

Statement
Of
GEORGE H.F. OBERLANDER, AICP
On behalf of
THE FOGGY BOTTOM ASSOCIATION

On
George Washington University/Boston Properties, Inc.
Consolidated PUD and Map Amendment for Square 54
(DC Zoning Case No. 06-27)

Before the
Zoning Commission for the District of Columbia
November 20, 2006

Madam Chairman and members of the Commission, my name is George H.F. Oberlander, an urban planning and zoning consultant. I have been qualified as an expert witness before this Commission on several zoning cases since my retirement in 1996 from the National Capital Planning Commission. My complete resume is on file.

I appear on behalf of the Foggy Bottom Association, a citizen's organization of property owners and residents, in the immediate proximity of George Washington University (GWU). My statement deals with **why this proposed PUD and related map amendment should not be granted.**

THE PROPOSED PUD:

- **This proposal involves Sq. 54, a square within the boundaries of the GWU Campus Plan that is indicated as "institutional" on the "General Land Use Map" of the District Elements of the Comprehensive Plan for the National Capital (Comp. Plan). "Institutional" is defined on the map legend as "land and facilities occupied by colleges, universities, hospitals, religious institutions and similar facilities are the predominant uses". A mixed use PUD on Square 54 is incompatible for such a Comp. Plan designation.**
- The existing land use designation applied to the old Hospital (built in 1946) that was located on Square 54. The Comp. Plan's designation remains in place even with the removal of the Hospital in 2004. The site is in the current GWU Campus Plan. As long as it remains within the established campus boundaries, the predominant usage needs to be institutional.
- The PUD description (Application p.10) makes no mention of any institutional or academic or related uses. The proposed 43 dwelling units (13% of 333 units) that are set aside for workforce and affordable rentals **are not dormitories or otherwise dedicated to student housing..**
- This PUD development which proposes a total of 870,000 sq. ft. of gross floor area, including 454,000 sq. ft. of office space, 84,000 sq. ft. of retail space and

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343,000 sq. ft of residential space (333 dwelling units). **These uses do not qualify as predominant uses in the institutional land use designation, since none of the defined institutional uses are proposed to locate within the square.**

- This PUD proposal is the result of a study funded by the University and conducted by the **Urban Land Institute Advisory Services**. The **underlying approach** of the study was to **“Help the University fund future academic and housing needs on its Foggy Bottom Campus”** by **increasing the allowable Floor Area Ratio on Square 54**. This is a commercial real estate approach. In my opinion a proper planning approach would examine options which would be ideal for Square 54, given its context within the Comp. Plan and the university campus academic needs.
- Square 54 is **outside** the Comp. Plan Central Employment Area designation.
- Sections 1342.1(b) and 1358.1 of the Ward 2 portion of the Comp. Plan specifically deal with the need for the University to provide for student dormitories **on the campus**, not commercial mixed use development. **The PUD does not provide for any student housing or any other needed academic uses on Square 54.**
- Testimony was provided in the new Campus Plan (2006-2025) zoning case concerning the **large number of students living off campus**, well over 10,000.
- These above mentioned **specific sections** of the Comp. Plan also state that **“The University must be sensitive to the surrounding residential neighborhood. The intensity of development proposed, with a FAR of 7.5, is not sensitive to the surrounding neighborhood.**
- In my professional opinion the proposal is **too intense** to be included as part of the Campus, and not of institutional or related activities. The PUD tries to take advantage of the Square’s northern frontage along Pennsylvania Avenue at Washington Circle, in order to capitalize on commercial development.
- The application clearly states the project is **“trying to create a preeminent office address”**. **Preeminent commercial office locations should not be created within official Campus boundaries.** (No Campus Plan rationale for it).
- The application also clearly states that the proposed development is a **“key source of non-enrollment driven revenue to support University core academic mission”**. **Should a rezoning to C-3-C be granted primarily for economic benefits?** Economic benefits for a private landowner’s benefit are not a basis for rezoning.
- **The applicant’s claim that the Square is designated for “high density commercial/institutional categories” is incorrect.** (Application, p. 33, #8. Generalized Land Use Map). The map **only** shows a **sliver** of the Pennsylvania

Avenue **frontage** as “high density commercial”. However, the “Generalized Land Use Policies Map #2”, shows, in gray, the **entire extent** of the intended Campus, including the Pennsylvania Avenue frontages, and that the campus is not near the (red) “downtown plan area”.

- The square is **not** included in the Central Employment Area designation of the Comp. Plan.
- The square is **not** in a Comp. Plan “Special Treatment Area” nor is it specifically designated for transit oriented development.
- The other purported compliances with Comprehensive Plan Major Elements (Application, pp. 26-33) all involve very general City-or-Ward wide references. The fundamental land use designation and Comp. Plan guidance for Square 54 is **predominant institutional**.
- The PUD development request (7.5 FAR) is **over double the amount of development that the current R-5-D (3.5 FAR) permits**. Even if this were a proper application of the PUD tool, in my professional opinion that is stretching the PUD “flexibility provision” too far beyond the maximum established in Sections 2405.1 and 2405.2 of the Regulations. These Sections limit the height in R-5-D to 90’ and the FAR to 4.5. A minor deviation of five percent (5%) is authorized in Section 2405.3.
- In the new proposed Campus Plan (2006-2025) zoning case, we and the ANC testified that the applicant should not be using PUDs in a campus plan special exception Section 210 matter. That testimony applies to this case as well.
- The proposed C-3-C zoning is requested because it can provide higher height and density. **The neighborhood retail and office development could be built in a C-1 zoning classification**. In fact, the application requests less square footage than the C-3-C allows (59,000 sq. ft. less), but **40 feet more height**.
- No justification is provided which might indicate changed circumstances in the area since the current zoning was put in place or that a mistake was made when the Square was classified R-5-D, which could warrant a change to C-3-C.
- If you examine the existing zoning around Washington Circle you will find that any commercial zone ends one block east or west of the unzoned, government owned, original L’Enfant Circle (Reservation 40N). Placing Square 54 into C-3-C would violate the protection the Circle has had from commercial uses, since 1958. Several other L’Enfant Circles have similar protection from commercial uses.
- Although the proposed building height opposite Washington Circle is 90 feet, the entire square and the 110/130’ building height of the other portions of the PUD, as seen from the historic Circle, will be viewed as a very bulky and an unbalanced mass of buildings, east of 23rd street (a special L’Enfant Street). The 20-foot

setback does not reduce the massiveness of the project nor does it respect the Circle.

- The building height **measuring point** (for the entire square) is taken from the highest street elevation on **Pennsylvania Avenue**. (The site slopes south to I Street.) **The building frontages on I Street will be 10 feet higher than the zoning allows, if measured on I Street.** The three proposed buildings are being considered one for measuring point purposes. This is a further instance of trying to circumvent the intent and purpose of the height limit provisions of the Regulations. **The height of the building, if measured on I Street (depending on interpretation) would exceed the maximum 130 feet allowed in the City.**
- The new Hospital is a 7-story, 90-foot tall building along the west side of 23rd Street. **The old Hospital structure height ranged from 4 to 6 stories not 90 feet.**
- The residential building proposed opposite the new Hospital does not respect the height of the new Hospital and may cause morning shadows on hospital rooms.
- There is **no air quality analysis** in the environmental section of the application. All the environmental facts should be presented now, not after this case has been decided. 23rd Street is already over saturated with automobile exhaust. This environmental condition/issue was identified by the D.C. Dept. of Health, but not resolved, in the 1999 zoning case for the new Hospital site. **A thorough examination of the impact on air quality from this PUD may indicate severe cumulative air quality problems.**

THE OP NOVEMBER 10, 2006 FINAL REPORT

- The OP Report indicates that “the proposed project will exceed the matter-of-right C-3-C density and height, due to PUD bonuses”. (OP Report, p. 4, Zoning Tabulation). OP provides no planning basis or rationale for such extra development potential.
- The OP Report mentions that rental housing “**may encourage more students to live on Campus**”. (Emphasis added). **There is no indication in the Application that the 8% affordable housing units will be set aside for GWU students.**
- OP indicates the advantages of the **proposed public benefits** provided by the project design. The public benefits offered include the green roof and LEED elements. These “benefits” **can also be provided if the Square is used for institutional/academic purposes and will soon be required by a pending D.C. Council ordinance.**
- **OP claims that no EIS is required at this point.** A complete EIS would provide the Commission a much more adequate basis to make an informed decision on the PUD. **If adverse environmental impacts are discovered (which cannot be mitigated) at the design finalization stage, the Commission’s basic approval**

decision has already been made. **There is nothing in the PUD process which would require the applicant to return to the Commission for density and design changes.**

- Page 5 of the OP Report states **“This PUD will require further definition of the proposed amenities at the public hearing”**. Among other issues, the Report mentions that **“the grocery store size and type should be further defined”**. **Since this is a “Consolidated” PUD application, such questions should have been resolved in the application submitted.**
- OP recommends “significant monetary contribution toward the design & engineering” of the 2nd (Metro) entrance. **Why only design & engineering?** There is no specific amount mentioned nor a definition of what is “significant”. There are examples, in the City, where developers have contributed to the actual construction costs of additional Metro entrances.
- The OP Report mentions the proposed **“massive glass atrium”** facing Washington Circle. No analysis is provided as to what amount of sun reflection may occur onto the historic Circle from the glass atrium or from the glass and metal curtain walls.
- The Report states **“In general the project is of very high quality design”**. **What guidelines or criteria did OP use to make this statement?**
- **“OP believes that the public benefits discussed with the applicant and listed in this report are generally commensurate with the requested density subject to finalization of commitments on the grocery store, Metro entrance and green roof”. (Emphasis added). What criteria were used to make this finding?**
- **The proposed I Street commercial strip is out of context with the rest of the neighborhood, 23rd Street and Pennsylvania Avenue.**
- The Report’s finding that **“The proposed office use along Pennsylvania Avenue and Washington Circle is consistent with High Density Commercial” (Comp. Plan) designation at this location is exaggerated.**
 1. The current zoning is R-5-D.
 2. **The most that can be made of the red “High Density Commercial” sliver shown on the Generalized Land Use Map is that the Pennsylvania Avenue frontage is designated for commercial.**
 3. Extending the Zoning Map’s existing 139’ C-3-C classification from the adjoining eastern Square 75 to Square 54, could provide for an office building fronting on Pennsylvania Avenue for no more than 139 feet south. **However this would violate the present zoning protection for the Circle.**
- The OP Report at page 7 admits that **“The remainder of the square is designated as Institutional and while there is no university use, aside from parking,**

proposed for the square, the commercial use of this property as part of the overall campus plan currently being considered would be consistent with land use policies of the Comprehensive Plan”. (Emphasis added). (Parking is not an institutional use). **This statement is a gross rationalization of the facts.**

- The Comp. Plan sections listed on page 7 of the OP Report apply **generally** to the City as a whole or the Ward as a whole. My understanding of interpreting the approved Comp. Plan policies requires **giving the greatest weight to the application of the most specific policy** in the document. **The most specific guidance for Square 54 contained in the Comp. Plan is the Generalized Land Use designation of predominate Institutional use.**
- **The Comp. Plan Section 1108.1 states: “Promote appropriate commercial development ..., to serve the needs of the economy of the District and its neighborhoods”. This does not apply to a predominant Institutional designation.**
- The OP Report at p. 8 finds that the “proposed development should not conflict with the policies of the Ward 2 Plan”. This is **also exaggerated**. Section 1358.1 states: “The University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the Campus.” **Square 54, being within the Campus boundary, is a great opportunity for student housing.**
- **OP’s finding that “In general...the proposed development is not inconsistent with the policies of and furthers the objectives of the D.C. Comprehensive Plan”, is too generalized and does not apply adequately to the Comp. Plan specific policies for Sq. 54.**
- **Placing student dormitories or other student housing on Square 54 may not be as financially lucrative for GWU as other uses, but it would effectively implement the student housing sections 1342.1(b) and 1358.1 of the Comp. Plan.**
- **Development within the boundaries of this official Campus Plan should be consistent with the institutional designation set forth in The Comprehensive Plan for the National Capital and within the limits of Section 210 of the Regulations. A compatible alternative to office use or student housing would be to place the proposed world class Science Center on part of or on all of this prominent site.**

Thank you. I will be happy to answer any Commission questions.

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