BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

In Re: BZA Application No. 16553F of the George Washington University

APPLICANT'S STATEMENT OF ISSUES ON REMAND

Applicant, The George Washington University (the "University" or "GW"), submits this outline of issues that it hopes to address in the remand proceeding pursuant to the September 11, 2003 Order of the District of Columbia Court of Appeals, in which the Court remanded the case to the Board for further action consistent with the Court's decision. In its opinion, the Court ordered certain provisions of the Board's Order No. 16553F to be stricken, and strongly urged the Board to reconsider other provisions. The University suggests that, in the context of the remand, the parties be permitted to be heard with respect to the various issues presented, particularly given the passage of time and number of new members of the Board who were not present to hear evidence in the original Campus Plan proceeding. Therefore, the University also respectfully suggests that it would be appropriate for the parties to present additional evidence on the issues remanded in light of the passage of time, consistent with the Board having heard evidence in connection with its first remand of this case in 2001.

For the Board's and the parties' convenience, GW sets forth the following issues that it would anticipate presenting to the Board for its consideration in the remand proceeding:

1. Condition 9:

The Court directed the BZA to strike Condition 9(a), and GW will therefore request that the Board strike that provision.

BZA
Case No. 16553
Exhibit No. 416

Board of Zoning Adjustment
District of Columbia
CASE NO.16553
EXHIBIT NO.416

The Court also stayed Condition 9(b) insofar as 9(b) related to "Phase I" of the housing requirement in Condition 9(a). Given that the Board will have to address Condition 9(b) in light of the Court's direction that the provision is to be stayed to the extent that, as drafted, it applies to Phase I of the housing requirement, GW respectfully suggests that the Board re-examine Condition 9(a), 9(b) and 9(c) together in light of the Court's decision, and that it consider additional evidence regarding the available housing and campus conditions. Specifically, in light of the current demands for housing, GW will present evidence to demonstrate that precluding GW from counting beds in existing off-campus residence halls, which are permitted by-right under local zoning, as well as precluding it from counting beds in residence halls outside of the Foggy Bottom/West End neighborhood, do not further the Board's objectives.

The Court also ordered that Condition 9(f) be stricken from the Order.

2. Condition 10: The Court stayed Condition 10 pending remand to the Board, and strongly encouraged the Board's re-examination of this condition, noting that an amendment consistent with GW's actual proposal to the Board would be "in the interests of justice." GW submits that the Board should clarify this provision to provide that GW house all freshmen and sophomores (subject to existing carve-outs) in existing University-owned or controlled housing rather than in campus housing.

3. Condition 15: The Court did not rule on the University's challenge to the "consultation" requirement in Condition 15, acknowledging that the District had agreed that the requirement was moot due to the DMV's position that such consultation regarding students' license plate numbers would not be useful. To conform to the Court's decision, the Board should at a minimum modify Condition 15 to strike the consultation requirement. Additionally, in light

of the elimination of the consultation requirement and the DMV's acknowledgement that such information would be of no value to enforcement initiatives, there is no rational basis for continuing any requirement that the University continue to collect license plate information regarding all students with motor vehicles. In short, there is nothing to be done with that information once collected. Particularly in light of the Court's questioning of the basis for maintaining a similar provision (*see President and Directors of Georgetown College v. District of Columbia Bd. of Zoning Adjustment,* No. 01-AA-1182 at 39 (urging the Board, on remand, to "take a fresh look at [a similar license plate collection requirement in Georgetown University's campus plan order] to determine whether it is likely to accomplish what it was apparently designed to achieve.")), GW respectfully requests that the Board consider also striking Condition 15's information collection provisions as well.

Dated: January 29, 2004

Respectfully submitted,



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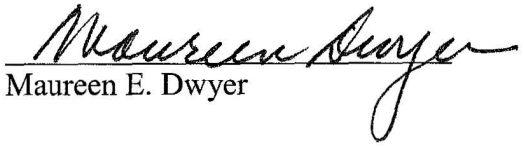
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