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28 January 2010

Hon. Anthony J. Hood, Chairman
District of Columbia Zoning Commission
441 Fourth Street, NW Suite 210
Washington, DC 20001

Re: Campus Plan Application of The George Washington University,
ZC Nos. 06-11& 06-12

Dear Chairman Hood and members of the Commission:

I write on behalf of the Foggy Bottom Association ("FBA"), a party to these cases, to request that the Commission schedule a public hearing to consider the matters raised in the remand order from the District of Columbia Court of Appeals in this case. I understand that the matter may come before the Commission at one of its meetings in February. As reasons for the request, FBA states as follows.

In September 2009 the Court of Appeals vacated a portion of the Commission's Campus Plan decision and remanded for further consideration with respect to the question of the proper methodology for counting and assessing the number of students on campus and their effect on the neighborhood. The "number of students," of course, is a central issue in any campus plan case under section 210 of the Zoning Regulations.

Reopening the record in this case would be important because of the centrality of the issue to the Commission's ultimate determination and also because that record is now stale. The case was heard in 2006 on the basis of enrollment data no later than the 2005-06 school year. Those data are now four years old at best. Indeed, to put the issue in context, any GW freshman who participated in the 2006 hearings would now be a graduating senior.

Moreover, the methodology issue is not amenable to a decision on the basis of the written record alone. At the 2006 hearing GWU sought to deflect FBA's claims by focusing almost exclusively on Mount Vernon students and arguing that they are counted separately under the Mount Vernon campus plan. This approach sought to

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sidestep FBA's point that GWU did not provide detailed evidence on usage of the Foggy Bottom campus by students from *other* campuses that are *not* located in the District of Columbia and thus are not subject to the Commission's campus plan regulations. The impact is real, witness GWU's operation of shuttle bus service from its Loudoun County campus to the Foggy Bottom campus.

Thus, regardless of where GWU students may take most of their classes, the fact remains that they are GWU students, they are entitled to use the Foggy Bottom campus, they are ferried in by the busload, and their presence has an impact on the residents of Foggy Bottom and West End neighborhoods, where a university use is not permitted as a matter of right.

As the Court of Appeals' decision indicates, this is an issue that GWU cannot sweep under the rug simply by citing the Mount Vernon campus plan. A reopened proceeding would permit the Commission to flesh out the record and to make a fully informed decision on the basis of the most recent data available.

Moreover, since the time the case was decided, a majority of the Commissioners who heard and decided the case are no longer serving and have been replaced by Commissioners Keating, May and Schlater. Under the circumstances, in order for there to be a quorum to consider this matter, it will be necessary for one or more of the new Commissioners to participate. The case is complex, and the record consists of more than 5400 pages of exhibits and transcripts. Reopening the matter may thus be helpful for Commissioners who are new to the case, as it will allow them to base their decision on the most up-to-date information available, as well as to have any of their questions answered by the parties.

A copy of this letter is being sent electronically this date to all parties, as indicated below. Thank you for your consideration of this request. Please do not hesitate to contact me if you require any further information.

Very truly yours,



Cornish F. Hitchcock
Attorney for Foggy Bottom Association

cc: Maureen E. Dwyer, Esq.
Advisory Neighborhood Commission 2A
Ms. Barbara Kahlow, WECA
Alan Bergstein, Esq., OAG
Mr. L. Asher Corson, FBA