GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16566-B of the President and Directors of Georgetown College, pursuant to 11 DCMR § 3104.1, for a special exception for the review and approval of the University Campus Plan – years 2000-2010 under Section 210 in the R-3 and C-1 Districts at premises bounded by Glover Archbold Parkway to the west, the National Park Service property along the Chesapeake & Ohio Canal and Canal Road to the south, 35th Street, N Street to 36th Street, and 36th Street to P Street to the east and Reservoir Road to the north. (Square 1222, Lots 62, 801-810; Square 1223, Lots 85-86, 807-810, 812, 815, 826, 827, 831, 834, 846-847, 852-853, 855, and 857-858; Square 1226, Lots 91, 94-101, 104-105, 803-804, 806, and 811-815; Square 1248, Lots 122-125, 150-157, 800-802, 804-806, 829-831, and 834-835; Square 1321, Lots 815-817.)

HEARING DATES: June 13, and July 18, 2000

DECISION DATES: September 5, November 8, and December 5, 2000

ORDER DATE: March 29, 2001

RECONSIDERATION DECISION DATE: June 5, 2001

STAY DECISION DATE: September 4, 2001

CORRECTED ORDER ON MOTION FOR STAY*

*** This Order is being reissued to correct/change its reference number from 16566-A to 16566-B. No other changes have been made to the Order as originally issued on October 9, 2001.**

By Order issued March 29, 2001, the Board approved the University Campus Plan until December 31, 2010, subject to conditions intended to mitigate any adverse impacts potentially arising from the location of a university in a residentially zoned district. In addition to the President and Directors of Georgetown College (hereinafter "University" or "Applicant"), parties to the proceeding were Advisory Neighborhood Commission 2E, the Burleith Citizens Association, Citizens Association of Georgetown, Cloisters in Georgetown Homeowner's Association, Foxhall Community Citizens Association, Georgetown Residents Alliance, and Hillandale Homeowners Association.

BZA
Case No.
Exhibit No. 262
Board of Zoning Adjustment
District of Columbia
CASE NO.16566
EXHIBIT NO.262

By motion dated August 16, 2001, the Applicant requested an order staying the enforcement of Conditions No. 7, 10, and 14 of the Board's Order issued March 29, 2001. The University alleged that compliance with certain provisions of those conditions would require disclosure of student records to third parties, such as landlords, District Government agencies, and students' parents, in violation of the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g.

A statement in opposition to the University's filing was submitted on behalf of the Citizens Association of Georgetown, Cloisters in Georgetown Homeowners Association, Foxhall Community Citizens Association, and the Georgetown Residents Alliance (collectively, "Community Associations"). The Community Associations challenged the University's interpretation of "education records" for purposes of FERPA and argued that motion for stay should be denied because the Applicant had not demonstrated that it could not comply with both FERPA and the conditions enumerated in the Board's order approving the 2000 campus plan.

At its decision meeting on September 4, 2001, the Board considered both a motion to grant the Applicant's request for a stay and a motion to deny the request for a stay. Both motions were seconded and voted upon, but neither motion was adopted by a majority of the Board.

CONCLUSIONS OF LAW

Under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 799, as amended; D.C. Code, 2001 Ed. § 6-641.07(h)), "The concurring vote of not less than a full majority of the members of the Board shall be necessary for any decision or order." The Board's Rules of Practice and Procedure likewise provide in 11 DCMR § 3125.2 that "The concurring vote of at least a full majority of the Board shall be necessary for any decision." Because the Board is composed of five members, a decision to grant the Applicant's motion for a stay requires at least three affirmative votes.

A vote that fails to generate at least three affirmative votes operates to deny the relief that was the subject of the motion, unless the Board decides to defer consideration of the matter until a new vote can be taken at a later time. *See Hubbard v. District of Columbia Bd. of Zoning Adjustment,* 366 A.2d 427, 428 (D.C. 1976) (failure to achieve number of votes required by Board rule operated as denial of motion for rehearing). *See also Webster's New World Robert's Rules of Order: Simplified and Applied* 62-65, 278-82 (1999) (majority vote, motions to reconsider the vote).

Because a majority of the Board did not vote to grant the Applicant's motion for a stay, and because the Board did not decide to defer consideration of the request for another vote at a later decision meeting, the Applicant's motion for a stay is deemed denied.

Accordingly, it is **ORDERED** that the motion for stay is **DENIED**.

A motion to deny the Applicant's Motion for Stay failed for lack of votes:

VOTE: **2-1-2** (Anne M. Renshaw and Herbert Franklin to deny; Sheila Cross Reid opposed; two members not having heard the case, not voting.)

A motion to grant the Applicant's Motion for Stay failed for lack of votes:

VOTE: **1-2-2** (Sheila Cross Reid to grant; Anne M. Renshaw and Herbert Franklin opposed; two members not having heard the case, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

Final Date of Corrected Order: JAN 10 2002

PURSUANT TO 11 DCMR §3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES.

mn/rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16566-B – CORRECTED ORDER ON MOTION FOR STAY

As Director of the Office of Zoning, I hereby certify and attest that on JAN 10 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director