Mrs. Barbara F. Kahlow
The Westbridge #404
2555 Pennsylvania Avenue, N.W.
Washington, DC 20037

April 16, 2000

Chairperson Sheila Cross Reid and Members
Board of Zoning Adjustment
441-4th Street, N.W. - Suite 210
Washington, DC 20001

'00 APR 18 P2:53
OFFICE OF ZONING
DISTRICT OF COLUMBIA

Re: BZA No. 16553, GWU Foggy Bottom Campus Plan

Dear Chairperson Reid and Other Members:

This letter expresses my opposition to the application by the George Washington University (GWU) for a special exception from the Board of Zoning Adjustment (BZA) and the BZA's unconditional approval of the GWU Foggy Bottom Campus Plan for years 2000-2010 (BZA No. 16553). My opposition stems both from GWU's lawless attitude towards the District of Columbia and from GWU's proposal itself.

GWU Lawlessness

First regarding lawlessness, I would like to provide the BZA with three recent examples. I believe they exemplify the contempt GWU has for the BZA, the Department of Consumer and Regulatory Affairs (DCRA), the Department of Health, the Zoning Commission, and other DC governmental bodies. Unfortunately, GWU has also shown contempt for genuine quality-of-life concerns and adverse impacts raised by the Foggy Bottom residential community.

- Example #1, **Square 43** - On February 25,1988, the BZA conditionally approved GWU's 1985-2000 campus plan (BZA No. 14455). The BZA deliberately removed Square 43 from the campus plan boundary established in BZA Order No. 10403 to "sufficiently protect private property" in the Square (pp. 41 & 35). Nonetheless, GWU purchased almost all of the townhouses in the Square and applied to DCRA for a raze permit. Incredibly, GWU razed the townhouses in the Square during the February 12, 2000 weekend, which was before DCRA's raze permit was published in the DC Register on February 18th (47 DCR 1042) , i.e., GWU did not provide the public with the legally-required opportunity to object.

- Example #2, new GWU hospital (**Square 40**) - On August 6, 1999, the BZA conditionally approved a new, replacement hospital in an R-5-D/R-5-E District (BZA No. 16389). By error, the BZA did not require GWU to provide a written justification for any new non-dormitory development. The DC Comprehensive Plan applicable when GWU applied for

BZA
Case No. 16553
Exhibit No. 109

Board of Zoning Adjustment
District of Columbia
CASE NO.16553
EXHIBIT NO.109

a new, replacement hospital required this written justification (DC Law 10-235, Sec. 1200.237(2)[1], effective March 21, 1995). Page 15 of the BZA's order incorrectly stated the effective date of the law's change to no longer require such a written justification. The law change was effective on April 27, 1999 (DC Law 12-275), not April 27, 1998.

Also by error, the BZA did not require an environmental impact statement (EIS), as required by the DC Environmental Policy Act for a proposed major action costing over $1 million which may have a significant impact on the environment (§6-982(2)). On December 9, 1999, the DC Department of Health found that the peak carbon monoxide concentrations "are just below the applicable health standard" but this is only because it "did not ask its contractor to take into account traffic that might be generated in the future by, or at, the existing [hospital] site." The Department could not take into account traffic from this site because GWU refused to reveal even the minimum future use for this site. The EIS would have included "Alternatives to the proposed major action, including alternative locations and the adverse and beneficial effects of the alternatives" (20 DCMR 7206.2(d)). The project will clearly have significant adverse effects on the Foggy Bottom residential community, e.g., a dangerous medical waste loading dock across the street from residences and dangerous pedestrian traffic changes on 23rd Street.

- Example #3, 1957 E Street (**Square 122**) - On April 12, 2000, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A) unanimously passed the attached resolution to the Zoning Commission asking for it to: (a) not extend to GWU its 1993 conditional planned unit development (PUD) (Case No. 93-5F/91-18P) to keep the Associated General Contractors (AGC) in DC, which included a quid pro quo including 47-56 new residential apartment units for excessive building parameters; (b) require GWU to present its plans at a public hearing; and, (c) require GWU to fully comply with the DC Environmental Policy Act prior to any construction on the site. Without meeting the explicit quid pro quo for the excessive building parameters granted to the AGC, GWU arrogantly assumed it could extend the conditional PUD without any public hearing before the Zoning Commission. GWU's assumption flies in the face of the Zoning Commission's intent behind PUDs. Additionally, DC law (§1-249(c))[2] requires the BZA to hear GWU's intended institutional uses on this off-campus site prior to construction.

---

[1]The applicable law provided, "George Washington University should provide written justification for non-dormitory development projects in lieu of providing additional on-campus dormitory accommodations for its undergraduate student[s]."

[2]The law provides, "When a major new building proposed for a college or university campus, and included in its campus plan, is instead moved off campus, the college or university must submit the plans for the review and approval of the Board of Zoning Adjustment as a specific amendment to its campus plan."

GWU Proposal

GWU presented its October 29, 1999 draft plan at a November 17th meeting of ANC-2A. Since then, GWU has not made copies of its final proposed plan available to the greater Foggy Bottom community. As a consequence, I am unable to cite specific page references to the final proposed plan.

First, I recommend that the BZA require GWU to move additional graduate school components off-campus, as both Georgetown University (GU) and American University did with their law schools. There are many neighborhoods in DC yearning for more development. Why not move the law school to Southwest or Wards 7 or 8?

Second, although GWU is legally entitled to buy property anywhere in DC, I recommend that the BZA require GWU to stop taking the existing apartment buildings and their residents in Foggy Bottom off the DC tax rolls. GWU's draft stated its intent to use "'matter-of-right' opportunities outside the Campus Plan" (draft, p. 22) and to do so "appropriately, consistent with all applicable zoning regulations and height, bulk and density limitations. Such property will be devoted only to uses that are permitted as a matter-of-right under the zoning applicable in each case" (draft, p. 23). Currently, GWU has expanded way beyond its boundaries and from one end to the other end of residential Foggy Bottom, e.g., from the Aston at 1129 New Hampshire Avenue, which is North of Pennsylvania Avenue in the West End and way outside the campus boundaries, to the Howard Johnson's at 2601 Virginia Avenue, which is several blocks to the West of the campus boundaries (draft, p. 25).

Third, I am disappointed that GWU has to date been unwilling to make any important concessions to the Foggy Bottom neighborhood. For example, like GU, GWU needs to build more housing for undergraduates on campus, especially if it is allowed to increase undergraduate enrollment. GWU's off campus student housing clearly has an adverse impact on the quality of life of the Foggy Bottom residential community, as GU's does in Burleith. Instead of trying to force its will on the Foggy Bottom community, I recommend that the BZA require GWU to cooperatively determine (with the Foggy Bottom neighborhood) the placement of new buildings within the available lots on campus. For example, if this process had been in place, the GWU Wellness Center would have more appropriately been located in the middle of the campus boundaries instead of at its edge and abutting the residential community.

Thank you for your consideration of my comments. If you have an questions, I can be reached during the day on 226-3058.

Sincerely,

Barbara F. Kahlow

Barbara F. Kahlow

Attachment

Resolution # 00-4D
Foggy Bottom and West End Advisory Neighborhood Commission
1957 E Street (Square 122, Lot 835)

Whereas, the Associated General Contractors (AGC), the prior owner of 1957 E Street, N.W. (Square 122, Lot 835), received first-stage Planned Unit Development (PUD) approval from the Zoning Commission (Case No. **93**-5F/**91**-18P) on July 13, **1992** (Order No. 720) and second-stage conditional approval from the Zoning Commission on November 15, **1993** (Order No. 746);

Whereas, the second-stage conditional PUD became effective on December 10, 1993, for a period not to exceed two years, provided that an application for a building permit be filed by December 10, 1995, after which construction would have to start by December 10, 1996;

Whereas, the 1993 PUD only conditionally changed the site's zoning from SP-2 to C-3-C (Decision #18 in Order No. 746 reads "The change in zoning from SP-2 to C-3-C for the PUD site shall be effective upon recordation of the PUD covenant as required by 11 DCMR 2407");

Whereas, the 1993 conditional PUD was for a mixed-use building with 7.96 floor area ratio (FAR) (SP-2 and C-3-C zoning permit no more than 6.0 FAR and 6.5 FAR, respectively), including residential (not less than 2.17 FAR) and commercial (not more than 5.79 FAR) uses, ground floor retail of not more than 5,000 square feet, a height of 107 feet (SP-2 and C-3-C zoning permit no more than 90 feet), 100 percent lot occupancy (SP-2 zoning permits no more than 80 percent for residential uses), with below grade parking for 200 cars;

Whereas, the 1993 conditional PUD required 47 to 56 new residential apartment units, with Finding of Fact #26 in Order No. 746 reading "The [Zoning] Commission finds that the proposed PUD will provide essential housing in the Downtown area and will act as a model for mixed-use development in this transition area between the high-density Central Employment Area and the residential Foggy Bottom neighborhood;"

Whereas, on November 13, 1995, the AGC requested an extension of the 1993 two-year conditional PUD, on the grounds of unavailable financing without a substantial pre-leasing commitment from another office user (either Federal or private);

Whereas, on December 29, 1995, the Office of Planning (OP) recommended a two-year extension based on current adverse market conditions;

Whereas, on March 11,1996, the Zoning Commission extended the 1993 conditional PUD until December 10, 1997, provided that an application for a building permit be filed by December 10, 1997, after which construction would have to start by December 10, 1998 (Order No. 746-A, published in the March 29, 1996 DC Register);

Whereas, on December 9, 1997, the AGC requested a second extension of the 1993 two-year conditional PUD, on essentially the same grounds as in the November 1995 request;

Whereas, on April 9, 1998, OP recommended a second two-year extension based on continuing adverse market conditions;

Whereas, the Comprehensive Plan Amendment Act of 1998 (DC Act 12-609) excluded this site from the Central Employment Area, ensuring that any future development on this site would be subject to the DC Environmental Policy Act;

Whereas, on March 8, 1999, the Zoning Commission extended the 1993 conditional PUD until December 10, 1999, provided that an application for a building permit be filed by December 10, 1999, after which construction would start not later than December 10, 2000 (Order No. 746-B, published in the March 19, 1999 DC Register);

Whereas, after the effective date of DC Act 12-609, the George Washington University (GWU) purchased the site, which is outside of the existing GWU campus plan boundaries, and GWU plans to build a mixed-use project, with dormitory (versus long-term residential) use and institutional uses, i.e., plans that differ substantially from the conditional 1993 PUD; and

Whereas, on February 18, 2000, the Department of Consumer and Regulatory Affairs (DCRA) noticed a raze permit for the existing AGC building on this site, followed by the razing of the existing building on the site;

Therefore, be it resolved, for the reasons recited above, that ANC-2A requests the Zoning Commission: (1) not extend the 1993 conditional PUD to GWU, (2) require GWU to present its plans that differ from the 1993 conditional PUD at a public hearing, and (3) require GWU to fully comply with the DC Environmental Policy Act prior to any construction on the site.