GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

TO: Board of Zoning Adjustment

FROM: Andrew Altman

DATE: September 8, 2000

SUBJECT: **Supplemental** Recommendations on the George Washington University Campus Plan, 2000-2010, BZA Application No. 16553

I. INTRODUCTION

A. Application

Application of The George Washington University, pursuant to 11 DCMR 3104.2 for a special exception for the review and approval of the University Foggy Bottom Campus Plan-years (2000-2010) under Sections 210 and 507; the boundaries are as follows: Pennsylvania Avenue on the north, 19th, H, 20th and G Streets on the east, F Street on the south and 23rd, G and 24th Streets on the west, and also includes a portion of Square 122 extending south of F Street along 19th street, N.W. Within the campus plan boundaries, the property owned by the University is devoted to a variety of University uses, including but not limited to classroom, dormitory, library, research, office, support, assembly, athletic and hospital purposes. These uses would be continued under the Campus Plan in a variety of existing and new buildings in the R-5-D, R-5-E; C-3-C and SP-2 Districts: Square 39, Lot 803, Square 40, Lot 36, Square 41, Square 40, Lot 36, Square 41, Lot 40, Square 42, Lots 54 and 55, Square 54, Lot 30, Square 55, Lots 28, 854 and 855, Square 56, Lots 30 and 31, Square 57, Lots 55 and 56,Square 75, Lots 23,33, 34,41, 42, 46,47, 858, 961, 863 and 864, Square 77, Lots 5, 59, 60, 845, 846 and 864, Square 79, Lots 63, 64, 65, 808, 853, 854, 861 and 862, Square 80, Lots 2, 26, 27, 28, 29, 42, 45, 46, 4750, 51, 52, 54, 55, 800, 811, 820, 821, 8122, 823, 1824, 825, and 828, Square 101, Lots 58, 60, 62 and 879, Square 102, Lot 46, Square 103, Lots 1, 13, 27, 28, 33, 35, 60, 62, and 879, Square 102, Lot 46, Square 103, Lots 1, 13, 27, 28, 33, 35, 40, 812, 813, 814, 8116, 817, 818, 819, and 820, Square 119, 10t 26, Square 121, lot 819, Square 122, Lots 824 and 825; These Squares are within the Campus Plan properties, Square 39, Lot 77, Square 40, Lot 79, Square 41, Lot 80, Square 42, Lot 101, Square 54, Lot 102, Square 55, Lot 103, Square 56, Lot 119, Square 57, Lot 121 (part only) Square 75, Lot 122 (Part only).

BZA
Case No. 16553
Exhibit No. 190

Board of Zoning Adjustment
District of Columbia
CASE NO.16553
EXHIBIT NO.190

B. Summary Recommendation

The Office of Planning recommends that the Board of Zoning Adjustment deny the University's current application (See Attachment A) due to its nonconformity with the requirements of Section 210 of Title 11 of the District of Columbia Municipal Regulations ("Section 210"). The Office of Planning presents herein two sets of recommendations that, if adopted by the Board, would bring the Campus Plan into conformity with Section 210.

The first set of recommendations, which are OP's preferred recommendations, are set out in Section II of this report. Those recommendations, which may require legislative action, include (1) establishing a baseline number of students in the "Foggy Bottom Area", (2) requiring the University to establish a program that would maintain or lower that baseline number, and (3) strict enforcement mechanisms to provide certainty for the community and motivation for the University in complying with its baseline obligations. OP's preferred recommendations also include requirements for additional housing on Squares 54 and 80.

The second set of recommendations is based on specific elements of the University's most recent submissions to the Board, and specifically seeks to modify that proposal. Specific modifications include: requiring one additional unit of housing for each additional FT undergraduate student above the University's 1999-2000 enrollment figures; building in an enforcement mechanism if GW fails to meet its commitments; and restricting GW's request of developing off-campus housing on property they own an "interest". Although there are substantial sections of the Campus Plan that OP supports in principle, the inability of the University to adequately address student housing and the impacts of University expansion on the surrounding community directly influences all other sections of the Plan. For example, there may be parcels that the Plan identifies for academic uses, which should be more appropriately used for housing. Therefore, OP cannot at this time support the Campus Plan as presented.

Among other recommendations based on the University's submission, OP recommends that the Board require the University to construct or provide new housing on campus or outside of the adjacent neighborhoods equal to one bed for each student added to GW's 1999-2000 enrollment. In addition, OP recommends that the Board include in its Order strict compliance and enforcement requirements.

C. Procedural Background

The George Washington University ("GWU" or "the University") is required to seek approval of its campus plan every ten years by applying to the Board of Zoning Adjustment ("BZA" or "the Board") for a Special Exception approval. The Office of Planning ("OP") prepared a report to the Board of Zoning Adjustment on Application No. 16553, George Washington University Campus Plan, 2000-2010 (report dated April 21,

2000 and filed with the Board on April 24). The report dealt with the campus plan in overall terms, with emphasis on the major issues that had emerged over the past year and which were still not resolved at the time the report was filed. A copy of the Department of Public Works report on traffic impacts was also attached to the Office of Planning Report.

In its report, the Office of Planning indicated that it was not convinced that the 2000-2010 Campus Plan significantly eliminated any new impacts on the surrounding communities. OP requested that the BZA allow consultation to continue between the University, the community and the Office of Planning until the second session of the BZA hearing, scheduled for May 24.

The first session of the hearing before the BZA on the GWU Campus Plan was held on April 26. The University presented its proposed campus plan and was cross-examined by community representatives. After the hearing, Mayor Anthony A. Williams was concerned that three to four weeks was not sufficient time to resolve the outstanding issues, and requested through the Office of Planning that the May 24 hearing session be postponed. The University agreed. In a joint letter on May 16 to the BZA, Charles Barber, Senior Counsel of George Washington University and Andrew Altman, Director of the Office of Planning, requested that the May 24 hearing session be continued to September 12. The Board subsequently agreed to that date, with a backup hearing date of September 26 if needed.

In its April 21 Report, the Office of Planning noted that it would prepare a Supplemental Report to the BZA containing its final recommendations on the GW application. This document is that Supplemental Report.

D. Legal Background and Legislative Guidance

The Office of Planning is required by both law and regulation to review and submit written reports to the Board on zoning cases.[1] The Board is required to "give great weight to the recommendation of the Office of Planning."[2] In fulfilling its responsibilities in this case, the Office of Planning has been guided by Titles 1 and 5 of the D.C. Code, Title 11 of the District of Columbia Municipal Regulations, and the Comprehensive Plan Amendment Act of 1998.

Title 1 of the D.C. Code states that "[t]he Mayor shall be the central planning agency for the District."[3] Among other duties, the Mayor is required, through the Office of Planning, to prepare and implement the District's Comprehensive Plan.[4] One of the legislatively stipulated purposes of the Comprehensive Plan is to "[g]uide executive and

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1 Section 5-412.4, District of Columbia Code; Section 210.9, Title 11, District of Columbia Municipal Regulations (hereinafter "DCMR").

2 Section 5-412.4, District of Columbia Code.

3 Section 1-244(a), District of Columbia Code.

4 Id.

legislative decisions on matters affecting the District and its citizens[.]"[5] Therefore, the Office of Planning has relied on and been guided by the Comprehensive Plan ("Comp Plan") in formulating this report.

The General Provisions of the Comp Plan outline broad guidelines of action. One guiding principle of the Comp Plan is the stabilization and preservation of neighborhoods. Section 102.2 of the Comp Plan highlights the maintenance and improvement of the residential character of the District's neighborhoods.[6] The Comp Plan emphasizes that:

> Many city neighborhoods are historic and possess social, economic, and physical qualities that make them unique and desirable places in which to live. These qualities can also lead to development and redevelopment pressures that threaten the very qualities that make the neighborhood desirable. *These pressures and potential adverse impacts must be controlled to ensure that the character of our neighborhoods is preserved and enhanced.*[7] (emphasis added)

George Washington University is located in Ward 2, and the Office of Planning carefully studied the Ward 2 element of the Comp Plan. There, the Comp Plan specifically discusses the situation in Foggy Bottom as it relates to the George Washington University:

> The Expansion of the University has resulted in the diminishment of housing and the construction of buildings for the University purposes [sic] . This and other commercial usage is of grave concern to the Foggy Bottom residential community. 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.[8] (emphasis added)

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5 Section 1-245(b)(2), District of Columbia Code.

6 Section 102.2, Comprehensive Plan Amendment Act of 1998 (hereinafter "Comp Plan").

7 Id.

8 Section 1358.1, Comp Plan. It is worth noting that the 1995 amendment to the Comp Plan also sounded alarms over University encroachment into the Foggy Bottom neighborhood: "Continuing pressure from the university, resulting in the destruction of housing, the extensive construction of buildings leased for commercial use, and complete lack of construction of dormitories is of grave concern to the Foggy Bottom residential community. ... Additional measures will be needed, including adequate dormitory construction and conversion of buildings leased to commercial use [sic] for dormitory use, if an acceptable urban campus environment for GWU is to be achieved."

Both the Comp Plan and the Ward Plan then, provide guidance on how neighborhood stabilization and preservation should be paramount goals of the City. The Comp Plan has specifically identified Foggy Bottom as an endangered neighborhood *solely because of GWU's actions*. These guiding principles, which OP is legally bound to follow, have compelled OP to develop solutions that support GWU's academic mission while protecting the integrity of adjacent neighborhoods.

The Office of Planning also sought regulatory guidance in crafting its report. Section 210 of Title 11 of the District of Columbia Municipal Regulations outlines zoning requirements applicable to universities. That Section stipulates that "[u]se as a ... university shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions."[9] Section 210 further provides that "[i]n reviewing and deciding a campus plan application . . . the Board shall consider ... the policies of the District Elements of the Comprehensive Plan."[10] The inclusion of the Comp Plan in the zoning regulations provides further evidence the Comp Plan's importance as a guide for government action.

Based on the foregoing, OP has concluded that the GWU Campus Plan, as currently drafted, violates both the intent and letter of the Comp Plan and Section 210 by causing undue harm to the surrounding neighborhoods of Foggy Bottom and West End.

E. Explanation of Office of Planning Approach

The Office of Planning has sought to protect the Foggy Bottom and West End neighborhoods while at the same time provide the University with the greatest amount of flexibility in achieving its academic mission. After extensive discussions with the University and the surrounding community, a location-based solution was formulated to protect Foggy Bottom and West End from future impacts, while providing the University tremendous flexibility, so as to not establish university-wide policies in an attempt to solve a very location-specific problem. The community, and the Office of Planning had reached conceptual agreement on this approach. Very late in the process of developing this approach, however, concern was raised over the possibility that this location-based approach could subject the University to violating the D.C. Human Rights Act, if the University were to undertake a limited range of actions under the approach. At this time, there is no definitive resolution of this legal question.

Consequently, the Office of Planning herein provides the Board two sets of recommendations. The first set of recommendations, discussed below in Section II, represent OP's preferred recommendation. It is OP's belief that a minor amendment to the D.C. Human Rights Act would eliminate any concern over this approach's causing

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9 Section 210.2, Title 11, DCMR.
10 Section 210.7, Title 11, DCMR.

the University to take actions it felt would violate that Act. The Office of Planning urges the Board to recommend automatic application of this location-based approach to the GWU Campus Plan at such a time as the D.C. Human Rights Act is so amended.

The Office of Planning presents a second set of recommendations, which are discussed below in Section III, that OP urges the Board to adopt immediately as a means of protecting the Foggy Bottom and West End neighborhoods until the location-based approach can be implemented. This second set of recommendations is based upon the latest submission received from the University.

II. OFFICE OF PLANNING PROPOSAL

A. Overview

There are two separate but interrelated impacts that threaten the continued viability of the University's adjacent neighborhoods: (1) GW acquisition of property outside the campus plan for student housing needs, and (2) inadequate on-campus housing leading to disproportionate student impacts on neighborhood residential housing stock. These issues have come before the Board in the past. In light of the University's actions over the past decade, it is crucial to understand how the concerns were previously addressed by the Board and the Office of Planning.

1. De facto Expansion of the University into Residential Areas

In the Board's Final Order on GW's 1985 campus plan, the Board stated that "the University shall incorporate the following land-use policy into the 1985 Campus Plan: University uses and structures will be located to avoid adverse impacts on non-University properties, especially those residential properties on the periphery of the campus."[11] Since that time, GW has moved beyond the periphery of the campus boundary, acquiring residential (R4) zoned property for university use, creating adverse impacts on non-University properties. Those impacts include threats to the preservation and enhancement of residential uses in the Foggy Bottom neighborhood. On this point, the Board found the "...removal of Square 43 [from the campus boundary] to be essential to the preservation and enhancement of residential uses in the Foggy Bottom neighborhood."[12] In seeking to save Square 43, the Board demonstrated its commitment to preserving, if not enhancing, the residential character of Foggy Bottom. Unfortunately, since the Board's 1988 Order, there has been significant erosion of residential housing stock in Foggy Bottom and no diminution of adverse impacts in the neighborhood.

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[11] BZA Final Order on the 1985 GW Campus Plan, February 25, 1988 (hereinafter "1988 Order"), p.41.

[12] Id. at 34

Moreover, in declining to strictly regulate university acquisition of private residential property within the campus plan boundary, the Board was of the opinion that its Order "...contains sufficient safeguards against the complete elimination of all residential uses...."[13] Unfortunately, those safeguards were not as adequate as the Board had hoped. The District of Columbia now faces the very real prospect that GW's acquisition of swaths of residentially zoned property "as of right", is slowly eroding, if not eliminating, the social fabric of the adjacent neighborhoods. The fate of Square 43 provides ample proof of this diminution of residential uses.

A secondary concern with further University acquisition of housing stock for use by its students or other University purposes is negative fiscal effect caused by removal of properties from the City tax rolls.

2. Students Living in Foggy Bottom

The Comp Plan emphasizes that "[I]ntense student pressure on Foggy Bottom's housing stock outside the campus . . . has had a negative effect on residential Foggy Bottom."[14] In testimony before the BZA prior to the last Campus Plan, the Foggy Bottom ANC stated that insufficient campus housing "causes students to compete for apartments in the Foggy Bottom area. This competition crowds out moderate income residents who could otherwise live and work in the area."[15] OP echoed this concern, stating that GW had not dedicated enough university-owned property for residential use, illustrating to OP "...a nonexistent commitment to residential development on campus."[16] While the Board agreed with OP in its ruling and required GW to dedicate one parcel of university-owned property for dormitories, the West End and Foggy Bottom communities continue to experience an unabated influx of students demonstrating that: 1) not enough housing has been provided by GW; 2) the rate of student enrollment has exceeded GW's ability to build housing; 3) even with additional housing, students have been attracted to the Foggy Bottom area because of its proximity to campus; or 4) any combination of the above. This range of possibilities is further compounded by the reality that GW keeps no accounts of where its students are living locally. And because of this reality, GW is unable to confirm or refute the community's claims that the accumulation of students is converting privately-owned apartment buildings into de facto dormitories. At a minimum, this lack of data requires implementing a University policy to determine where students are living on an annual basis. This data is critical for any future assessment of the actual impact that GW students are having on housing stock in the Foggy Bottom Area.

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13 Id. at 35
14 Section 1358.1, Comp Plan.
15 Id. at 24
16 Id. at 18

Requiring GW to house large percentages of students to live on campus will provide no assurances that fewer students will live in the Foggy Bottom area. Preferences to proximity are likely to motivate students from outlying areas to move into Foggy Bottom as openings become available and/or students living in Foggy Bottom may decide not to move on campus. Moreover, the timetable for acquiring and building dormitories would extend into at least the four to seven year horizon, while GW's enrollment increases are occurring in real-time (local newspapers have cited increases in enrollment upwards to 400 students). In other words, more students will likely be moving into Foggy Bottom since no additional housing will be available to address their housing needs.

B. Location-Based Approach Protects Foggy Bottom

While the Office of Planning is responsible for recommending to the BZA whether projects will unduly impact the preservation and sustainability of neighborhoods, it is also in OP's purview to make recommendations for the protection and enhancement of the District's economic development. Recognizing that the underlying principles of economic development and neighborhood preservation may often be in conflict, OP must appropriately weigh the needs of both. The conflict between economic development and neighborhood protection in the confined Foggy Bottom Area has justifiably caused great concern and distress on the parts of the community, the University and the City. On the part of the City, it is critical that assurances are made on the part of GW that demonstrates how the University will pursue their mission while protecting the surrounding neighborhoods. The University's Campus Plan, including its addendums to the Plan, fails to adequately provide those assurances. For this reason, the Office of Planning presents a recommendation that at this point in time is the only solution to protect the duality of needs.

The Office of Planning is presenting its *preferred* recommendation for the Campus Plan that satisfies the needs of the University while protecting the integrity of the surrounding neighborhoods. This recommendation cannot be automatically enacted since it may require legal and legislative action. As discussed below, one element of this location-based approach would require the University to encourage students to seek housing in parts of the City or region other than Foggy Bottom/West End. Concern was raised over whether certain actions, if undertaken by the University, could result in GWU being exposed to legal action under the D.C. Human Rights Act. OP will seek legal opinion by the Office of Corporation Counsel on this matter, and may seek amendment to D.C. Human Rights Act specific to universities. Because universities: have a contractual agreement with their students; are generating the student base that is creating the impact; and are uniquely positioned to affect student housing choices, universities should be allowed greater latitude in encouraging students to live in some geographic areas over other areas not similarly impacted.

If, and when, the appropriate legislative actions are accomplished, we then ask that the core components of this strategy replace the selected housing and enforcement strategy.

OP seeks this unusual request for one simple but very important reason: the preferred recommendation (listed below) uniquely solves cumulative student impacts in Foggy Bottom while also disincentivizing GW acquisition of residential property for dormitory use. In short, it is a location-based solution for a location-based problem; it is a strategy that far exceeds all other strategies targeted to minimize, if not eliminate, impacts on Foggy Bottom while providing the flexibility for GW to pursue a broad range of academic goals.

Specifically, a location-based strategy would:

- Protect the specific and limited area impacted by the University;
- Allow annual monitoring of such impact;
- Provide flexibility for the University to determine how to best meet its compliance requirements;
- Enable the University to grow within its current enrollment cap; and
- Avoid imposing University-wide policies to address a very localized problem.

It is OP's opinion that the preferred recommendation meets all of these objectives described above. In summary, the preferred recommendation contains the following components:

- Spring 2001, GW counts the number of fulltime undergraduates and determines local addresses. GW annually counts students and determines local addresses.

- Number of students living in a defined area – the "Foggy Bottom Area" – becomes the baseline number.

- Areas exempt from the "Foggy Bottom Area" is the "Housing Opportunity Area," which includes housing on-campus, Squares 122, 43, the Hova, the Aston, Riverside Towers, the Dakota, and areas outside of Foggy Bottom/West End area all together.

- In future years, when GW determines local addresses of its students, the number of students living in the "Foggy Bottom Area" should be at or below the new baseline number.

- If the number of students is above the baseline, then GW has a one-time, one-year grace period, to encourage students to live on campus or elsewhere in the region. GW could at that time provide more housing, less expensive housing, or other options that would encourage students in Foggy Bottom to decide whether they move outside the "Foggy Bottom Area."

- If, after one year, GW is still above the baseline number, all processing of building permits for other GW projects stops (or cannot begin) until GW is back in compliance.

The following sections provide more detail on each of the components described above as well as information demonstrating why this strategy appropriately balances the needs of the University, the community, and the City.

1. Students Living in Foggy Bottom

a) Determining Number of Students Living in Foggy Bottom

During the Spring 2001 registration process, GW will begin to gather information about the updated local addresses of its full-time undergraduate population. All full-time Juniors and Seniors will be required to show proof of residency (lease) to validate local addresses. This process will be completed during the registration process for the Fall 2001 semester. The numbers for Spring 2001 will be presumed to be correct unless either the University or ANC 2A shows good cause as to why the Fall 2001 numbers are more accurate. As this information is gathered, the University will share with the Advisory Committee the number of full-time undergraduate students residing in the "Foggy Bottom Preservation Area."[17] (see Attachment B) A 10% external audit would occur annually to ensure accuracy and credibility to this counting exercise. GW will absorb the cost of the 10% audit.

The number of students living in the designated "Foggy Bottom Area" during the Spring semester of 2001 becomes the "Baseline Number" of students. The numbers identified by GW are provided to the to-be-developed Advisory Committee, ANCs, and OP.

b) Discussion

OP's approach to eliminate all new impacts on the Foggy Bottom Area is specifically tailored to provide maximum flexibility to the University while protecting the integrity of the adjacent neighborhoods. OP's recommendation would establish a baseline number of students living off-campus within a defined geographic area. If the number of students living in the area rose above the baseline, the University would be subject to certain enforcement mechanisms, described more fully below.

The University's inability to collect data on where, exactly, its own students reside has hampered efforts to develop the appropriate strategy for reducing impacts in the Foggy

[17] Hereinafter "Foggy Bottom Area." The Foggy Bottom Area will be defined as including all addresses from the center of E Street, NW, north to the center of N Street, NW, and from the center of 19th Street, NW west to Rock Creek Park, *excluding* that area within the campus boundary and the "Housing Opportunity Area". The Housing Opportunity area is defined as Squares 43,l 122, the Dakota, Riverside Towers, the Aston, and HOVA.

Bottom Area. It is clear that there has been a significant shift in these neighborhoods away from long-term residents toward students. OP's recommendation places a data collection requirement on the University, requiring the University to undertake a baseline survey of actual students living in the target neighborhoods, and then do annual follow-up compliance surveys. OP's position is that GW, as a responsible institutional citizen of the District of Columbia, has an obligation to provide the City and its neighbors with this information so that the actual impact of GW students on the surrounding neighborhoods can be accurately assessed. In the absence of accurate data, OP's proposal for establishing the baseline number is a fair method of determining the current situation in the Foggy Bottom and West End neighborhoods.

2. Preserving Integrity of the Foggy Bottom Area

a) Baseline Compliance Program

Beginning no later than the start of 2001, GW will implement a Baseline Compliance Program encouraging students to seek housing outside of the Foggy Bottom Area. The Office of Planning believes that the level and type of incentive used to encourage students to think about housing options elsewhere in the city or region is almost irrelevant to OP's position; what is relevant is that GW determines and uses the appropriate combination of strategies that ensure the number of students living in the "Foggy Bottom Area" is at or below the baseline number. For this reason, enforcement is perhaps the most critical component of the strategy. As part of its compliance program, the University shall at a minimum locate 500 new beds for undergraduate students on Square 54.

b) Discussion

It is important to recognize that but for the presence of George Washington University in the Foggy Bottom neighborhood, the student impact in that area would be much less severe than is currently the case. OP is not convinced that the University has no control over where its students should live, especially considering that the University is uniquely positioned to affect its students' housing choices. OP's recommendation provides maximum flexibility by allowing the University to scale its compliance efforts directly to the size of the impact on the surrounding neighborhoods.

For example, if the baseline is violated by only a few students, then the University need take only minimal actions to reduce the number to the baseline. If the baseline were violated by a large number of students, with the attendant greater danger of harming the viability of the neighborhood, then the University would be required to take more aggressive compliance measures. OP's position is that the greater the threat to the neighborhood, the more aggressive the measures to protect the neighborhood must be.

The Office of Planning's position is that there is a wide range of incentives available to the University that can be used to steer students away from one area and toward other areas. There is concern, however, over whether certain incentives or disincentives instituted by the University would violate the D.C. Human Rights Act ("the Act"). It is obvious that if the University opted to provide housing for 100% of its students, the baseline would not be broached and there would be no violation of the Act. Alternatively, if the University were to levy a fee on only those students living in Foggy Bottom, there could be a violation of the Act. While it is OP's position that the University could craft a compliance package that did not violate the Act, at this time OP suggests that the Board not include this requirement in its Order until such a time as the legal matter is clarified through an amendment to the Act. It should be clear that the success of the entire location-based approach described here is contingent exclusively on the effectiveness of the compliance package the University crafts.

3. Enforcement of the Baseline Number

a) Timeliness of Determining Student Addresses:

If Baseline data are not certified by the University by December 1 of each year, the Office of Planning will notify the Zoning Administrator that the University is out of compliance with the BZA Order, and no further processing of cases will be accepted for filing (except for on campus housing cases), and no pending cases proceed.

b) Numbers are Above the Baseline Number

If in any given year the student number is above the Baseline, the University will have one-year to reach compliance using its Baseline Compliance Program. During the one-year cure period, based upon OP's noncompliance certification to the Zoning Administrator, no further processing of cases will be accepted for filing (except for on campus housing cases), and no pending cases proceed. If, after the one-year cure period, the number of students is still above the baseline number, GW will be required to freeze enrollment.

Upon receipt of such certification, the Zoning Administrator will prohibit the filing by GW of any further processing case before the BZA and the Zoning Commission (or successor entities) until GW resumes compliance as certified by OP.

c) Discussion

It is OP's position that a strong enforcement mechanism is absolutely necessary to ensure protection of the neighborhoods surrounding the University. Further, the enforcement mechanism must be strict enough to ensure that the University will take seriously the City's and the BZA's desire to see the surrounding neighborhoods protected. There is presently no enforcement mechanism in the Campus Plan, and consequently absolutely no incentive whatsoever for the University to meet any of its goals.

Without effective and *ongoing* enforcement, the Board's Order would have the effect of being simply an advisory opinion. OP recognizes that the Board's jurisdiction does not extend beyond the Campus Plan, and therefore may be hesitant to adopt a recommendation that deals with an area located outside of the Campus Plan (i.e., the Foggy Bottom Area). That is why OP recommends that enforcement of the Order be tied directly to the Campus Plan through prohibiting further processing on Campus Plan matters and, if necessary, freezing student enrollment.

OP further believes that Section 210.2 of the Zoning Regulations gives the Board ample authority for imposing strict enforcement conditions on the University. That Section reads, in relevant part, " ... a college or university shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students and other objectionable conditions." It is clear that the Zoning Regulations contemplate the inextricable relationship between a university campus and the adjoining community. OP's proposed enforcement mechanism would be directly tied to the reduction of impacts on the Foggy Bottom Area by requiring certain explicit on-campus actions on the part of the University. OP recommends that the Board freeze the University's enrollment and prohibit further processing only as long as the University is not in compliance with the BZA order. This is clearly within the Board's authority.

4. Restriction of Off-Campus Housing

a) Housing Opportunity Area

The University will restrict its purchase and development of off-campus student housing to the "Housing Opportunity Area", defined as (1) existing University residential facilities, (2) properties located outside of the Foggy Bottom Area, and (3) properties located in Squares 43, and 122. All student housing would be restricted to these areas.

b) Discussion

This recommendation further reinforces OP's commitment to preserving to the extent possible the integrity of the Foggy Bottom Area, with an emphasis on the Historic District and those areas that still retain a residential character. This recommendation includes two Squares currently outside the Campus Plan area that would be available for student housing. The inclusion of Square 43 is a bow to the inevitable, although OP hesitates to ratify what it interprets as a blatant violation of the Board's 1985 Order.

5. Duration of the Campus Plan

a) Duration

The duration of the Campus Plan at 10 years, with an automatic five-year reopening of the Campus Plan by the Board, or its successor, on the issues of housing, enrollment, student impacts, parking and enforcement.

b) Discussion

Due to the fragile nature of the Foggy Bottom Area, seemingly small actions by the University could have significant impacts on its adjacent neighborhoods. Therefore, OP's recommendation would provide for an automatic review prior to the expiration of the Campus Plan that could be used as an opportunity to modify the Plan in those areas that represent the greatest threat to the neighborhood.

C. Concluding Remarks

While it could be viewed that modifying the DC Human Rights Act is an extreme action to ensure that such a strategy be implemented by GW, the outcome of this modification will be a helpful tool for universities and communities across the District. It should come as no surprise that the cumulative impacts of students has caused great distress on neighborhoods across the city. While the level of impact is different in different neighborhoods, this additional tool will help universities as they think through their strategies to reduce impacts.

As described earlier, balancing the dualistic nature of this area – academic mission of GW and preserving the integrity of adjacent neighborhoods – is extremely complex. This recommendation proposes a "win-win" solution for GW, the communities, and the City by placing all interests on the table and creatively addressing how each interest can be addressed.

III. GEORGE WASHINGTON UNIVERSITY PROPOSAL

The Office of Planning presents below a set of recommendations for conditions that would be included in the Board's Order approving the Campus Plan. The Office of Planning's recommendations are intended as a package, and have been developed as such. It is important to emphasize that the enforcement mechanism, outlined below, is essential to the success of OP's first recommendation package.

A. Additional Housing On-Campus

1. University Proposal

a) Additional Sites

In addition to the housing commitment included on page 25 of its December 28, 1999 draft of the Campus Plan, the University will include in the Plan sites for approximately 850 beds on campus on Squares 80 and 103 (with respect to Square 80, it will be upon condition that the District of Columbia transfer property it owns on that site to the University for development).

b) Square 54

The University would provide an additional 500 beds for student housing on Square 54, provided that the University obtains approval for a C-3-C PUD on the Square to allow development consistent with other commercial properties along Pennsylvania Avenue and appropriate for mixed uses, and further obtains permission to build such development. The University would have the option of moving the location of the 500 beds to be developed on Square 54 to another site on campus (the "Alternative Housing Site"). Before any development could be constructed on Square 54, however, the University must first or simultaneously file for zoning approval to construct the 500 beds on the Alternative Housing Site.

c) FAR Allowance

As an incentive to construct housing on-campus, and additional housing constructed on-campus after the approval of the Campus Plan will not count against the maximum floor area ratio ("FAR") limiting the bulk of all buildings on the campus.

2. Office of Planning Recommendation

The Office of Planning Board supports points "a." and "c." of the University's proposal.

In regard to the Square 54 portion of the proposal (Section III.A.1.b. above), OP concurs with the concept of student housing on Square 54, but recommends that the completion of housing on Square 54, or at the "Alternative Housing Site", occur *prior to and as a condition for* any approvals the University would seek for a C-3-C PUD or other uses on Square 54. Stated differently, the University could not apply for any uses except housing on Square 54 until 500 beds were available either on Square 54 or on the Alternative Housing Site. The "Alternative Housing Site" may not be located at Squares 122, 43, 103, or 80, and may not be located in the Foggy Bottom Area.

3. Discussion

While the University has been undergoing a period of expansion, and has been increasing capitol spending in support of new or existing academic programs, the University has not been providing adequate housing for the increased number of students such expanded academic programs are intended to attract. It is OP's position that the University has an obligation to house its students to the extent that it can to eliminate new impacts on the Foggy Bottom Area. OP is concerned that the University's proposal treats student housing as an afterthought, or a trade-off for commercial development. OP's position is that student housing must now come first. If, and only if, GW provides 500 actual beds on Square 54 or a yet-to-be identified "Alternative Housing Site," then OP will support University requests for a C-3-C PUD and other attendant requests it may seek to undertake commercial or non-housing development at the site.

B. House all Freshmen and Sophomores in University-owned Housing

1. University Proposal

The University will implement a policy requiring freshmen and sophomores to reside in University housing (except for students who are commuters, are married or have children). This policy will be implemented in Fall 2001 for freshmen and Fall 2002 for freshmen and sophomores.

2. Office of Planning Recommendation

The Office of Planning supports this proposal, subject to the conditions recommended in Section C.2.b. below.

3. Discussion

The Office of Planning recommends the inclusion of this proposal in the Board's Order as a minimum step in the proper direction for the University. This recommendation is contingent on a requirement that the students be housed in specific areas on- and off-campus, specified below, which will have no or minimal impact on the Foggy Bottom Area.

C. Minimum Housing Commitment for Full-Time Undergraduates

1. University Proposal

a) Housing Commitment

The University will pursue, to the full extent of its authority, the approvals required for the housing identified in Squares 103, 80, and 54 on a timely basis. So long as the development of these housing facilities is not delayed by circumstances beyond the University's control, housing will be provided for a minimum of 70% of GW's Foggy Bottom full time undergraduate population in the "Housing Opportunity Area" by December 31, 2005.

b) Housing Opportunity Area

The "Housing Opportunity Area" is defined as (1) existing University residential facilities, and (2) properties located in Squares 43, 58, 81, and 122.

c) Foggy Bottom Area Defined

The "Foggy Bottom Area" is defined as all residentially-zoned property (zones R-1 through R-5) located within the area bounded by 19th Street on the east, E Street on the south, Rock Creek Park on the west, and Pennsylvania Avenue on the north, not including the Housing Opportunity Area (see Attachment B).

2. Office of Planning Recommendation

The Office of Planning strongly recommends that the Board of Zoning Adjustment reject this proposal.

a) Housing Commitment

OP recommends that the Board require, as a condition of approving the Campus Plan, that the University provide one new bed in the Housing Opportunity Area or outside of the Foggy Bottom Area for each full-time undergraduate student added to the university's population beginning in Fall 2001. The additional on-campus housing provided for in Section C.1.a. may count toward this requirement. The University may not increase its enrollment until the beds are available. The University may buy or lease apartments in the Housing Opportunity Area or other anywhere outside of the Foggy Bottom Area to meet this goal.

It is important to note that many conditions must be met before the University can actually meet this 70% minimum goal. These conditions include: transferal of ownership, parcel assembly, razing of buildings, and others. While OP applauds GW for its efforts, OP cannot with certainty acknowledge that these student living facilities will in fact be built.

b) Housing Opportunity Area

OP recommends that "Housing Opportunity Area" be defined as: "(1) existing University residential facilities, (2) properties currently owned by GWU located in Squares 43 and 122, and (3) any property located within the Campus Plan boundary."

c) Foggy Bottom Area Defined

OP recommends that "Foggy Bottom Area" is defined as all property except that zoned C3 and C4 that is located within the area bounded by 19th Street on the east, E Street on the south, Rock Creek Park on the west, and N Street on the north, not including the Housing Opportunity Area or the Campus Plan area.

3. Discussion

a) Housing Commitment

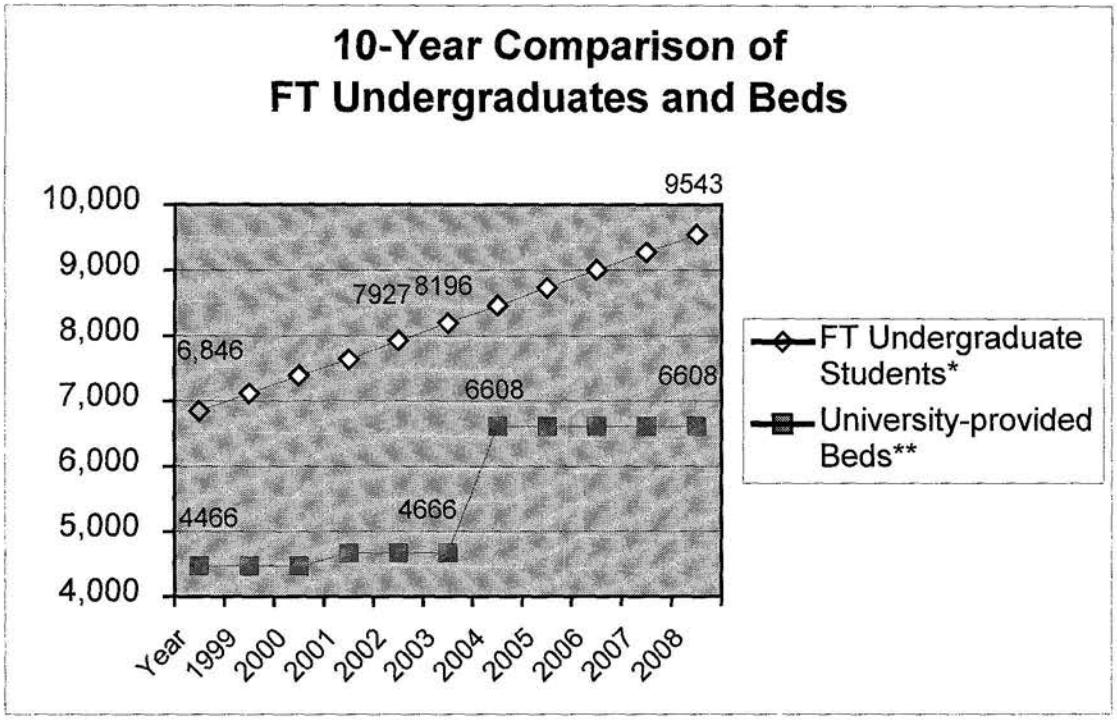
A commitment to house a minimum of 70% of its students will have the effect of actually *increasing* the University's impact on the Foggy Bottom Area for several reasons: 1) additional squares, specifically Squares 58 and 81, would be acquired by the University and most likely converted into student housing, further reducing the Foggy Bottom residential neighborhood; 2) the timing of when the housing comes on line (especially recognizing that a number of conditions must be met) will not be fast enough to accommodate the additional growth in enrollment (meaning that additional students will have not choice but to live off-campus); and 3) while the percentage of housing is getting to be closer to the amount required to meet GWU's housing needs, the absolute number of beds will not be enough to meet the demand. GW's April submission to the Board states that "GW currently provides beds for 65% of its full-time undergraduate students."[18] This means that a 5% increase in beds (65% increased to 70% by 2005) is intended to satisfy a likely 24% increase (6846 students in 1999 projected to be 8465 in 2005)[19] in students by 2005.

As demonstrated in the chart below, providing additional beds will not accommodate the enrollment increases GW will be likely pursuing. Included in the chart below is an enrollment projection developed by OP, since GW has not indicated their enrollment projections.

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[18] Statement of the Applicant Submitted April 12, 2000, at 20.

[19] While the University could claim that this projection is unrealistic, the most recent figure of FT Undergraduates this year (approximately 7200) is higher than what OP's model projected for this year (7119).



* Projected enrollment based on last five years of enrollment figures.
** Number of beds GW has committed to build, including: Sq: 122, 43, 54, 80, 103, plus 242 beds of on-campus transition housing

It should be emphasized that OP's paramount consideration is the continued viability and preservation of the residential character of the Foggy Bottom Area. Unchecked University expansion without a corresponding provision of student housing will lead to the inevitable elimination of the Foggy Bottom Area as a recognizable residential neighborhood. OP's recommended position will maintain the status quo in the Foggy Bottom Area for the period of the Campus Plan, by requiring the University to provide housing for its students at the exact same rate of that it increases student enrollment. The community has borne the burden of the University's expansion for too long, and it is OP's position that fairness dictates that the University should be required to bear some of the burden of its expansion plans.

After numerous approaches were explored to minimize, if not eliminate, all new impacts on the Foggy Bottom Area, it became clear to OP that a percentage-based solution would not be adequate to protect the Foggy Bottom Area. Increasing the percentage of students required to be housed on campus would not adequately protect the fragile adjacent communities from the impacts of absorbing higher absolute numbers of students as GW's enrollment increases. A percentage-based solution could have the unintended result of actually *increasing* student impacts on the surrounding neighborhoods if such a solution is not tied to an enrollment cap. Instead, OP's one-for-one approach would allow the University to grow within its current enrollment cap while placing the burden of that growth on the source of the expansion.

b) Housing Opportunity Area

The University's expansive definition of "Housing Opportunity Area" renders its campus plan boundaries virtually meaningless from the perspective of neighborhood preservation and enhancement. The Office of Planning is concerned that inclusion of Squares 58 and 81, located adjacent to the University's southern campus plan boundary, would presage the elimination of any vestige of neighborhood fabric still found south of Pennsylvania Avenue to the Mall.

Significantly, and equally alarming, the exclusion of the campus plan area from the definition of the Housing Opportunity Area demonstrates an unwillingness on the part of the University to even entertain the possibility of locating student housing on campus. It is OP's position that the University must bear the burden of further expansion, and therefore the campus plan area must be included in the Housing Opportunity Area.[20]

The University is a business, albeit one that pays no taxes. George Washington University, like all businesses operating in the District of Columbia, should not be allowed to benefit from its location in the Nation's capitol without taking responsibility for the collateral impacts of its core operations, i.e., the education of young adults. The University cannot be allowed to claim that it cannot be hampered in its pursuit of profits (i.e., enrollment caps, housing area limitations), while at the same time abdicating any responsibility whatsoever for the impacts it creates in pursuit of those profits. The Foggy Bottom Area, and by extension the District of Columbia, should not have to bear the costs of GW's continued expansion into residential neighborhoods.

The Office of Planning's position is that the University's commitment to house 70% of its undergraduate students on-campus by 2005 is no real solution to the dangers posed to the further viability of the Foggy Bottom and West End neighborhoods.[21] Rather, any means used to protect these neighborhoods must be based on the actual source of threat to those neighborhoods: continued University expansion without any concomitant increase in on-campus student housing.

OP's recommendation provides maximum flexibility by allowing the University to scale the provision of student housing directly to the amount of further expansion. For example, if the University increases its enrollment by only a few students, then the University need take only minimal actions to add new student housing. If the University plans on a large expansion in enrollment, with the attendant greater danger of harming

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[20] The inclusion of Square 43 in the Housing Opportunity Area by OP is a sad bow to the inevitable; since the residential character of that Square has been irretrievably eliminated by the University, OP does not feel that prohibiting student housing on that location will bring the residences back.

[21] OP is aware that certain members of the community are seeking a requirement that the University house 100% of its undergraduates on campus. While this may have a certain punitive appeal, OP cannot support such a measure at this time because of the virtual impossibility of compliance.

the viability of the neighborhood, then the University would be required to take more aggressive housing measures. OP's position is that the greater the threat to the neighborhood, the more aggressive the measures to protect the neighborhood must be.

c) Foggy Bottom Area Definition

It is important to designate a realistic Foggy Bottom Area that captures the extent of the University's impact on the surrounding community. As an initial matter, OP believes that the City, the community and the University itself need to understand how many GWU students live in this area. Additionally, the Foggy Bottom Area's proximity to the University make it essential to accurately assess how many residentially-zoned parcels are being or will be threatened by University expansion.

D. Commitment not to Purchase in Foggy Bottom Area Except for Investment Purposes

1. University Proposal

Upon approval of these conditions, the University will voluntarily restrict its purchase of residential property beyond those facilities in which it currently has an ownership interest in the Foggy Bottom Area (as GW defines the Foggy Bottom Area), except for purchases for investment purposes and not for the creation of University residence halls. This voluntary restriction will automatically expire by December 31, 2005, or when the University meets the housing commitments, whichever occurs first.

2. Office of Planning Recommendation

The Office of Planning recommends that the Board condition its approval of the Campus Plan on a restriction of University purchases and development of off-campus housing to the Housing Opportunity Area, as defined under the "Office of Planning Recommendation" under Section III.C.2. OP strongly opposes an expanded definition of "Housing Opportunity Area." Further, OP cannot recommend allowing the University to provide future off-campus housing on properties "in which the University currently has an ownership interest."

3. Discussion

The Office of Planning is not persuaded that the University's proposal for a "restriction" on off-campus housing would be effective. First, under the University's expanded Housing Opportunity Area definition, the entire Squares 43, 58, 81 and 122 would be designated as areas where the University could site dorms. As the Board is aware, when removing Square 43 from the Campus Plan in its 1988 Order, the Board did so because it believed that the removal of that Square was "essential to the preservation and

enhancement of residential uses in the Foggy Bottom neighborhood."[22] OP submits that subsequent University action related to Square 43 has resulted in exactly the opposite result sought by the Board: Square 43 will now become a student dormitory. OP forcefully urges the Board to protect Squares 58 and 81 from the fate suffered by Square 43, which the Board presciently anticipated but has been proven powerless to prevent.

Additionally, OP cannot recommend that the University be allowed to provide future off-campus housing on properties "in which the University currently owns an interest." This seemingly innocuous phrase has the potential of rendering meaningless the desire to protect the Foggy Bottom Area expressed by the Mayor, the Office of Planning, the Board at various times, the ANC, and the community at large. It is the understanding of the Office of Planning that GW is one of the largest private landowners in the District of Columbia. Without a definite and definitive listing of all properties in the Foggy Bottom Area in which the University "currently owns an interest," the inclusion of this phrase in the Board's Order could have far-reaching effects. The University may have extensive ownership interests in the Foggy Bottom Area. For example, under the University's proposal, University ownership of a single apartment in a Foggy Bottom or West End cooperative would render the entire building eligible for student housing in the future. OP must again repeat its strong opposition to inclusion of this language in the Board's Order.

E. Creation of New Housing Program to Encourage Students to Reside Outside of the Foggy Bottom Area

1. University Position

The University will institute a program to encourage its students who do not live in the Housing Opportunity Area to live outside of the Foggy Bottom Area. This program will provide information on off-campus housing opportunities available outside of Foggy Bottom, as well as the ease and accessibility of public transportation. For those locations that are not Metro Accessible, GW agrees to provide shuttle bus service to its campus for areas that the University determines contain a critical mass of GW students.

2. Office of Planning Recommendation

While such a program has merit, it in no way assures no new impacts on the Foggy Bottom Area.

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[22] Order at 34.

F. Student Behavior

1. University Position

a) Code of Conduct

GW will extend the application of its Code of Student Conduct to undergraduates living off-campus in the Foggy Bottom Area, even if they are not in properties owned or controlled by GW. GW agrees to act on incident reports by building management, building association board or police and to report to the Advisory Committee on actions taken. GW will develop an outreach program with neighboring apartment buildings to educate management companies and tenant associations on its Code of Student Conduct and reporting requirements to allow effective enforcement of its Code. Additionally, GW will permit management companies to obtain University clearances for student applicants for apartments to prevent students who are not eligible for GW's residential life program (i.e., not allowed to live in GW dorms) due to conduct violations from obtaining units in neighboring apartments. Lastly, GW will report to the Advisory Committee on actions taken.

b) Hotline

The University will maintain and publicize a "hot line" to receive calls about student conduct issues and safety and security concerns. At present, such calls can be directed in two ways. First, GW has established a Crimes Tips Hotline (994-TIPS) where calls can be made on an anonymous basis to a recorded "tip" line. Calls needing a more immediate response can be directed to the University police on a "twenty-four" hour basis at 994-6110. The University police, while not having legal jurisdiction to respond to off campus complaints, will attempt to assist off campus complainants in obtaining assistance from the metropolitan police. Reports of off campus student conduct issues will also be referred to the appropriate GW departments for their attention.

c) "Good Neighbor" Programs

The University will establish a program for its students which will address "good neighbor" issues.

d) Increased Residence Hall Retention:

The University will identify strategies to increase retention rates of undergraduate students in its residence halls. These strategies will focus, as least initially, on sophomores.

2. Office of Planning Recommendation

The Office of Planning would not oppose inclusion of these conditions in the Board's Order.

3. Discussion

The Office of Planning welcomes the extension of student conduct policies to the Foggy Bottom Area. OP would caution the Board, however, with confusing symptoms with the disease itself. The University must not be allowed to place the burden of its own housing acquisition policies on either its students or the residents of Foggy Bottom. The Office of Planning's position is that student conduct is a far less serious threat to the integrity of the Foggy Bottom Area than are University policies aimed at incremental property acquisition and eventual housing annexation of the Foggy Bottom Area as a way of avoiding the Campus Plan restrictions it operates under.

G. Parking and Traffic Mitigation Measures

1. University Proposal

a) Support of Mass Transit:

The University agrees to institute the Washington Metropolitan Area Transit Authority's Metrochek program to allow employees to pay for public transportation costs and associated parking charges on a pre-tax basis. The target date for implementation is the end of the Year 2000. In addition, in an effort to increase metro ridership among its student population, the University will implement an introduction to public transportation program for its incoming students which will include providing Metro's new "Smart Trip" card to incoming students as of the Fall 2001 new student orientation. The University will work with Metro to schedule future Smart Trip "carding events" starting Fall 2000 at various locations around campus to provide additional information about public transportation to the University community.

b) Parking Minimums

GW will increase the University's required minimum parking inventory from its current level of 2700 to 2800. The University will monitor its utilization of University parking lots to determine usage patterns and to conduct an on-going assessment of parking needs.

c) Community Parking Program

In addition to its on-campus parking supply, the University maintains parking facilities in certain off-campus properties. Members of the Foggy Bottom community have expressed an interest in exploring the creation of a parking program pursuant to which non-student residents of the Foggy Bottom community would be permitted to park in University

properties. The University is willing to provide contracts for parking on a space available basis to verified residents of Foggy Bottom at the rate charged to University staff – as that rate may change from time to time. The initial discussions suggested that perhaps fifty parking contracts might be made available to Foggy Bottom residents. The location where such spaces would be provided will need to be determined by the University. The University can only commit to providing these spaces on a "space available" basis. Levels of and changes in availability will be reported to the Advisory Committee on request.

H. Identifying Students in the Foggy Bottom Area

1. University Proposal

During the Spring 2001 registration process, GW will begin to gather information about the updated local addresses of its full time undergraduate population. This process will be completed during the registration process for the Fall 2001 semester. As this information is gathered, the University will share with the Advisory Committee, discussed below, the number of full-time undergraduate students living in the Foggy Bottom Area.

2. Office of Planning Recommendation

The Office of Planning concurs with the University's proposal, and recommends the Board include the proposal in its Order, with the following two additions: (1) an external audit (a 10% audit will be sufficient) must be completed on an annual basis to ensure accuracy and to add credibility to the University's count. The Advisory Committee will select the auditor and the audit will be paid for by the University. (2) As noted above, the "Foggy Bottom Area" (within which the student count will take place) will be defined as including all addresses from the center of E Street, NW, north to the center of N Street, NW, and from the center of 19th Street, NW west to Rock Creek Park, *excluding* the area within the Campus Plan and the "Housing Opportunity Area," defined by OP in Section 3, above.

3. Discussion

The University's inability to collect and share data on where, exactly, its own students reside has hampered efforts to arrive at accurate measures of real impact in the Foggy Bottom Area. It is clear that there has been a significant shift in these neighborhoods away from long-term residents toward students. OP's recommendation would require the University to undertake a baseline survey of actual students living in the target neighborhoods, and then do annual follow-up compliance surveys. Obviously, the University is in the best position to collect this information, yet has never been willing or able to do so. OP's position is that GW, as a responsible institutional citizen of the District of Columbia, has an obligation to provide the city with this information so that in

the future the actual impact of GW students on the surrounding neighborhoods can be accurately assessed.

I. Advisory Committee

1. University Proposal

GW and community representatives will work together to form an Advisory Committee for the purpose of fostering consistent communication between the University and the Foggy Bottom community, discussing issues of mutual interest, and reviewing and proposing solutions to problems that arise in implementing the Campus Plan. The Advisory Committee will meet quarterly each year. Upon request, GW will provide timely, relevant data concerning University operations (which is not otherwise confidential or overly burdensome to produce) to the Advisory Committee. Questions regarding the composition, and structure of the Committee, as well as the possible use of a facilitator at initial meetings, will be agreed upon by the University and the community.

2. Office of Planning Recommendation

The Office of Planning concurs with the concept of an Advisory Committee, but recommends that the selection of the ANC and community members of the Committee be undertaken by members of the ANC and the Community, with no veto power by the University on Committee composition.

3. Discussion

Years of conflict between the University and its neighbors has caused a high level of mistrust. OP does not want this mistrust to continue, and believes that this situation can be lessened only by allowing the community and the ANC to select its own representatives to the Committee without University approval or input. This is a small but necessary step leading to the reestablishment of open lines of communication and will lead to greater likelihood that the community interests are accurately represented on the Committee.

J. Duration of the Campus Plan

1. University Proposal

The Campus Plan will be approved, subject to the conditions set forth herein, for a period of ten years, until December 31, 2010.

2. Office of Planning Recommendation

The Office of Planning recommends that the Board reject this proposal, and instead set the duration of the Campus Plan at 10 years, with an automatic five-year reopening of the Campus Plan by the Board, or its successor, on the issues of housing, enrollment, student impacts, parking and enforcement.

3. Discussion

Due to the fragile nature of the Foggy Bottom Area, seemingly small actions by the University could have significant impacts on its adjacent neighborhoods. Therefore, OP's recommendation would provide for an automatic review prior to the expiration of the Campus Plan that could be used as an opportunity to modify the Plan in those areas that represent the greatest threat to the neighborhood.

K. Mid-Term Campus Plan Review of Housing Commitment

1. University Proposal

Advisory Neighborhood Commission 2A may request a review by the Board of the University's housing commitment in the fifth year of the Campus Plan.

2. Office of Planning Recommendation

For the reasons discussed under Section III.J.3., above, the Office of Planning recommends that the Board reject this proposal in favor of the automatic five-year reopening, recommended in Section III.J.2.

L. Enforcement Conditions

1. University Proposal

If the University fails to meet any condition set forth in the BZA Order, Advisory Neighborhood Commission 2A may petition the BZA for review of the alleged infraction and appropriate action.

2. Office of Planning Recommendation

The Office of Planning cannot support the University's proposal for enforcement of the Order. As noted above, OP's position is that strong enforcement of this BZA Order is

absolutely critical to the short-term viability of the Foggy Bottom Area as a residential neighborhood with a character separate and distinct from the University.

The Office of Planning recommends that if it finds the University out of compliance with any condition contained in the Order, it will notify the Zoning Administrator that the University is out of compliance with the BZA Order, and no further processing of cases will be accepted for filing (except for on campus housing cases), and no pending cases will be allowed to proceed.

3. Discussion

It is OP's position that a strong enforcement mechanism is absolutely necessary to ensure protection of the neighborhoods surrounding the University. The enforcement mechanism must be strict enough to ensure that the University will take seriously the City's and the BZA's desire to protect the surrounding neighborhoods. There is presently no enforcement mechanism in the Campus Plan, and consequently absolutely no incentive whatsoever for the University to meet any of its "goals." Without effective and *ongoing* enforcement, the Board's Order would have the effect of being simply an advisory opinion that, if history is a guide, the University could choose to ignore with impunity.

It is OP's position that Section 210.2 of the Zoning Regulations gives the Board ample authority for imposing strict enforcement conditions on the University. That Section reads, in relevant part, " ... a college or university shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students and other objectionable conditions." It is clear that the Zoning Regulations contemplate the inextricable relationship between a university campus and the adjoining community.

The history of GW's noncompliance with the Board's prior Orders, as outlined in the introduction to this report illustrates why ongoing and aggressive enforcement is absolutely essential to protecting the Foggy Bottom Area.

OP's proposed enforcement mechanism would be directly tied to the reduction of impacts on the Foggy Bottom Area by requiring certain explicit on-campus actions on the part of the University.

IV. CONCLUSION

Each of the Office of Planning's two sets of recommendations outlined above would represent an important step toward preserving and enhancing the Foggy Bottom and West End neighborhoods, while at the same time allowing the University to pursue its academic mission. In summary, those recommendations are as follows:

A. OP's Preferred Location-Based Recommendation

1. Establish Baseline Number of Students

During the Spring 2001 registration process, GW will begin to gather information about the updated local addresses of its full-time undergraduate population. As this information is gathered, the University will share with the Advisory Committee the number of full-time undergraduate students residing in the "Foggy Bottom Area". A 10% external audit would occur annually to ensure accuracy and credibility to this counting exercise. The number of students living in the designated "Foggy Bottom Area" during the Spring semester of 2001 becomes the "Baseline Number" of students.

2. Baseline Compliance Program

Beginning no later than the start of 2001, GW will implement a Baseline Compliance Program encouraging students to seek housing outside of the Foggy Bottom Area. GWU retains the flexibility to determine and use the appropriate combination of strategies that ensure the number of students living in the "Foggy Bottom Area" is at or below the baseline number. Square 54 shall be used for housing under the University's compliance program.

3. Enforcement of the Baseline Number

If Baseline data are not certified by the University by December 1 of each year, the Office of Planning will notify the Zoning Administrator that the University is out of compliance with the BZA Order, and no further processing of cases will be accepted for filing (except for on campus housing cases), and no pending cases proceed.

If in any given year the student number is above the Baseline, the University will have one year to reach compliance using its Baseline Compliance Program. During the one-year cure period, based upon OP's noncompliance certification to the Zoning Administrator, no further processing of cases will be accepted for filing (except for on campus housing cases), and no pending cases proceed. If, after the one-year cure period, the number of students is still above the baseline number, GW will be required to freeze enrollment.

4. Restriction of Off-Campus Housing

The University will restrict its purchase and development of off-campus student housing to the "Housing Opportunity Area", defined as (1) existing University residential facilities, (2) properties located outside of the Foggy Bottom Area, and (3) properties located in Squares 43, and 122. All student housing would be restricted to these areas.

B. OP's One-for-One Recommendation

The Office of Planning recognizes that its preferred recommendation may expose the University to legal action if the University chooses to implement a baseline compliance program that contains discriminatory elements. Therefore, based upon the University's recent submissions, OP recommends the following interim measures be adopted by the Board until such a time that there is clarity on legal issues related to the D.C. Human Rights Act.

1. Additional Housing

In addition to the housing commitment included on page 25 of its December 28, 1999 draft of the Campus Plan, the University will include in the Plan sites for approximately 425 additional beds on campus on Squares 80 and 103. In regard to Square 54 OP recommends that the completion of housing on Square 54, or at the "Alternative Housing Site", occur *prior to and as a condition for* any approvals the University would seek for a C-3-C PUD or other uses on Square 54. Stated differently, the University could not apply for any uses except housing on Square 54 until 500 beds were available either on Square 54 or on the Alternative Housing Site. As an incentive to construct housing on-campus, and additional housing constructed on-campus after the approval of the Campus Plan will not count against the maximum floor area ratio ("FAR") limiting the bulk of all buildings on the campus.

2. House all Freshmen and Sophomores in University-owned Housing

The University will implement a policy requiring freshmen and sophomores to reside in University housing (except for students who are commuters, are married, or have children). This policy will be implemented in Fall 2001 for freshmen and Fall 2002 for freshmen and sophomores.

3. Housing Commitment

OP recommends that the Board require as a condition of approving the Campus Plan that the University provide one new bed in the Housing Opportunity Area or outside of the Foggy Bottom Area for each full-time undergraduate student added to the university's

population beginning in Fall 2001. The University may not increase its enrollment until the beds are available. The University may buy or lease apartments in the Housing Opportunity Area or anywhere outside of the Foggy Bottom Area to meet this goal. OP recommends that "Housing Opportunity Area" be defined as: "(1) existing University residential facilities, (2) properties currently owned by GWU located in Squares 43 and 122, and (3) any property located within the Campus Plan boundary." OP recommends that "Foggy Bottom Area" is defined as all property except that zoned C3 and C4 that is located within the area bounded by 19th Street on the east, E Street on the south, Rock Creek Park on the west, and N Street on the north, not including the Housing Opportunity Area or the Campus Plan area.

4. Restriction of Off-Campus Housing

The Office of Planning recommends that the Board condition its approval of the Campus Plan on a restriction on University purchases and development of off-campus housing to the Housing Opportunity Area.

5. Creation of New Housing Program to Encourage Students to Reside Outside of the Foggy Bottom Area

The University will institute a program to encourage its students who do not live in the Housing Opportunity Area to live outside of the Foggy Bottom Area. This program will provide information on off-campus housing opportunities available outside of Foggy Bottom, as well as the ease and accessibility of public transportation. For those locations that are not Metro Accessible, GW agrees to provide shuttle bus service to its campus for areas that the University determines contain a critical mass of GW students.

6. Student Conduct

GW will extend the application of its Code of Student Conduct to undergraduates living off-campus in the Foggy Bottom Area, even if they are not in properties owned or controlled by GW. GW agrees to act on incident reports by building management, building association board or police and to report to the Advisory Committee on actions taken. GW will develop an outreach program with neighboring apartment buildings to educate management companies and tenant associations on its Code of Student Conduct and reporting requirements to allow effective enforcement of its Code. Additionally, GW will permit management companies to obtain University clearances for student applicants for apartments to prevent students who are not eligible for GW's residential life program due to conduct violations from obtaining units in neighboring apartments.

The University will maintain and publicize a "hot line" to receive calls about student conduct issues and safety and security concerns. The University police, while not having

legal jurisdiction to respond to off campus complaints, will attempt to assist off campus complainants in obtaining assistance from the metropolitan police. Reports of off campus student conduct issues will also be referred to the appropriate GW departments for their attention.

The University will establish a program for its students that will address "good neighbor" issues.

The University will identify strategies to increase retention rates of undergraduate students in its residence halls. These strategies will focus, as least initially, on sophomores.

7. Parking and Traffic

The University will implement a series of measures to increase public transit ridership among students, faculty and staff. The University will undertake a number of traffic and parking mitigation measures.

8. Identifying Students Living in the Foggy Bottom Area

During the Spring 2001 registration process, GW will begin to gather information about the updated local addresses of its full time undergraduate population. This process will be completed during the registration process for the Fall 2001 semester. As this information is gathered, the University will share with the Advisory Committee, discussed below, the number of full-time undergraduate students living in the Foggy Bottom Area. An external audit must be completed on an annual basis to ensure accuracy and to add credibility to the University's count. The "Foggy Bottom Area" (within which the student count will take place) will be defined as including all addresses from the center of E Street, NW, north to the center of N Street, NW, and from the center of 19th Street, NW west to Rock Creek Park, *excluding* the area within the Campus Plan and the "Housing Opportunity Area."

9. Advisory Committee

An Advisory Committee will be established with representatives from the University, members of the community and ANC representatives. Each group will select its own representatives to the Committee.

10. Duration of Campus Plan

The Office of Planning recommends that the Board set the duration of the Campus Plan at 10 years, with and automatic five-year status review on the issues of housing, enrollment, student impacts, and enforcement.

11. Enforcement Conditions

The Office of Planning recommends that if it finds the University out of compliance with any condition contained in the Order, it will notify the Zoning Administrator that the University is out of compliance with the BZA Order, and no further processing of cases will be accepted for filing (except for on campus housing cases), and no pending cases will be allowed to proceed.

Attachment A:

George Washington University Letter Outlining Proposed Conditions to the GW Foggy Bottom Campus Plan.

Submitted to the Office of Planning September 7, 2000

The George Washington University
WASHINGTON DC

VICE PRESIDENT AND GENERAL COUNSEL

September 7, 2000

Mr. Andrew Altman
Director, D.C. Office of Planning
801 North Capitol Street, NE
Washington, D.C. 20002

Ms. Barbara Spillinger
Chair, Advisory Neighborhood Commission 2A
2500 Virginia Avenue
Washington, D.C. 20037

Mr. Michael Thomas
President, Foggy Bottom Association
2501 M Street, NW
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Re: Proposed Conditions for GW Foggy Bottom Campus Plan

Dear Gentlepersons:

Pursuant to the discussions held with the Office of Planning yesterday, The George Washington University has made further revisions to the set of proposed conditions to the GW Foggy Bottom Campus Plan which are intended to address neighborhood concerns. As can be seen in this draft, the University believes that--with the help of the District of Columbia--it can provide a sufficient number of beds on campus so that a minimum of 70% of its full time undergraduate population is housed on campus by 2005. During the time that it will take to obtain approvals and build these facilities, the University will enhance its efforts to address instances of off-campus misconduct by GW students residing in Foggy Bottom. In addition, as we discussed, we have included a voluntary moratorium in the purchase of residential properties in Foggy Bottom for University residential purposes.

Enclosed is a copy of these conditions which we plan to present at the Board of Zoning Adjustment hearing. If you have any questions, please contact me.

Sincerely,

C. K. Barber

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PROPOSED BOARD OF ZONING ADJUSTMENT CONDITIONS FOR THE GW FOGGY BOTTOM CAMPUS PLAN

1. Additional Housing On-Campus

A. In addition to the housing included on page 25 of the December 28, 1999 draft of the Campus Plan, the University will include in the Plan the following additional sites:

Square 103: The University will provide an additional 200 beds to be located on the southeast corner of Square 103.

Square 80: The University would provide an additional 650 beds on Square 80 upon the condition that the District of Columbia transfer property it owns on that site to the University for development. Development on that site would include new space for the School Without Walls which currently occupies a portion of the site on terms agreeable to the District and the University.

Square 54 : The University would provide an additional 500 beds for student housing on Square 54, provided that the University obtains approval of a C-3-C PUD on Square 54 to allow development of that Square consistent with other commercial properties along Pennsylvania Avenue (approximately 900,000 gross floor area of commercial development) and appropriate for mixed uses, and further obtains permission to build such development. The University would have the option of moving all or a part of the location of the 500 beds to be developed on Square 54 to another site on campus (the "Alternative Housing Site"). Before any development could be constructed on Square 54, however, the University must first or simultaneously file for zoning approval to construct the 500 beds on the Alternative Housing Site.

GW will revise the text and maps of its Campus Plan to reflect these additional housing sites.

B. On-Campus Housing Not to Count Against FAR: As an incentive to construct housing on-campus, any additional housing constructed on-campus after the approval of the Campus Plan will not count against the maximum floor area ratio ("FAR") limiting the bulk of all buildings on the campus.

2. Mandatory Housing for Freshmen and Sophomores

The University will implement a policy requiring Freshmen and Sophomores to reside in University housing (except for students who are commuters, are married or

have children, or those with disabilities or religious beliefs inconsistent with residential hall life). Assuming approval of the Campus Plan in 2000, this policy will be implemented in Fall 2001 for Freshmen and Fall 2002 for Freshmen and Sophomores.

3. Minimum Housing Commitment for Full-Time Undergraduates

The University will pursue, to the full extent of its authority, the approvals required for the housing identified in Condition 1.A., above, on a timely basis. So long as the development of these housing facilities is not delayed by circumstances beyond the University's control, housing will be provided for a minimum of 70% of GW's Foggy Bottom full time undergraduate population in the "Housing Opportunity" Area by December 31, 2005.

The "Housing Opportunity Area" is defined as (1) existing University residential facilities, and (2) properties located in Squares 43, 58, 81 and 122.

4. Commitment Not to Purchase in the Foggy Bottom Area Except for Investment Purposes:

Upon the approval of these conditions, the University will voluntary restrict its purchase of residential property beyond those facilities in which currently has an ownership interest in the Foggy Bottom Area (as defined below), except for purchases for investment purposes and not for the creation of University residence halls. Thus, for example, if the University purchases a residential facility, this facility would remain subject to real property taxes under current law and the University could not exclude non-students in its rental policies. This voluntary restriction will automatically expire by December 31, 2005, or when the University meets the housing commitment Specified in Condition 3, above, whichever occurs first.

The "Foggy Bottom Area" is defined as all residentially-zoned property (zones R-1 through R-5) located within the area bounded by 19th Street on the east, E Street on the south, Rock Creek Park on the west, and Pennsylvania Avenue on the north, not including the Housing Opportunity Area.

5. Creation of New Housing Program to Encourage Student to Reside Outside of the Foggy Bottom Area

The University will institute a program to encourage its students who do not live in the Housing Opportunity Area to live outside of the Foggy Bottom Area. This program will provide information on off-campus housing opportunities available outside of Foggy Bottom, as well as the ease and accessibility of public transportation. For those locations which are not Metro accessible, GW agrees to provide shuttle bus service to its campus for areas which the University determines contain a critical mass of GW students.

6. Student Behavior

Application of Code of Student Conduct to Foggy Bottom: GW will extend the application of its Code of Student Conduct to undergraduates living off-campus in the Foggy Bottom Area, even if they are not in properties owned or controlled by GW. GW agrees to act on incident reports by building management, building association board or police and to report to the Advisory Committee on actions taken. GW will develop an outreach program with neighboring apartment buildings to educate management companies and tenant associations on its Code of Student Conduct and reporting requirements to allow effective enforcement of its Code. Additionally, GW will permit management companies to obtain University clearances for student applicants for apartments to prevent students who are not eligible for GW's residential life program due to conduct violations from obtaining units in neighboring apartments.

Hot Line: The University will maintain and publicize a "hot line" to receive calls about student conduct issues and safety and security concerns. At present, such calls can be directed in two ways. First, GW has established a Crimes Tips Hotline (994-TIPS) where calls can be made on an anonymous basis to a recorded "tip" line. Calls needing a more immediate response can be directed to the University police on a "twenty-four" hour basis at 994-6110. The University police, while not having legal jurisdiction to respond to off campus complaints, will attempt to assist off campus complainants in obtaining assistance from the metropolitan police. Reports of off campus student conduct issues will also be referred to the appropriate GW departments for their attention.

"Good Neighbor" Programs: The University will establish a program for its students which will address "good neighbor" issues.

Increased Residence Hall Retention: The University has an interest in maximizing the utilization of its residence halls. The University will identify strategies to increase retention rates of undergraduate students in its residence halls. These strategies will focus, at least initially, on sophomores.

7. Parking and Traffic Mitigation Measures

Support of Mass Transit: The University agrees to institute the Washington Metropolitan Area Transit Authority's Metrochek program to allow employees to pay for public transportation costs and associated parking charges on a pre-tax basis. The target date for implementation is the end of the Year 2000. In addition, in an effort to increase metro ridership among its student population, the University will implement an introduction to public transportation program for its incoming students which will include providing Metro's new "Smart Trip" card to incoming students as of the Fall 2001 new student orientation. The University will work with Metro to schedule future Smart Trip

- "carding events" starting Fall 2000 at various locations around campus to provide additional information about public transportation to the University community.

Parking Minimums: GW will increase the University's required minimum parking inventory from its current level of 2700 to 2800.

The University will monitor its utilization of University parking lots to determine usage patterns and to conduct an on-going assessment of parking needs.

Community Parking Program: In addition to its on-campus parking supply, the University maintains parking facilities in certain off-campus properties. Members of the Foggy Bottom community have expressed an interest in exploring the creation of a parking program pursuant to which non-student residents of the Foggy Bottom community would be permitted to park in University properties. The University is willing to provide contracts for parking on a space available basis to verified residents of Foggy Bottom at the rate charged to University staff – as that rate may change from time to time. The initial discussions suggested that perhaps fifty parking contracts might be made available to Foggy Bottom residents. The location where such spaces would be provided will need to be determined by the University. The University can only commit to providing these spaces on a "space available" basis. Levels of and changes in availability will be reported to the Advisory Committee on request.

8. Identifying Students in the Foggy Bottom Area

During the Spring 2001 registration process, GW will begin to gather information about the updated local addresses of its full time undergraduate population. This process will be completed during the registration process for the Fall 2001 semester. As this information is gathered, the University will share with the Advisory Committee the number of full-time undergraduate students residing in the Foggy Bottom Area.

9. Advisory Committee

GW and community representatives will work together to form an Advisory Committee for the purpose of fostering consistent communication between the University and the Foggy Bottom community, discussing issues of mutual interest, and reviewing and proposing solutions to problems that arise in implementing the Campus Plan. The Advisory Committee will meet quarterly each year. Upon request, GW will provide timely, relevant data concerning University operations (which is not otherwise confidential or overly burdensome to produce) to the Advisory Committee. Questions regarding the composition, and structure of the Committee, as well as the possible use of a facilitator at initial meetings, will be agreed upon by the University and the community.

10. Duration of the Campus Plan

The Campus Plan will be approved, subject to the conditions set forth above, for a period of ten years, until December 31, 2010.

11. Mid-Term Campus Plan Review of Housing Commitment

If the University fails to meet the housing commitment stated in Condition 3, above, Advisory Neighborhood Commission 2A may request a review by the Board of Zoning Adjustment of the University's housing commitment in the sixth year of the Campus Plan.

12. Enforcement of Conditions

If the University fails to meet any condition set forth in the BZA Order, Advisory Neighborhood Commission 2A may petition the BZA for review of the alleged infraction and appropriate action.

Attachment B: Proposed "Foggy Bottom Preservation Area"

