
 - a warning letter where only general information of misconduct is available without specific facts to warrant additional discipline;
 - a censure, consisting of an official written reprimand for specific acts of misconduct, including a warning that repeated acts of misconduct will be cause of additional disciplinary action;
 - disciplinary probation, which excludes a student from participation in privileged or extracurricular activities for a specified period of time and provides that any violation of the terms of the probation, or any further acts of misconduct, will result in suspension or expulsion;
 - suspension, which excludes a student from classes and other privileges and activities, including access to the University, for a period of time; and
 - expulsion, which terminates the student status and excludes the student from University privileges and activities, including access to the University, in perpetuity.

⁴ Part of this increase can be attributed to the University's concerted efforts to publicize the call in lines as well as increase the number of ways a community complaint might be captured.

With respect to issues raised through the community concern response program, in academic year 2004 – 2005, the University meted out 126 disciplinary actions and in 2005 – 2006, the University meted out 115 disciplinary actions. Importantly, the number of repeated acts of misconduct reported through the community concern response program dropped dramatically after the initial discipline imposed by the University. In 2004 – 2005, for example, only three students initially disciplined for off-campus behavior issues were found to have engaged in repeated acts of misconduct off-campus. In 2005 – 2006, the number was only two.

Condition 21 – Streetscape Plan

In order to assist the Commission in its consideration of the Streetscape Plan component included as Exhibit X and further addressed in proposed Condition 21 of the Foggy Bottom Campus Plan: 2006 – 2025, the University has provided the following additional information.

The Streetscape Plan identifies various streetscape elements which are detailed in the “Kit of Parts” set forth in Section 5.2 of the Plan. Of those elements, many will be paid for exclusively by the University, including:

- building identifiers (*e.g.*, flags, awnings, and placards);
- street furniture (*e.g.*, benches, trash receptacles, bike racks and emergency call stations);
- way-finding elements (*e.g.*, campus maps, directional signage, and location symbols);
- street banners (*e.g.*, pedestrian, vehicular and thematic banners often mounted on street light posts); and
- distinctive design elements (*e.g.*, public art, plaques, busts, clocks, paving medallions, mid-block crossing treatments).

The costs and resources associated with the implementation of other streetscape elements—including sidewalk paving materials, street lighting fixtures, and certain plantings (particularly street trees)—may be allocated among the University, DDOT, and, as appropriate and available, other outside sources (including organizations or foundations such as Casey Trees for campus street trees). The University will continue to work with DDOT with respect to planning for future District streetscape improvement projects that impact the Foggy Bottom campus, and the specific allocation and contribution of costs associated with such improvement projects will be made on a project by project basis. Streetscape improvements associated with development projects identified in the Campus Plan and first-stage PUD will be funded by GW and will be specifically addressed as part of the second-stage PUD application for each project.

Section 5 of the Streetscape Plan proposes a framework for the implementation of various streetscape elements over the twenty-year term of the Foggy Bottom Campus Plan: 2006 – 2025, as specific development projects are completed and as funding becomes available.

Square 103 PUD: Sustainable Design Elements

The Commission asked the University to verify any assurances made with respect to sustainable design elements associated with the Square 103 residence hall PUD which was approved by this Commission in Order No. 03-29. (A copy of the order is attached as Exhibit F.) The University did in fact design the building in an environmentally sensitive matter as a public benefit of the PUD. *See* Z.C. Order No. 03-29, at 5. During the development process, the University discussed various amenities that matched the zoning relief originally sought. As the required zoning relief was scaled back, the amenities package was adjusted accordingly. At the zoning hearing on the application, the University offered specific sustainable design elements that would be incorporated into the building, and the Commission found the project “acceptable in all proffered categories of project amenities and public benefits” as reflected in the Order. In constructing the building, the University included all of the sustainable design elements required by the Order.

Conclusion

The proposed conditions submitted as part of GW’s Foggy Bottom Campus Plan: 2006 – 2025 application address a wide range of issues and will appropriately measure and limit the potential objectionable impacts associated with the University’s location within Foggy Bottom and West End neighborhood. The spirit in which the conditions were drafted also reflect the nature of the University itself—a complex and diverse institution that delivers education in a myriad of locations and evolving methods driven by advances in technology—with the overarching goal of creating a truly world-class university in the nation’s capital.

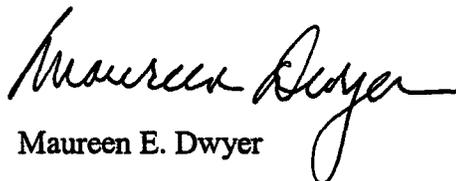
The carefully balanced and detailed development plan and proposed conditions respond directly to many issues of concern raised by members of the community throughout the comprehensive planning process. Continued discussion regarding the terms and definitions included in the Plan and proposed conditions is useful and beneficial to try to avoid confusion, misunderstanding and conflict in the future. However, none of the parties involved can predict with certainty all of the issues that may emerge with respect to future implementation of the Campus Plan. For these reasons, the University is committed to continuing its cooperation with District agencies and the community to foster ongoing discussion, exchange of ideas, and resolution of issues related to the Plan. Indeed, the University continues to believe that the most appropriate forum for dialogue regarding these issues of mutual concern is the Advisory Committee called for in the existing Campus Plan and also specified in proposed Condition 9.

September 21, 2006

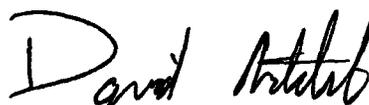
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We appreciate this opportunity to provide additional information to the Commission and look forward to continued discussion of these important matters.

Very truly yours,



Maureen E. Dwyer



David M. Avitabile

Enclosures

cc: Travis Parker, Office of Planning
David Maloney, Historic Preservation Office
ANC 2A
Cornish F. Hitchcock, Counsel for Foggy Bottom Association and ANC 2A
Barbara Kahlow, West End Citizens' Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this letter and enclosures were hand delivered on
September 21, 2006.

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

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**Statement before the Board of Zoning Adjustment on
BZA Application No. 16553 -- George Washington University's
Proposed Foggy Bottom Campus Plan -- Years 2000-2010
Barbara Spillinger -- September 13, 2000**

Good morning Chairperson Reid and Members of the Board --

My name is Barbara Spillinger. I am Chair of ANC-2A and represent Single Member District 2A04. I am speaking today as authorized spokesman for ANC-2A, which encompasses the entirety of George Washington University's (GWU) Foggy Bottom campus.

Members of the ANC appreciate the opportunity to appear before you today and to plead our case. As was pointed out in our filing of September 8, ANC-2A held a Special Public Meeting on Wednesday, August 30, at which it confirmed its support of its previously filed resolutions. The specifics of our case are spelled out in the Report of Advisory Neighborhood Commission 2A to the BZA dated April 17, prepared by James Draude and filed with the BZA with my letter of April 18.

This Report, as will be the case with so many who will testify today, fortifies its opposition to the Campus Plan by citing 11 DCMR 210 and the City's Comprehensive Plan, which includes numerous specific provisions regarding the University and its impact on the Foggy Bottom/West End residential neighborhood.

The Comprehensive Plan recognizes the deleterious effects of housing large numbers of GWU students in residential areas outside GW's campus plan boundaries, e.g.:

Section 1325.3: Loss of housing stock is also a critical problem in Foggy Bottom/West End, aggravated by the lack of dormitory construction on the George Washington University (GWU) campus * * *. Conversions of housing units, particularly apartments to transient use (hotel, de facto hotels, and corporate apartments), to university dormitories and offices, and to medical offices/clinics is a major cause of depletion of the housing stock. (46 DCR 1757-1758 (1999)).

And most telling is Section 1358.1, which I quote only in part:

Intense student pressure on Foggy Bottom's housing stock outside the campus, combined with the impact of university generated traffic has had a negative effect on residential Foggy Bottom. The University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the campus plan. The University must be sensitive to the surrounding residential neighborhood.

In addition to these statutory requirements, one of the primary goals addressed in the Mayor's neighborhood initiative program is the stabilization and preservation of neighborhoods, with special emphasis on enhancing and protecting established residential neighborhoods in the "ring" around the Central Employment District.

As cited and footnoted in our April 17 report, "The District of Columbia Court of Appeals has stated that 'the thrust of the [zoning] regulations is * * * to keep universities from expanding into residential neighborhoods without control.' The purpose of the Board's review of a campus plan is to evaluate the effect of the campus plan as a whole on the surrounding neighborhoods."

The community's major concerns are three: (1) the unregulated and uncontrolled use of land by the University in the surrounding area outside the currently approved campus plan boundaries; (2) the failure of the University to build sufficient dormitories to house its students within the campus plan boundaries, thus forcing large segments of the student population to find housing elsewhere, and (3) the failure of the University to provide sufficient on-campus, off-street parking or to even attempt to address traffic and parking impacts on neighboring residential areas outside the campus plan boundaries.

At this time, I would like to give particular recognition to the Supplemental Recommendations on the GWU Campus Plan filed September 8 by the Office of Planning, which give a thorough analysis of the impacts that threaten the continued viability of the University's adjacent neighborhoods, the incremental steps that have brought us to the current impasse, and recommendations for change that would alleviate current negative conditions. It is a thoroughly professional, thoughtful and constructive document.

I would also call your attention to the September 8 filing of the Foggy Bottom Association. This statement is especially relevant in that its author, Michael Thomas, was the lead spokesman for the community in the recent negotiations held by the Office of Planning, the community and the University. He gives a detailed, cogent critique of the community/GW Campus Plan controversy including its history, current status and options available.

Both of these documents address in some detail the September 7 draft of the University titled "Proposed conditions for GW Foggy Bottom Campus Plan." The ANC obviously has been unable to address GW's latest submission in a public meeting. However, at its August 30 Special Meeting, the ANC approved in concept OP's Location-Based Recommendation, and I venture to say that we are in concert with the conclusions reached by both OP and Mr. Thomas.

ANC-2A does, however, stand by its April 12 resolution, passed with all six commissioners present, which concludes, "ANC-2A finds GWU's Campus Plan as submitted unacceptable and asks particularly that student enrollment be curtailed until adequate on-campus housing, parking and other facilities are made available and result in a quantifiable decrease in the number of students forced to live in the surrounding off campus residential neighborhood. (emphasis added)

In commenting on ANC actions, I should also point out that in its April 17 Report, ANC-2A included the following conditions:

- a. The full time undergraduate student population will be capped at the current level (headcount).
- b. No further non-residential development will be approved within the campus plan boundaries until GWU constructs sufficient dormitories to house full-time undergraduate students under conditions that will assure that no full-time undergraduate GWU students reside in residential areas of Foggy Bottom/West End by the academic year beginning the fall of 2002, and every year thereafter.
- c. As a condition of approval of the campus plan, GWU will not acquire any further property, directly or indirectly, in residentially zoned areas within the boundaries of ANC 2A.

In a footnote at page 20, the OP report refers to this proposal but does not offer support "...because of the virtual impossibility of compliance." I personally am in agreement with OP's assessment, but these stipulations were adopted at a time when the community could see little progress in negotiation or offers to compromise on the part of GW. A hard line on our side seemed the best way to address what we perceived as equally imperious demands by GW in its Campus Plan (page 23, GW "...will continue, as it has historically done, to use property outside the Campus Plan boundaries...." ; a student cap of 20,000 with no reference to graduate/undergraduate ratios; carte blanche with respect to the future use of the old hospital site, Square 54).

Granted in its September 7 statement, some of these conditions have been ameliorated. and, as a result of the negotiation effort, it was generally agreed that over a two-year period freshmen and sophomores will be required to live on campus; the code

of student conduct will apply to students living off campus; a verifiable census of undergraduate students in Foggy Bottom/West End will be conducted; a transportation management program will encourage metro use by GW students, faculty and staff; and an Advisory Council of Community/GW representatives will be established.

However, on the substantive issues that divide us, we did not reach accord. Our concerns and recommendations are recounted in some detail in our filing of September 8, and we continue to ask that the Board deny this Application.

In closing, I would like to quote in part from a letter written by Councilmember Phil Mendelson to GW President Trachtenberg, "I wrote November 11 that the plan should define the neighborhood and then state how it will be protected....Zoning is not just about the geometric aspects or architecture, it is also about use. Use is about relationship, and campus planning is especially about the relationship of a university with other uses (e.g. residents) around the campus. * * * The campus plan can start from the premise: what does the university want to be in 2010; or it can start from the premise: how will the university relate to Foggy Bottom in 2010. * * * Instead, the plan is still focussed on bricks and mortar and GWU's programs. Meanwhile, since last fall the neighborhood has gotten all the more agitated over GWU's acquisition of Columbia Plaza and the razing of townhouses. Whether these actions are of-right has nothing to do with the need for the University to improve its relations with Foggy Bottom residents.. * * * ...a campus plan is about much more than just facilities planning."

Thank you for your attention and the opportunity to appear before you.

EXHIBIT B

Student Enrollment

I. Determine the Universe of GW Students

A. *Defining Student Enrollment: IPEDS*

The George Washington University defines the universe of GW students, i.e. the **Total GW Student Body Head Count**, as all students, full-time and part-time, undergraduate, graduate, and non-degree, enrolled in a creditable course at any of its campuses, educational centers, and other sites, as described in greater detail below. This total is reported to the U.S. Department of Education through the Integrated Post-Secondary Education Data System (IPEDS), the standard reporting mechanism for United States institutions of higher learning.

IPEDS defines student enrollment as: “students enrolled in courses creditable toward a degree or other formal award; students enrolled in courses that are part of a vocational or occupational program, including those enrolled in off-campus centers; and high school students taking regular college courses for credit.” Introduction to the Integrated Postsecondary Division, at <http://nces.ed.gov/ipeds/AboutIPEDS.asp>.

The IPEDS test is whether a student is enrolled in a creditable course. As a result, this test includes many students beyond the traditional student attending classes in the pursuit of a degree. For example, doctoral candidates who are solely engaged in completing their theses or dissertations are required to enroll in a one-credit continuing research registration and are therefore included in the reported universe of GW students, even though they are not enrolled in any traditional classes. By contrast, students who take leaves of absence to address health and personal issues, and do not take any class for credit, are not included within the universe of GW students, consistent with IPEDS, until such time as they re-enroll in a course for credit.

B. *Centers for Learning: Campuses, Education Centers, and other Sites*

The George Washington University delivers education in various forms at a number of sites and locations in addition to the Foggy Bottom campus. Students enrolled at GW generally have a primary relationship to one specific location (*e.g.*, in the case of locations with residential facilities, the primary relationship is established by where the student resides). The information that follows is provided to clarify and distinguish between these various centers for learning, including the rights, privileges and practices associated with the students enrolled at the respective locations.

1. Campuses of The George Washington University

The George Washington University operates three campuses: the Foggy Bottom campus, which is the subject of this application; the Mount Vernon campus, which is governed by BZA Order No. 16505, and the Loudoun County campus, which is located in Ashburn, Virginia. The Foggy Bottom and Mount Vernon campuses offer traditional undergraduate classes, residence halls and

student support and recreational facilities. The Foggy Bottom campus is also the location of key graduate and professional programs, such as the School of Medicine and Law School.¹ (The Mount Vernon campus currently offers only one graduate program, in interior design.)

At its Virginia campus, the University offers graduate degree and certificate programs in engineering, education, management, and technology, as well as one undergraduate program in pharmacogenomics, which is a specialized cooperative venture operated in conjunction with Shenandoah University. The Virginia campus is also the location of research centers in transportation safety and security, public health and homeland security, and information technology and telecommunications. Students enrolled in classes at both the Foggy Bottom and Virginia campuses are included in the Foggy Bottom student enrollment counts.

2. Education Centers

In addition, the University offers programs at three “education centers” in Alexandria, Arlington, and Newport News, Virginia. University operations at these sites are conducted in leased space that is not owned by the University. Various graduate degree programs are offered at these centers, often through night and weekend classes that are tailored to appeal to working adult professionals that live nearby.

3. Corporate/Government Sites

The University also educates students in various corporate/government sites located throughout the United States and abroad. Currently these sites include, among others, Hickory High School in Chesapeake, VA, Fort Sam Houston in San Antonio, Texas, and Singapore Institute of Management in Singapore. In the District, GW currently operates five corporate/government sites at the following locations: Walter Reed Army Medical Center (6900 Georgia Avenue, NW), The Shakespeare Theatre (450 7th Street, NW), Metro Transit Police Headquarters (600 5th Street, NW), American Association for the Advancement of Science (1200 New York Avenue, NW) and the Hall of States Building (444 North Capitol Street, NW).

Programs offered at these sites are generally more limited than those offered at the education centers described above, as the program offerings are keyed toward the hosting government or corporate institution.

4. Distance Learning

Finally, the University offers programs and courses via distance learning for those students who are not in close proximity to its campuses, education centers or corporate/governmental sites. Distance learning programs are conducted over the Internet and are offered in a number of disciplines at both the undergraduate and graduate levels.

¹ The University also conducts courses in leased classroom space at 1776 G Street, NW and 2020 K Street, NW. Students enrolled in creditable courses in these locations are included in the Foggy Bottom student enrollment counts.

II. Determine the On Campus (Foggy Bottom/Mount Vernon) Total Student Body

The University distinguishes between “on-campus” Foggy Bottom and Mount Vernon students and “off-campus” students, which includes all other categories of students. The rights, privileges and practices associated with these categories are described below in order to further explain the University’s methodology for determining Foggy Bottom student enrollment.

A. Foggy Bottom/Mount Vernon Students

Students who take courses at either Foggy Bottom or Mount Vernon are within the **Foggy Bottom/Mount Vernon Total Student Body**. Only these students have rights to access the University’s Lerner Health & Wellness Center² and Mount Vernon Athletic Complex, and participate in organized intercollegiate athletics and student government. Foggy Bottom and Mount Vernon students also are able to participate in a host of other traditional student activities, from intramural sports and Greek life to community service and performing arts programs. These students also have privileges that enable them to use the Gelman and Eckles Libraries (at Foggy Bottom and Mount Vernon, respectively). These students also use the GW Bookstore and dining facilities, as well as the Marvin Center and academic buildings on the Foggy Bottom campus—all of which are also open to members of the general public.

B. “Off-Campus” Students

The **Off-Campus Student** population includes Virginia campus students, students taking courses at educational centers or corporate/government sites, as well as students enrolled in distance learning. Given their relationship with locations other than the Foggy Bottom and Mount Vernon campuses, students included in the Off-Campus Student category are not included in the Foggy Bottom/Mount Vernon Total Student Body. Off-Campus Students are not eligible to live in University housing, do not have any rights to use the Lerner Health & Wellness Center, and are not permitted to participate in organized intercollegiate athletics or student government. Off-Campus Students could hypothetically participate in other student activities; however, such participation is practically nonexistent, as these activities are oriented to undergraduate and graduate students within the Foggy Bottom/Mount Vernon population.

Off-Campus Students are entitled to privileges of access to and use of the University library system. However, the University incorporates modern technologies that eliminate the need to physically visit the library at Foggy Bottom in order to access its collections and undertake course-related research.³ And while the students could conceivably visit the GW Bookstore to procure their textbooks, an online sales system similarly eliminates the need to come to Foggy

² Students that are enrolled for at least one credit at the Foggy Bottom campus are eligible to use the Lerner Health & Wellness Center.

³ Students are able to search the University’s substantial collection online and request the checkout and delivery of any needed books, texts, and studies. Further, students can search for and print out the text of magazines, journals, and dissertations through comprehensive online databases. Professors are able to post links to all relevant course reading through an online service known as the Blackboard system. Indeed, students are able to email, phone, and even instant message the librarians for any additional assistance. Additionally, the Virginia Campus has its own library facilities where books can be transferred via inter-library loan for the convenience of students.

Bottom. The online bookstore provides a listing of all required texts, sorted by class, and offers delivery directly to the student.

In summary, the Off-Campus Student population does not have a primary or significant relationship to the Foggy Bottom campus. They do not have the right to access the Lerner Health & Wellness Center and other athletic facilities. In principle they share the right to participate in student activities, but in practice they rarely do. Both modern technology and University policy eliminate the need to physically visit the Foggy Bottom campus library and bookstore; rather, required reading and research can be undertaken remotely and delivered to any off-campus site or home address. Off-Campus Students are therefore appropriately excluded from the Foggy Bottom/Mount Vernon Total Student Body because they have extremely limited impact—if any at all—on the Foggy Bottom campus.

III. Determine Foggy Bottom Total Student Body Headcount

The University subtracts three categories—study abroad, continuous enrollment, and Mount Vernon students—from the Foggy Bottom/Mount Vernon Total Student Body to arrive at the **Foggy Bottom Total Student Body Headcount**. These categories, as well as their associated rights, privileges and practices, are described below.

A. Study Abroad

Most students participating in **Study Abroad** programs enroll in an affiliated GW study abroad program. While these students retain the same rights and privileges to the facilities on the Foggy Bottom campus during the time they study abroad, they lack the ability, for obvious reasons, to use those facilities while living in a foreign country. Study abroad students maintain an administrative connection to the University because they intend to return to the Foggy Bottom campus upon completion of their studies abroad; during their time away from campus, however, they do not have any impacts and are therefore appropriately excluded from the Foggy Bottom Total Student Headcount.

Foreign students visiting GW on study abroad who are enrolled in a credit-bearing course at the University are specifically included in the GW “universe” of students under the IPEDS definition. Accordingly, if a foreign student is enrolled in a course at the Foggy Bottom or Mount Vernon campuses, they will be included in the Foggy Bottom/Mount Vernon Total Student Body.

B. Continuous Enrollment

Students in the category of **Continuous Enrollment** include undergraduates who received a grade of “incomplete” or “in progress” and must complete their outstanding coursework. Continuous enrollment students are ineligible to live in University housing and do not have access to the Lerner Health & Wellness Center. While they are entitled to access to the library system, as noted above, use of the University’s libraries does not generally correlate with visits to Gelman Library at Foggy Bottom, particularly if a student is not actively attending classes or otherwise present on the Foggy Bottom campus. Continuous Enrollment students maintain their

relationship to the University only for the administrative purpose of avoiding a break in their status within a specific academic program of study, and are, by definition, not enrolled in any classes. Accordingly, these students are appropriately excluded from the Foggy Bottom Total Student Body Headcount.⁴

Further, to clarify responses made at the public hearing on September 14, the “continuous enrollment” category is not primarily comprised of students who have completed their coursework and are awaiting graduation. The University holds graduation three times a year—generally in May, September and January—and requires that students complete their degree requirements and register for graduation prior to the actual graduation date. A small number of students who fulfill their degree requirements *after* the graduation deadline for a given term maintain continuous enrollment until the next graduation date. These individuals are not receiving any credit for academic activities and therefore, are not students within the meaning of IPEDS and are therefore not counted within the “universe” of GW students.

The University notes that, in contrast to the limited exclusion of Continuous Enrollment students from the Foggy Bottom Total Student Body Headcount, students in **Continuing Research** status are included in the Foggy Bottom Total Student Body Headcount. This category of students typically includes masters and doctoral candidates that are completing their theses or dissertations, respectively, but who no longer take any classes. They are required to enroll in a one-credit course that reflects their continuing research and writing activities related to their thesis/dissertation. Although these activities often result in minimal impacts on the Foggy Bottom campus for the reasons set forth above with respect to remote access to University library resources, etc., nevertheless, they are included in Foggy Bottom Total Student Body Headcount, as they are enrolled for credit at the Foggy Bottom campus.

C. *Mount Vernon Students*

The Mount Vernon Campus, which is subject to its own campus plan (*See* BZA Order No. 16505, February 8, 2000), provides a full-service undergraduate-focused living and learning campus. The Mount Vernon campus includes several academic facilities, Eckles Library, a dining facility, residence halls, and a number of student recreational facilities (e.g., tennis courts, softball and soccer fields, and a swimming pool), many of which have been substantially upgraded since 1998. The University operates a regular shuttle service between the Mount Vernon and Foggy Bottom campuses.

Undergraduate students at Mount Vernon share the same rights and privileges as Foggy Bottom undergraduates with respect to University library facilities and the Lerner Health & Wellness Center⁵. Both Mount Vernon and Foggy Bottom undergraduate students may participate in the same clubs, activities, and student organizations. However, Mount Vernon students need not

⁴ By definition, students in the Continuous Enrollment category are not enrolled in a class for credit, and ordinarily would fall outside the IPEDS definition of student. However, the University maintains their status as “enrolled students” in order to satisfy the requirement that students be continuously enrolled every semester until a degree is conferred. By remaining in this administrative category, continuously enrolled students are subject to the academic requirements and regulations that were in effect when the student first matriculated at the University.

⁵ Mount Vernon students who take one or more credits at the Foggy Bottom campus are eligible to use the Lerner Health & Wellness Center.

travel to Foggy Bottom to participate in student activities as the campus itself provides a full panoply of events, concerts, and student oriented programming. Furthermore, Mount Vernon students are able to access the full resources of Gelman Library through the services noted above, are able to access their coursework and information online through the Blackboard system⁶, and are also able to purchase books online from the GW bookstore and have them shipped to their Mount Vernon residence halls.

The Mount Vernon Campus Plan is subject to its own enrollment limitations (specifically, 1,000 students on a full-time equivalent basis and 1,500 headcount), which includes both (a) undergraduates who are residents of Mount Vernon and (b) students who do not reside at the Foggy Bottom campus and take courses at Mount Vernon.⁷ The University has consistently excluded students counted under the Mount Vernon Campus Plan (including Mount Vernon resident students and non-resident/commuter students) from the Foggy Bottom Total Student Body Headcount.⁸ However, after extended review and evaluation of various GW student enrollment categories with the Office of Planning, the University agreed and as proposed in Condition 10, to include all Mount Vernon non-resident/commuter students who also take classes at the Foggy Bottom campus in the Foggy Bottom Total Student Body headcount. Students who reside or take all of their classes at Mount Vernon will continue to be counted as Mount Vernon students and be excluded from the Foggy Bottom Total Student Body Headcount. See OP Final Report at 12, September 5, 2006 and Campus Plan Exhibit Y, proposed Condition 10(a).

The primary relationship of students who reside at the Mount Vernon campus is with the Mount Vernon campus. As described above, these students are part of a full undergraduate living and learning community at the Mount Vernon campus, and their potential impacts are addressed in the Mount Vernon Campus Plan. It is appropriate that the Mount Vernon campus is governed by its own separate campus plan, as the surrounding neighborhood impacted by activities at the Mount Vernon campus is completely different from that of Foggy Bottom.

The University acknowledges that residents of the Mount Vernon campus use certain facilities at the Foggy Bottom campus and conversely, residents of the Foggy Bottom campus use facilities at Mount Vernon. Impacts from students and faculty who visit other campuses are addressed in the same way as impacts associated with other visitors to the campus (such as persons attending meetings on campus, parents and prospective students visiting the campus, and even community residents who use the campus facilities). Further, Mount Vernon residents are not granted reciprocal parking privileges on the Foggy Bottom campus and are required to pay the student daily/occasional rate in the event they do choose to drive to the Foggy Bottom campus. The vast

⁶ Bb@GW is an on-line course management system based on the Blackboard Learning System™. It enables students to access syllabi, course-related materials, assignments, assessments, and communication features provided by their instructors.

⁷ As noted above, the Interior Design graduate program, including its faculty and facilities, is located at Mount Vernon. These graduate students are commuters and do not reside on either campus.

⁸ This is not an unusual practice; most of the universities in the District of Columbia have multiple campuses, and the BZA and Zoning Commission orders for those universities provide enrollment and faculty/staff caps for each of the campuses. Howard University, for example, has four campuses, including three in the District of Columbia (Central Campus, West Campus and East Campus), and the enrollment cap for the Central Campus does not include students at the other campuses.

majority of students who travel from one campus to the other use the University-operated shuttle buses, which provide convenient connections between the campuses with limited impact.

In addition to Mount Vernon resident students, students that do not live in University housing in Foggy Bottom and attend all of their classes at the Mount Vernon campus are also considered Mount Vernon students and are excluded from the Foggy Bottom Total Student Body Headcount. Like residents of Mount Vernon, these students share a primary relationship with the Mount Vernon campus and their impacts are accounted for by the Mount Vernon Campus Plan. They do not impose any direct impact on the Foggy Bottom campus through residence in Foggy Bottom student housing or classroom attendance and, for the various reasons set forth above, have minimal, if any, need to use the facilities at Foggy Bottom.

IV. Other Categories of Students

A. *School Without Walls Students*

According to the IPEDS definition, “high school students taking regular college courses for credit” are included in official student enrollment counts. Under a long-standing relationship between the University and the School Without Walls, a District of Columbia public high school located within the boundaries of the Foggy Bottom campus, students from the School Without Walls are permitted to take courses at the University. These students are included as part of the Foggy Bottom Total Student Body Headcount even though they would be present within the campus boundaries whether or not they take GW courses.

B. *University Faculty and Staff*

Under its existing enrollment and faculty and staff methodologies, the University in effect “double counts” regular Foggy Bottom full-time and part-time faculty and staff who also take one or more courses on the Foggy Bottom campus, by including the same individual in both the Foggy Bottom Total Student Body Headcount and Foggy Bottom Faculty or Staff counts. The University has proposed that going forward, the Foggy Bottom Total Student Body Headcount no longer include faculty and staff who take courses on less than a full-time basis on the Foggy Bottom campus.⁹

V. Conclusion

The University’s methodology for determining Foggy Bottom Total Student Body Headcount as set forth in proposed Condition 10 is fundamentally premised on the established IPEDS definition of student enrollment, i.e. whether a student is enrolled in a *creditable course*, regardless of location. This broad and inclusive enrollment standard is adjusted to identify students whose primary relationship is with the Foggy Bottom campus. As a result, the methodology proposed in Condition 10 appropriately balances the considerations of District

⁹ Specifically, the University has proposed that regular full and part-time faculty and staff who also take courses on the Foggy Bottom campus on less than a full-time basis continue to be counted as faculty/staff of the institution, as their primary relationship to the University is that of an employee. Faculty/staff taking a full-time course load would continue to be counted in both the student and employee categories.

zoning law with the realities associated with the delivery of education by a complex, modern university.

EXHIBIT C

Faculty and Staff Population

I. Introduction

Pursuant to proposed Condition 11, faculty and staff have been combined into a single Foggy Bottom campus faculty and staff population cap in order to alleviate the complexities associated with distinguishing between various categories of faculty and staff, and to allow the University to report its faculty and staff population in a manner more consistent with its existing business processes with respect to tracking University employees.

This combined cap represents the total of the Foggy Bottom faculty and staff caps set forth in the existing Campus Plan (which were, in fact, carried over from the 1985 Campus Plan) and will not have any indirect impact on the Foggy Bottom student population, which is governed by its own cap as set forth in Condition 10. The additional flexibility afforded by this change will allow the University to respond to evolving educational and operational needs over the next twenty years without creating the potential for any additional impacts related to campus populations beyond that which has already been approved in existing and prior Campus Plans.

In response to the Commission's request for additional information on the various categories of faculty and staff, the University has compiled the following information regarding the rights, privileges and practices of various categories of faculty and staff included within the scope of proposed Condition 11.

II. Faculty

The faculty and staff population defined in Condition 11 includes all full- and part-time paid faculty, subject to limited exceptions for categories of faculty whose primary relationship to the university is other than that of a Foggy Bottom Campus faculty member.

Foggy Bottom Campus Faculty includes the following:

- Full-time faculty whose offices are located at the Foggy Bottom Campus.¹
- Full-time faculty on sabbatical, who otherwise teach on the Foggy Bottom Campus.
- Part-time faculty, including adjunct professors, and visiting instructional and research professors, who teach at least one course on the Foggy Bottom campus.

Faculty members in these categories are entitled to University benefits associated with their employment status, including but not limited to eligibility to join the Lerner Health & Wellness Center² and eligibility for transportation benefits (including the right to use the University's

¹ As a matter of practice, faculty members are assigned office space at the location where the majority of their courses are traditionally taught.

² Faculty membership to the Lerner Health & Wellness Center is subject to annual fees of \$295 to \$700.

shuttle bus system and to park in University parking facilities at the published faculty and staff rates³).

Foggy Bottom Campus Faculty, however, excludes the following categories of faculty:

- Off-campus faculty. Off-campus faculty consists of full-time faculty members whose assigned office locations are at the Mount Vernon or Virginia campuses or other off-campus locations⁴ and part-time faculty, visiting and research professors who do not teach at the Foggy Bottom campus. These faculty members maintain offices at their assigned locations (the University does not permit faculty to maintain offices in multiple locations). If off-campus faculty visit the Foggy Bottom campus,⁵ they are subject to the same parking rates as other faculty members. Nevertheless, off-campus faculty members maintain a primary relationship with campuses or locations other than Foggy Bottom and therefore are not included in the Foggy Bottom campus faculty counts.
- Professors *emeriti*. Professor Emeritus is an honorary status afforded a select subset of retired faculty. These individuals receive special privileges, including complimentary membership to the Lerner Health & Wellness Center (upon application) and free parking in University parking facilities. While these individuals may attend scheduled department meetings on an intermittent basis, they generally do not teach classes, and in the event they do choose to teach a course, are counted as a part-time faculty member during the semester in which the course instruction occurs. Due to the nature of this population and the fact that many of these individuals do not live in the immediate area, the level of activity of this population is extremely limited.
- Staff with Faculty Appointments. University staff who also hold faculty positions on less than a full-time basis and whose primary relationships to the University are as staff are also not included in the Foggy Bottom faculty count. These individuals receive the benefits and privileges associated with their employment as staff of the University and are accounted for as a part of the staff population.
- Affiliated faculty. The affiliated faculty category includes physicians who, although affiliated with the Medical Center as “voluntary faculty,” are not employed by the University. Rather, they are employed by other medical providers, such as Children’s Hospital, Washington Hospital Center, and Veterans Hospital.⁶ These physicians do not

³ All faculty, staff and students are required to pay for parking (contract or occasional), with the exception of professors *emeriti*, as detailed below. Faculty/staff rates are published by University Parking Services and are currently \$170/month for contract parking (at all locations except for HOVA, which is \$140/month) and \$10/day for occasional parking (occasional parking with entrance to the garage after 5pm is \$6.00/day) which is available at the University Parking Garage and Lot 3 (located at H and 20th Streets).

⁴ The University’s campuses, educational centers and corporate/government sites are described more fully in Exhibit B of this submission.

⁵ Off-campus faculty may occasionally visit the Foggy Bottom campus for administrative purposes. For example, full-time off-campus faculty may attend departmental and administrative meetings at the Foggy Bottom campus.

⁶ The term “affiliated faculty” also includes practicing physicians with faculty appointments who are employed at Medical Faculty Associates. The University is proposing, however, the inclusion of these individuals as Foggy Bottom faculty, as detailed more fully below.

engage in traditional faculty/teaching activities on the Foggy Bottom campus, but do assist in the education of medical students. Faculty in this category are not generally entitled to University benefits, with the exception of tuition remission and the right to park in University facilities at the published faculty rates.

- **Part-time clinical faculty.** This category of faculty is comprised of local private physicians engaged in the practice of medicine who also assist in the education of medical students and residents in private offices or in hospitals (i.e. during “rounds”) on a voluntary basis as a service to the profession. These individuals are not counted in GW’s Foggy Bottom campus faculty counts as they are not employed or paid by the University, nor are they provided any University benefits. Furthermore, any campus impact created by these physicians would occur even if they did not engage in instructional activity (i.e., they would still come to the hospital to perform rounds, with or without the educational element).

The determination of Foggy Bottom faculty outlined above sets forth a rational and logical methodology grounded in the manner in which education is delivered at modern universities and medical centers. However, based on ongoing conversations with internal and external stakeholders, including the Office of Planning, GW proposes as a clarification to proposed Condition 11 that, on a going-forward basis, affiliated faculty employed by Medical Faculty Associates be included in its Foggy Bottom campus faculty and staff population.⁷ Although these individuals are not employees of the University, this particular subset of affiliated faculty conduct instructional activities almost entirely on the Foggy Bottom campus (as both their clinical office location and any instructional location are located on the Foggy Bottom campus) and instruct medical students at all levels of education (first through fourth years). These individuals are distinct from other affiliated faculty whose instruction is limited to third and fourth year medical students and whose clinical and instructional locations are outside of the Foggy Bottom/West End area.

⁷ Affiliated Faculty that are employed by Medical Faculty Associates (MFA) are a subset of the total employees of MFA. The University has agreed to include in its faculty counts only those MFA employees who have faculty appointments and engage in instructional activities on the Foggy Bottom campus.

III. Staff

The University includes all regular full- and part-time staff and those wage-account staff that are not Foggy Bottom students in its staff population counts. Proposed Condition 11 clarifies that only those staff whose primary office location is on the Foggy Bottom campus (as opposed to the Mount Vernon or Virginia campus or other off-campus locations) are to be included in the Foggy Bottom faculty and staff population.

All staff are entitled to University benefits associated with their employment status, including but not limited to eligibility to join the Lerner Health & Wellness Center⁸ and eligibility for transportation benefits (including the right to use the University's shuttle bus system and to park in University parking facilities at the published faculty/staff rates⁹). While certain staff with off-campus office locations occasionally visit the Foggy Bottom campus, they have a very limited impact on the Foggy Bottom campus, comparable to that of a visitor, as they maintain their primary relationship with another University location. Accordingly, these individuals are not included in the Foggy Bottom campus faculty and staff population.

IV. Contractors Providing Ancillary Services

The University does not include contractors that provide “ancillary” services in its faculty and staff population counts.¹⁰ Currently, these contractors number fewer than 400 and provide a limited number of support services, including mail services, food services, bookstore operations and property management in certain GW-owned and leased buildings. This number also includes the estimated number of individuals employed in retail venues located within campus facilities that are used for purposes related to university use—i.e., education, research and the support thereof. Examples of these retail venues include food service outlets in Ivory Tower and services such as STA Travel and Kinko's in the Marvin Center. This number does not, however, include non-GW employees in 2000 Pennsylvania Avenue or 2100 Pennsylvania Avenue, as the non-GW tenants in these buildings are not related to university operations and the properties are held and maintained by the University for investment purposes as opposed to university use as described above.

The University has agreed that, in the event that a core university function (e.g., student accounts, financial aid, instructional or research activities) is transitioned from university employee to contractor status, the University will include an estimate of the number of affected employees and relevant information regarding the type and location of the contractor operations in the faculty and staff population reports required pursuant to proposed Conditions 24 and 25.

⁸ Membership to the Health and Wellness Center is subject to monthly fees of \$295 to \$700.

⁹ All faculty, staff and students are required to pay for parking (permit or occasional), with the exception of professors *emeriti*, as detailed above. Faculty/staff rates are published by University Parking Services and are currently \$170/month for permit parking (at all locations except for HOVA, which is \$140/month) and \$10/day for occasional parking (occasional parking with entrance to the garage after 5pm is \$6.00/day) which is available at the University Parking Garage and Lot 3 (located at H and 20th Streets).

¹⁰ As set forth in Exhibit Y of the Foggy Bottom Campus Plan: 2006 – 2025, these individuals are not included in the Foggy Bottom staff and population counts as their employment is not under the control or management of GW, and thus their numbers cannot be tracked and reported with the level of specificity and accuracy required under the proposed conditions.

EXHIBIT D

Fraternities and Sororities

The following fraternities and sororities are recognized and active at The George Washington University:

Alpha Delta Pi Sorority*
Alpha Epsilon Phi Sorority*
Alpha Epsilon Pi Fraternity*
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
Alpha Phi Sorority*
Beta Theta Pi Fraternity*
Delta Gamma Sorority*
Delta Sigma Theta Sorority, Inc.
Kappa Kappa Gamma Sorority*
Kappa Sigma Fraternity
Lambda Chi Alpha Fraternity
Lambda Pi Chi
Lambda Upsilon Lambda
Phi Kappa Psi Fraternity*
Phi Sigma Sorority*
Phi Sigma Kappa Fraternity**
Pi Delta Psi Fraternity
Pi Kappa Alpha Fraternity*
Pi Kappa Phi Fraternity*
Sigma Chi Fraternity***
Sigma Delta Tau Sorority
Sigma Nu Fraternity*
Sigma Kappa Sorority*
Sigma Phi Epsilon Fraternity*
Sigma Psi Zeta Sorority
Tau Kappa Epsilon Fraternity**
Theta Delta Chi Fraternity
Zeta Phi Beta Sorority, Inc.

Notes:

- * *Indicates that the fraternity or sorority has dedicated housing in a University-owned property within the Foggy Bottom Campus Plan boundaries.*
- ** *Indicates that the fraternity or sorority has dedicated housing in a privately-owned property within the Foggy Bottom Campus Plan boundaries.*
- *** *Sigma Chi is the owner of a property within the Foggy Bottom Campus Plan boundaries, however, the property is currently vacant.*

NEIGHBORHOOD REQUEST FOR SERVICE FORM

DATE: _____ CASE #: _____

TIME RECEIVED CALL: _____ TIME OFFICER(S) ARRIVED ON SCENE: _____

NAME OF REQUESTER: _____

PHONE NO. _____

ADDRESS OF REQUESTER: _____

LOCATION/ADDRESS OF COMPLAINT OR CONCERN: _____

NATURE OF COMPLAINT OR REQUEST?

ACTION TAKEN BY UPD PERSONNEL?

SHIFT SUPERVISOR:

PLACE THIS FORM IN THE INCIDENT REPORT BOX TO BE PROCESSED THE NEXT BUSINESS DAY!

OFFICE USE ONLY: DO NOT WRITE BELOW THIS LINE

RESPONSE TIME: _____	Undetermined Cause
FINAL DISPOSITION: Cause Found: _____	
Location of Noise (Circle One):	GW Building Private Building Public Street

INFORMATION FORWARDED TO:

- University Relations (Jane Lingo)
- SJS/CLLC (Brian Hamluk)
- Government and Community Relations Relations (Michael Akin)

University Follow-up:

Government of the District of Columbia

Office of Zoning



ZONING COMMISSION ORDER NO. 03-29
Z.C. Case No. 03-29
(Consolidated Planned Unit Development for
The George Washington University – Square 103 Residence Hall)

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on February 19, 2004 to consider an application from the George Washington University for consolidated review and approval of a planned unit development 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.

FINDINGS OF FACT

1. On July 30, 2003, the George Washington University (“Applicant” or “University”) filed an application for consolidated review and one-step approval of a planned unit development (“PUD”) and related Zoning Map amendment for the property consisting of Lot 817 in Square 103. The Applicant requested approval of a map amendment from R-5-D to C-3-C to construct a 530-bed residence hall with 125,000 square feet of gross floor area and a height of 120 feet.
2. During its meeting on November 12, 2003, the Commission expressed concern about the proposed height and decided to set down the application for a hearing within the framework of the existing R-5-D zoning. As a result, the maximum height of the building was reduced to 90 feet, and the number of proposed beds was reduced to 379. Notice of the public hearing, including a description of the subject property and the proposed development, was published in the D.C. Register on December 26, 2003 (50 D.C. Reg. 11067), and was mailed to all property owners within 200 feet of the subject property and to Advisory Neighborhood Commission (“ANC”) 2A.
3. Parties in this proceeding were the Applicant and ANC 2A. The Foggy Bottom Association (“FBA”) withdrew its request for party status at the hearing. At the public hearing on February 19, 2004, the Commission heard testimony and received evidence from the Applicant, ANC 2A, and the Office of Planning, as well as from persons in support of or in opposition to the application.
4. The University’s Foggy Bottom campus is bounded generally by 19th Street to the east, 24th Street to the west, Pennsylvania Avenue to the north, and E Street to the south. As of the Fall of 2002, the University enrolled approximately 8,066 undergraduate students,

4,526 of whom had on-campus housing. The Board of Zoning Adjustment (“BZA”) conditionally approved the University’s 2000 Campus Plan in BZA Application No. 16553 (“Campus Plan”; *see* BZA Order No. 16553-I, April 26, 2004). As stated during the 2000 Campus Plan process, the University is committed to housing more of its students on campus. During that process, ANC 2A, FBA, several tenant associations, and the Office of Planning (“OP”) requested that the BZA require the University to provide more student housing within the Campus Plan boundaries. OP testified that it would support the concept of using flexible zoning guidelines with regard to building height and density to maximize housing on campus. The proposed PUD responds to the University’s commitment to increase on-campus housing on an expedited basis, thereby addressing the issue that dominated the Campus Plan process. The use of the PUD process to maximize beds is consistent with OP’s suggested use of flexible zoning tools.

5. The site of the proposed PUD (the “PUD Site”) is located at 2025 F Street, N.W. (Square 103, Lot 817). The PUD Site is mid-block between 20th and 21st Streets in the southeastern portion of the University’s campus in the Foggy Bottom neighborhood of Ward 2, within the boundaries of ANC 2A.
6. The PUD Site has frontage of approximately 238.7 feet along F Street and a depth of approximately 120.79 feet. The land area of the PUD Site is approximately 28,669 square feet. The PUD Site thus exceeds the applicable minimum area requirement of 15,000 square feet set forth in 11 DCMR § 2401.1 for a PUD in the R-5-D district.
7. The PUD Site, and the surrounding campus, are designated in the Institutional land use category on the District of Columbia Generalized Land Use Map. The areas immediately to the north and to the east of the campus are designated for high-density commercial use, and the area immediately to the south is designated for high-density residential use.
8. The PUD Site is zoned R-5-D. The R-5-D district permits a maximum height of 90 feet, a maximum lot occupancy of 75 percent, and a maximum density of 3.5 FAR. The PUD guidelines for the R-5-D district allow a maximum height of 90 feet and a maximum density of 4.5 FAR. The FAR aggregation rule that applies to residentially zoned property subject to a campus plan would permit greater density on the PUD Site provided that the overall campus density did not exceed 3.5 FAR. *See* 11 DCMR §§ 210.3, 402.4. The R-5-D district requires a rear yard of 30 feet for a 90-foot building, and a minimum width of an open court of 3 inches per foot of height, but not less than 10 feet. A penthouse structure on the roof of a building must be set back from all exterior walls a distance at least equal to its height above the roof, and must not exceed 18 feet, 6 inches in height.
9. The proposed PUD includes an existing building and a new residence hall to be constructed on portion of the site currently used for parking. The existing building, known as the Support Building, has a height of 46 feet and approximately 150 feet of frontage along F Street. The Support Building is located on the western portion of the PUD Site and occupies approximately 17,956 square feet of the land within the PUD Site. The Support Building functions as the center for facilities operations for the University,

housing the Offices of Facilities Management; Facilities Development; Housekeeping; Residential Property Management; Mail Services; Risk Management; Institutional Auxiliary Services; Construction Programs; and Architecture, Engineering, and Construction. The service area behind the Support Building serves as the central receiving area for deliveries to the University.

10. The eastern portion of the PUD Site, with an area of approximately 10,713 square feet and frontage of approximately 88 feet, is currently improved with a surface parking lot. The Applicant proposes to construct a new residence hall on this portion of the PUD Site.
11. The parking lot provides 60 parking spaces, some of which are stacked. Although the parking lot will be removed when construction on the new residence hall begins, the University will maintain the minimum 2,800 total parking spaces required on-campus by the approved Campus Plan.
12. The proposed project has been designed to maximize on-campus housing under the existing zoning, and will allow approximately 100 more beds than would be allowed under matter-of-right zoning. The residence hall will consist primarily of two-bedroom dormitory units planned for use by freshmen. Generally, each unit will house four students, with two students per bedroom; the residence hall will also accommodate a community director and approximately eight student facilitators. The PUD will also contain approximately 1,300 square feet of ground-floor retail space, which the Applicant intends to devote to food service, provisions, or similar uses of convenience to students and other community residents. The retail space will be predominantly for student use, but will be open to the public. The proposed new residence hall will contain approximately 90,000 square feet of gross floor area.
13. In its order conditionally approving the Applicant's campus plan, the Board of Zoning Adjustment required the University to make available beds for at least 5,600 full-time undergraduate students on campus by August 31, 2006, and to make available one bed on campus for each full-time undergraduate in excess of the base number (*i.e.*, 8,000) whenever the head count of full-time undergraduate enrollment exceeds 8,000 (*see* BZA Order in Application No. 16553-I, April 26, 2004).
14. Since approval of the 2000 Campus Plan, the University has been engaged in the process of constructing more dormitory beds on campus. The bed count has been increased by approximately 668 since 2001. With the addition of a new residence hall in Square 43, scheduled for completion in the Fall of 2004, the total number of beds added since 2001 will be 1,396. Completion of the PUD project will result in a total of 1,775 new beds since 2001.
15. The Campus Plan identified several preferred sites for on-campus housing, including a parcel at the southeast corner of Square 103. Development of a residence hall on the PUD Site will supplement, rather than replace, student housing developed on the sites identified in the Campus Plan as preferred locations for on-campus housing.

16. In the proposed PUD, the combined gross floor area of the Support Building and the new residence hall will be 114,281 square feet. The PUD Site will have a total density of 3.98 FAR, which is less than the 4.5 FAR allowed for a PUD in the R-5-D district. The additional density (*i.e.* the difference between 3.98 and 3.5 FAR) will be aggregated as part of the total density for the entire campus, as permitted under 11 DCMR § 210.3.
17. To provide 100 more beds than would be possible under matter-of-right zoning, the proposed residence hall requires relief from the rear yard, penthouse setback, lot occupancy, and court requirements of the R-5-D district. The Commission finds that the requested zoning relief will not create objectionable impacts.
 - (a) To maximize the capacity to house students, the residence hall will abut the alley at the rear of the PUD Site; no rear yard will be provided. The lack of a rear yard will not be objectionable, because the 16-foot-wide alley will provide for adequate light and air, and the residence hall building has been designed so that none of the units faces the alley. The University owns the abutting properties on F Street, and the University and University-related fraternities own the properties abutting the rear alley. Any adverse impact would affect only the University.
 - (b) The open courts do not conform with strict zoning requirements but are wide enough to provide ample light and air to the residence hall and the abutting buildings. The new residence hall will be separated from the court of the adjacent building to the east by a distance of 25 feet, and the adjacent portion of the Support Building is constructed only to the second floor level.
 - (c) For the same reasons, the slightly increased lot occupancy will not be objectionable to neighboring properties. The minor relief regarding the penthouse setbacks will have no impacts.
18. The proposed PUD will provide the following project amenities and public benefits:
 - (a) Housing. The project will create approximately 379 new beds within the Campus Plan boundaries that will be in addition to student housing constructed by the Applicant on the preferred sites for on-campus housing identified in the Campus Plan.
 - (b) Uses of Special Value. The Comprehensive Plan indicates that the provision of additional on-campus housing for students of the George Washington University will be particularly beneficial to the Foggy Bottom neighborhood. The project will also provide approximately 1,300 square feet of retail space on the ground floor of the residence hall and a new food service facility at Quigley's, an existing building located at the northwest corner of Square 103 at 619 21st Street N.W.
 - (c) Urban Design, Architecture, and Landscaping. The project provides an environmentally sensitive building with attractive landscaping, including a new, more attractive streetscape for the portion of F Street along the front of the new building. The residence hall has been designed carefully to ensure that the design

complements the area. The façade along F Street is articulated with bays that will add visual interest and relate well to the Support Building and townhouses to the northwest. The building design involves high-quality materials such as brick and superior detailing.

- (d) Site Planning. The project provides efficient and economical land utilization through new development on an underused site that will create desirable infill development with an attractive urban design and streetscape. The renovation of Quigley's will further the overall development of Square 103.
 - (e) Effective and Safe Vehicular and Pedestrian Access. The project will provide a positive impact on the overall transportation infrastructure in the area near the site, because the students residing in the residence hall will be able to walk to classes and other activities on campus.
 - (f) Furthering the Comprehensive Plan. The project will further the goals and objectives of the Comprehensive Plan by guiding the development of institutional uses in the District and stabilizing the Foggy Bottom neighborhood by housing more students on campus.
 - (g) Environmental Benefits. The building will be designed in an environmentally sensitive manner. The University will engage an independent commissioning authority to verify the installation, functional performance, training, and documentation of the building's systems. In addition, no CFC-based refrigerants or halon will be specified in this project, and major equipment, such as main chillers, will be specified not to contain HCFC. The indoor environmental quality will be superior, because tobacco smoke will not be allowed in the building, and the interior surfaces will be finished with low-emitting materials to the extent possible. The materials and resources used in the project will, to the extent possible, be manufactured, extracted, harvested, or recovered locally or regionally. The site also features sustainable aspects such as an exterior lighting design that will limit light trespass from the building site and an interior lighting design that will limit direct-beam illumination from the building site. The elimination of the surface parking lot and the location of the site in proximity to public transportation provide additional environmental benefits.
19. The Commission finds that the PUD project is acceptable in all proffered categories of project amenities and public benefits, and qualifies for approval by being particularly strong in the categories of housing, furthering the Comprehensive Plan, and environmental benefits.
20. By report dated February 9, 2004, and by testimony at the public hearing, the Office of Planning recommended approval of the application. OP stated that the proposed PUD meets the standards of the PUD regulations in chapter 24 of the Zoning Regulations, provides significant public benefits, is consistent with the intent and purpose of the Zoning Regulations and Map and with the University's Campus Plan, and is not inconsistent with the Comprehensive Plan.

21. According to OP, the zoning flexibility requested by the Applicant would allow the University to provide approximately 100 additional beds on the site, which is a benefit and the main amenity of the PUD. OP further found that the retail space on the ground floor of the residence hall is an amenity that will serve the residents of the project as well as some members of the adjacent community. OP also concluded that replacing a parking lot with an attractive new building is an amenity. OP determined that the streetscape improvements proposed by the Applicant will contribute to the larger sense of place for the block and are a step in the continuing effort to improve the streetscape throughout the campus. In addition, OP observed that the renovation of Quigley's will further the overall development of Square 103. OP concluded that the proposed project's impacts on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the PUD.
22. The Commission credits the testimony of OP that the project offers superior amenities and benefits to the community and the District. The Commission agrees with OP that expediting and increasing the housing of undergraduate students on campus is a benefit. The Commission also agrees with OP that the provision of public, ground-floor retail on the PUD Site is an amenity that will benefit both the residents of the new residence hall and members of the adjacent community.
23. The District Department of Transportation ("DDOT"), by memorandum dated February 11, 2004, recommended approval of the proposed PUD. DDOT determined the additional on-campus housing would have a positive impact on traffic and parking conditions on streets surrounding the campus. DDOT found that off-street loading facilities located in the Support Building adjacent to the proposed new residence hall will accommodate the service and delivery needs of the new residence hall. DDOT determined the proposed PUD would increase on-campus housing in compliance with the DDOT recommendations in the Campus Plan proceeding.
24. DDOT filed a supplemental report on February 23, 2004, in which it reiterated its support for the proposed PUD. DDOT conducted a site visit with a representative of ANC 2A on February 17, 2004 that reinforced its earlier determination that additional on-campus housing would reduce overall traffic congestion in Foggy Bottom. DDOT encouraged the University to stagger move-in times and to make space available at the Support Building during student move-in and move-out times to reduce congestion along F Street and adjacent streets. DDOT further recommended that the University coordinate with the Metropolitan Police Department and Department of Public Works parking enforcement staff to enforce prohibitions on double parking and other traffic violations, and that the University consider imposing restrictions on automobile use by residents of the new residence hall.
25. The Commission credits DDOT's conclusion that the proposed PUD will have a positive impact on traffic and parking conditions in and around the campus. The Commission also credits DDOT's testimony that a separate off-street loading area for the residence hall is not necessary because it is located adjacent to the central loading and receiving area for the University.

26. Three residents of Foggy Bottom, including one University student, testified in support of the application. They noted the benefits of the construction of additional on-campus beds as well as the advantages of the proposed retail use, and complimented the design of the building and the enhanced streetscape.
27. The Foggy Bottom Association indicated its opposition to the application through letters submitted to the record and through testimony at the hearing. By letter dated November 11, 2003, FBA contended that any development on the PUD Site should be reviewed as a special exception request for further processing under the Campus Plan; the location of the proposed residence hall is objectionable because it will concentrate a large number of students in a small area; a nearby PUD at 1957 E Street N.W. has created objectionable impacts such as increased noise and pedestrian traffic in the area; and the proposed residence hall will adversely affect the residential community east of 23rd Street. By letter dated February 9, 2004, FBA asserted that the University has exceeded its enrollment cap and houses students at the Mount Vernon Campus; the University develops its undergraduate residential housing on an "ad hoc" basis without developing a cohesive plan; the University will not be required to count the proposed PUD as part of its aggregate FAR; and the project requires an environmental impact statement.
28. The Commission concurs with the Applicant's architect with respect to the requested areas of relief, and finds that the lot occupancy, court width, penthouse setback, and rear yard relief will not diminish the quality of the project or result in adverse impacts to its residents or to neighboring properties.
29. ANC 2A, by resolution dated January 27, 2004, recommended against approval of the proposed PUD. The ANC's issues and concerns were that: (a) the Zoning Regulations do not permit use of the PUD process in an area regulated by a campus plan; (b) the campus plan process already provides universities with significant flexibilities; (c) the additional flexibility allowed under the PUD process would set negative precedents and create negative consequences for neighborhoods bounding an approved campus plan area; (d) the Applicant could construct the residence hall without a PUD by obtaining variances, and the flexibility of development allowed under the PUD process could result in unforeseen future development on the site; (e) elimination of the rear yard would not provide adequate light and air to the building and the university-related fraternity buildings to the rear of the site; (f) the reduced court width would not provide adequate light and air to the residence hall; (g) the Applicant miscalculated the lot occupancy, so that the requested flexibility with regard to lot occupancy is greater than proposed by the Applicant; (h) the Applicant might not continue to provide the loading facilities available in the adjacent service building; (i) the proposed ground-floor retail space is objectionable because it is too vague, is unnecessary, and would be noisy; and (j) the Applicant's proposed amenities are inadequate.
30. The Commission accorded ANC 2A the "great weight" to which it is entitled. In doing so, the Commission fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed residence hall on the ANC's constituents. However, the Commission concludes that the ANC has not offered persuasive advice that

would cause the Commission to find that the residence hall is contrary to the Zoning Regulations and would adversely affect the use of neighboring property.

31. The Commission is not persuaded by ANC 2A's assertions that the PUD process is not available to properties subject to a campus plan, or would result in negative consequences. The filing of a PUD application for a property within the boundaries of an approved campus plan may be made pursuant to 11 DCMR § 2405.7. The PUD process is appropriately used to encourage high-quality developments that provide public benefits, and offers flexibility of development for projects that offer a commendable number or quality of public benefits. 11 DCMR §§ 2400.1, 2400.2. The PUD process offers flexibility that is not otherwise available under the campus plan process.
32. With regard to the ANC's issues and concerns pertaining to rear yard, court width, and lot occupancy, the Commission credits the testimony of the Applicant's architect and the Office of Planning that the requested zoning relief was correctly calculated and will not adversely affect the use of neighboring property or create adverse impacts for the proposed residence hall.
33. With regard to the loading dock, the Commission concurs with DDOT that the residence hall does not require a separate off-street loading area in light of the University's central loading facility, and is not persuaded by the ANC's concern that the University might not continue to provide the adjacent loading facility in the future. Nor does the Commission agree with the ANC's assertions that the Applicant's proposed amenities are inadequate or that the project's ground-floor retail space is objectionable, for reasons discussed above in Finding of Fact No. 18.
34. The proposed PUD is consistent with the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods and respecting and improving the physical character of the District. The construction of additional on-campus student housing on the site of an existing surface parking lot is a significant improvement to the physical character of the District, and will help stabilize the surrounding neighborhood by providing housing for approximately 379 students in an on-campus dormitory setting. The project is also consistent with the District's goals for reducing traffic; because the residence hall is located on campus, the residents will be able to walk to school and to University-sponsored events. In addition, the residence hall is within walking distance of Foggy Bottom and Farragut West Metrorail Stations. Despite the loss of the current parking lot, the University will continue to provide parking elsewhere on campus consistent with the approved Campus Plan.
35. The proposed PUD also furthers the objectives and policies of several of the Major Elements of the Comprehensive Plan.
 - (a) The proposed project is consistent with sections of the Housing Element that encourage the private sector to provide new housing to meet the needs of present and future residents, that encourage housing on suitably located public or private properties that are underutilized, and that view housing as a key part of the total urban living system.

- (b) The environmentally sensitive design of the PUD project is consistent with the goal of the Environmental Protection Element to protect the environment; to resist threats to its overall quality; to act to maintain and enhance its positive features in the interests of residents, workers, and visitors; and to protect residential communities from identified environmental hazards by implementing controls that prevent adverse impacts from incompatible uses.
 - (c) The project is consistent with the goal of the Urban Design Element because it has been designed to include the use of appropriate arrangements of building materials, height scale, mass, and buffering to complement the immediate region.
 - (d) With regard to the Land Use Element, the project is consistent with the objective to achieve stability in residential neighborhoods, and complies with objectives for public and institutional land uses, such as assuring neighborhood stability as non-government institutions grow and promoting the continued contributions by private institutions toward the economic and cultural vitality of the District. The project is also consistent with the objective of recognizing the specialized land use needs and unique economic and human development opportunities presented by colleges, universities, and other institutional users of large tracts.
 - (e) The project is consistent with the goal of the Ward 2 Element that the University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the Campus Plan.
36. The University presented the project to the Commission of Fine Arts for review on July 17, October 16, and December 18, 2003. CFA favorably reviewed the University's revised design for the PUD project, which lowered the proposed height from 120 feet to matter-of-right height requirements in the R-5-D zone.

CONCLUSIONS OF LAW

The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia. The development of this PUD project will carry out the purposes of chapter 24 of the Zoning Regulations to encourage well-planned developments that offer a variety of building types with more efficient and attractive overall planning and design not achievable under matter-of-right development.

The Zoning Commission has the authority under the Zoning Regulations to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, penthouse setback, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. The Commission finds that this PUD project will provide significant public benefits and community amenities providing superior features that will benefit the surrounding neighborhood to a greater extent than a matter-of-right development on

the PUD Site would provide. The approval of this PUD is not inconsistent with the Comprehensive Plan or with other adopted policies and programs related to the site, including the University's approved Campus Plan.

The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is favorable and acceptable given the quality of public benefits in the project. The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.

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 this application for Consolidated Review of a Planned Unit Development for the property located at 2025 F Street, N.W. (Lot 817 in Square 103) **SUBJECT** to the following **CONDITIONS**:

1. The PUD shall be developed in accordance with the plans prepared by Ayers/Saint/Gross, dated February 19, 2004, and marked as Exhibit 40 in the record, as modified by the guidelines, conditions, and standards herein.
2. The project shall include a residence hall consisting of approximately 90,000 square feet of gross floor area and constructed to a maximum height of 90 feet. The entire PUD Site shall be constructed to a maximum density of 3.98 FAR. Because the PUD Site is located on the George Washington University campus, the project shall be subject to the aggregation rule set forth in § 210.3.
3. The project shall provide approximately 379 beds for undergraduate students of the University.
4. The PUD shall not include any parking spaces or loading berths. Parking and loading shall be accommodated as prescribed in the approved Campus Plan.
5. The Applicant shall have flexibility with the design of the PUD in the following areas:
 - (a) To vary the exterior design, signage, and landscaping in response to changes to the final plans requested by the Commission of Fine Arts.
 - (b) To vary the location and design of all interior components, including, but not limited to, partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms.
 - (c) To vary final selection of the exterior materials, within the color ranges and materials types as proposed, based on the availability at the time of construction, provided that the quality of the exterior materials is not diminished.

- (d) To make minor refinements to exterior details and dimensions, including belts, courses, sills, bases, cornices, railings, and trim or any other changes to comply with the D.C. Construction Codes or that are otherwise necessary to obtain a final building permit.
6. No certificate of occupancy shall be issued to the planned unit development unless the Applicant has filed an application for any zoning approval required for the renovation or expansion of Quigley's to provide the food service called for in this Order. If the application for zoning approval is granted, the University shall use its best efforts to construct the renovation of the Quigley's building and to contract with a vendor to operate the food service. If for any reason the University is unable to secure the required zoning approval within one (1) year of the issuance of the certificate of occupancy for the PUD, or is unable to contract with a vendor for the operation of the food service within eighteen (18) months of the zoning approval for the renovated Quigley's, then the University shall file an application with the Zoning Commission to modify this Order to substitute an amenity of comparable value.
7. The University shall use its best efforts to fill the retail space called for in this Order. In the event that the University, despite its best efforts, is unable to rent the space within one (1) year of the issuance of the certificate of occupancy for the PUD, the University shall commence operation of the retail establishment in the space under its own authority within 24 months of the issuance of the certificate of occupancy pursuant to any required District approvals.
8. The University will coordinate the move-in and move-out procedures for students residing in the PUD with the University Police Department, the Metropolitan Police Department, the District Department of Transportation, and neighboring residents. These procedures will be designed to provide for an efficient means for moving the students in and out of the residence hall at the beginning and end of the academic year so as to minimize the adverse impact on surrounding residents. These procedures shall require use of the existing loading dock of the adjacent Support Building, as well as the use of a separate back entrance on the northeast side of the subject property, to the maximum extent feasible in order to minimize the disruption of traffic along F Street.
9. No building permit shall be issued for this Planned Unit Development until the Applicant has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General for the District of Columbia 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 or use the property in accordance with this order and any amendment thereof by the Zoning Commission.
10. 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.

11. The PUD approved by the Zoning Commission 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 as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this order.

12. 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, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, 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 the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

At a public meeting on March 8, 2004 the Commission took preliminary action to approve the application by a vote of 4-0-1 (Carol J. Mitten, Anthony M. Hood, Kevin Hildebrand, and John G. Parsons (by absentee vote) in favor; third mayoral appointee not present, not voting).

This order was **ADOPTED** by the Zoning Commission at its public meeting held on May 10, 2004 by a vote of 4-0-1 (Carol J. Mitten, Anthony M. Hood, Kevin Hildebrand, and John G. Parsons in favor; Gregory N. Jeffries not voting, not having heard the case).

In accordance with the provisions of 11 DCMR § 2038, this order shall become final and effective upon publication in the D.C. Register; that is, on JUN 18 2004.



CAROL J. MITTEN
Chairman
Zoning Commission



JERRILY R. KRESS, FAIA
Director
Office of Zoning