

BEFORE THE
DISTRICT OF COLUMBIA ZONING COMMISSION

GEORGE WASHINGTON UNIVERSITY)
FOGGY BOTTOM CAMPUS PLAN AND)
FIRST-STAGE PLANNED UNIT DEVELOPMENT)

Z.C. Nos. 06-11 & 06-12

2007 JAN 31 2:58 PM

D.C. OFFICE OF ZONING

RECEIVED

**SUPPLEMENTAL SUBMISSION OF FOGGY BOTTOM ASSOCIATION
AND ADVISORY NEIGHBORHOOD COMMISSION 2A
TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Following the untimely response by the District of Columbia Department of Transportation ("DDOT") to written questions from the Foggy Bottom Association ("FBA") and Advisory Neighborhood Commission 2A ("ANC 2A"), the Commission allowed parties to make supplemental submissions. FBA and the ANC hereby submit the following revisions to proposed Finding of Fact 16 and Conclusion of Law 4, which deal with DDOT's testimony and transportation issues.¹ In brief, and even with DDOT's additional filings, there remain issues that DDOT did not adequately address. FBA and the ANC submit that regardless of whether these applications are considered under the Commission's campus plan regulations or its PUD regulations, GWU has failed to justify approval of the applications on the basis of traffic and transportation concerns.

ZONING COMMISSION
District of Columbia

CASE NO. 06-12
EXHIBIT NO. 227

¹ FBA and the ANC reserve the objections stated at the hearing and in their motion to strike as to the procedures employed here to consider DDOT's testimony in a manner inconsistent with the contested-case procedures required in this type of case.

Respectfully submitted,

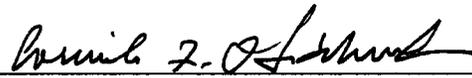


Cornish F. Hitchcock
5301 Wisconsin Avenue, NW
Suite 350
Washington, DC 20015
(202) 364-1050
Attorney for Foggy Bottom Association
and Advisory Neighborhood
Commission 2A

31 January 2007

CERTIFICATE OF SERVICE

I hereby certify that copies of this filing were served electronically this 31st day of January, 2007 upon Maureen E. Dwyer and David Avitabile, counsel for the applicant at maureen.dwyer@pillsburylaw.com and david.avitabile@pillsburylaw.com and upon Barbara Kahlow, on behalf of the West End Citizens Association, at barbara.kahlow@verison.net.



Cornish F. Hitchcock

PROPOSED FINDINGS OF FACT

District of Columbia Department of Transportation

16. The District of Columbia Department of Transportation (“DDOT”) submitted several reports and testified in person.
 - a. The first report, dated Sept. 14, 2006, agreed with most of the conclusions and recommendations of GWU’s proposed Transportation Impact Study for the Proposed Campus Plan. DDOT acknowledged the community’s concerns about additional congestion and agreed to monitor traffic conditions in the campus areas. DDOT supported the traffic management recommendations in GWU’s study and asked that GWU continue efforts to make available as many undergraduate residential facilities within the campus area and take steps to reduce vehicle trips and congestion around the Foggy Bottom campus.
 - b. DDOT submitted a second report in November 2006 in response to testimony from FBA’s transportation expert, who identified a number of discrepancies and gaps within the GWU transportation studies that DDOT had failed to address or analyze. DDOT’s second report did not analyze these discrepancies, but simply repeated in general terms the agency’s view that GWU’s data should be credited.
 - c. At the Nov. 30, 2006 hearing, DDOT declined for the third time to send a witness who could provide expert testimony on the full range of traffic issues presented here, including discrepancies identified by the FBA’s traffic expert in his written reports. As a result, the Commission could not ask questions of the DDOT witness who did attend, and the parties could not cross-examine. The Commission thus allowed parties to submit written questions to DDOT by Dec. 7, 2006 about issues raised by FBA’s transportation expert about discrepancies in the GWU traffic reports that call into question GWU’s assertion that the traffic effects of these applications will be benign or capable of mitigation. FBA and the ANC objected to this procedure as inconsistent with their right to cross-examine witnesses and pursue matters through follow-up questioning. The Commission overruled the objection and directed DDOT to file an answer by Dec. 21, 2006.
 - d. FBA and the ANC timely filed a series of questions, but DDOT did not file a timely response. Instead, DDOT submitted two written responses in January 2007, and parties were allowed to make a supplemental response.

PROPOSED CONCLUSIONS OF LAW

4. b. Traffic:
- i. The Commission credits the testimony of the FBA's expert witness, Joe Mehra, who has identified some significant ways in which GWU has undercounted and underestimated the potential impact of traffic and parking demands that will be created by GWU's applications.
 - ii. As the FBA pointed out, GWU is proposing to add the equivalent of eight or nine K Street office building within its campus (and that is before considering the Square 54 or School Without Walls developments). It is impossible to conclude that the effects on traffic from such a significant project will be minimal, as GWU asserts, and Mr. Mehra has convincingly identified areas in which GWU has understated the potential effects of more traffic on the Foggy Bottom and West End neighborhoods.
 - iii. The DDOT analyses were superficial and incomplete, and they raised more questions than they answered, thus foreclosing any meaningful reliance on DDOT's views. Following are some examples of DDOT's inadequate response to questions posed by FBA and the ANC in their written questions filed Dec. 7, 2006:
 - (1) Wells Associates, GWU's traffic expert, used observed truck data in its **October** revision to the Square 54 study; however, it used 2% in its **November** revision (after the Square 54 revision) to the campus plan study. DDOT does not state whether it agrees with such inconsistency, nor does it explain why Wells should not use observed data for the Campus Plan too.
 - (2) With respect to Question 2 in the FBA/ANC submission of Dec. 7, 2006, Wells has undercounted the existing traffic volumes because it counted only vehicles that went through the intersection under congested conditions. In fact, the number of vehicles that would have passed through the intersection would be much higher, if there was no congestion. Under such situations, a traffic engineer observes the saturation flows or looks at the number of vehicles that pass through in a green cycle (loaded

cycle approach). These are techniques to collect traffic data under congested conditions. DDOT responds that synchro analysis address this point, but it really does not, since it is analyzing lower volumes than the demand.

- (3) Question 4 identified a discrepancy that DDOT did not require the GWU's traffic expert to correct, arguing that this was the Applicant's responsibility. DDOT should have at least acknowledged the discrepancy so that the Commission could make its own evaluation.
- (4) With respect to Question 10, a re-timing of the traffic signals is not a mitigation step by GWU, either here or in the Square 54 proposed development. Re-timing is a mitigation conducted by the District Government at the District's expense in response to undesirable traffic situation generated by GWU. In addition, re-timing is the type of mitigation that is conducted by the District Government on a regular basis at all city streets, based on the traffic growth and traffic flows. In effect, GWU is creating a traffic problem, which the District is then being asked to mitigate at the District's expense. GWU should thus not be given credit for such mitigation. In this case, as well in the Square 54 case that is presently pending, true mitigation would have GWU mitigate the levels of service to no worse than the conditions without the proposed Campus Plan and the proposed Square 54, but GWU has failed to do so.

- iv. GWU has the burden of establishing that the proposed traffic consequences will not be objectionable. The Commission concludes that GWU has failed to carry its burden on that point and that the traffic impact of this proposed new development will be objectionable.