**BEFORE THE BOARD OF ZONING ADJUSTMENT**
**OF THE DISTRICT OF COLUMBIA**

BZA Application No. 16,566 of Georgetown University, under 11 DCMR 210 and 3104, for special exception approval of a proposed ten-year campus plan for the years 2000-2010, for the University's main campus at 3700 O Street, N.W., and its Medical Center (north) campus at 3800 Reservoir Road, N.W.

## HILLANDALE HOMEOWNERS ASSOCIATION'S RECOMMENDATIONS CONCERNING ISSUES THE BOARD SHOULD ADDRESS ON REMAND

Hillandale Homeowners Association ("Hillandale") respectfully provides its response to the Board's June 23, 2004 request for submissions from the parties recommending issues that should be addressed on remand, including comments "on whether the Board should only receive written submissions on designated issues, or whether they believe that an additional hearing should be held on this matter."

### BACKGROUND AND SUMMARY

Applicant Georgetown University ("Georgetown") applied for special exception approval of its proposed campus plan for 2000-2010 on January 31, 2000. In 2001, Georgetown received, after two public hearings and reconsideration, the Board's approval of its plan subject to nineteen conditions "intended to mitigate any adverse impacts potentially arising from the location of a university use in a residentially zoned district * * * ."[1] **Georgetown then petitioned the D.C. Court of Appeals for review of the Board's decision, challenging eleven of the nineteen conditions in the Board's reconsidered order of August 6, 2001, namely those numbered 2 through 10, 14, and 15. The case was briefed in 2002, and argued orally in 2003. The Court order which vacated the Board's order, and remanded the matter to the Board for further proceedings, became final earlier this year (2004).**

**Hillandale is a gated community located on the north side of Georgetown's north or medical campus. It participated in the Board's administrative proceeding because of**

[1]BZA Order No 16566A, August 6, 2001, Condition No. 1, as amended, bottom of p. 6.

BZA
Case No. 16566
Exhibit No. 276

Board of Zoning Adjustment
District of Columbia
CASE NO.16566
EXHIBIT NO.276

**Hillandale's concerns about the traffic Georgetown's proposed plan would generate on Reservoir Road, and helicopter noise emanating from the "helipad" on Georgetown's north or medical campus. Hillandale accordingly intervened in the judicial review proceeding only to defend Condition 15 of the Board's order, relating to the number of off-street parking spaces to be provided on campus, the only condition challenged by Georgetown which Hillandale had standing to defend.**

**In sum, Hillandale recommends, for the reasons given below, that: (1) the Board should decide the remand proceeding on the basis of written submissions, without holding another public hearing; (2) the issues that should be addressed on remand are (a) whether, and if so, how each of the eleven challenged conditions of approval might be revised so that they will be consistent with the Court's opinion, and (b) whether an order in which the conditions were revised in accordance with the Court's opinion would sufficiently mitigate the plan's adverse impacts as still to warrant conditional approval of Georgetown's proposed plan; (3) Condition 15 should be revised so that it establishes only a 4,080 parking space maximum or "cap" on the number of parking spaces allowed on Georgetown's entire Georgetown Historic District campus; and (4) Hillandale defers to its neighbors on the question of whether and how the other ten challenged conditions should be revised, and whether the order as so revised would sufficiently mitigate the adverse impact of Georgetown's plan on those neighboring communities.□**

## DISCUSSION

**I. The Board Should Decide the Remand Proceeding on the Basis of Written Submissions, Without Holding Another Public Hearing.**

The Board should decide the remand proceeding on the basis of written submissions without holding another public hearing, for the following reasons.

The Board has already heard this case in two full-day hearings in 2001. Nothing in the petition for review of the Board's decision challenged the fairness or adequacy of the hearings which the Board has already provided. Nothing in the Court of Appeals' opinion or order in this case requires a new public hearing to be held or that the record be re-opened.

This case needs to be decided as soon as possible. The application seeks approval of a campus plan for 2000-2010. It is now the second half of 2004. Nearly half of the planning period has expired. Holding a new public hearing would add to the time it would take to resolve this matter; it would place a greater burden on all the parties; and it would create a fertile field for new legal challenges to the fairness and adequacy of the new hearing so provided.

In these circumstances, it would be best to decide the remanded case on the basis of written submissions, without holding a new public hearing or re-opening the record for the submission of new evidence.

**II. The issues that should be addressed on remand are: (A) how the eleven successfully challenged conditions of approval might be revised so that they will be consistent with the Court's opinion; and (B) whether an order containing only the unchallenged conditions and the conditions revised in accordance with the Court's opinion would sufficiently mitigate the plan's adverse impacts as to warrant such a conditional approval of Georgetown's proposed plan.**

The issues that need to be addressed on remand are whether, and to what extent, the eleven challenged conditions of approval should be revised so that they will be consistent with the Court's opinion, and whether an order so revised would sufficiently mitigate the plan's adverse impacts as to warrant conditional approval of Georgetown's proposed 2000-2010 plan.

In the case of the one condition that concerns Hillandale, Condition 15, the only revision that would be consistent with the Court's opinion would be to revise it so as to set the *maximum*

number of off-street parking spaces on Georgetown's entire campus as 4,080 spaces. This would continue the 4,080 parking space "cap" which the Board placed in its 1983 and 1990 Georgetown campus plan orders, and which Georgetown's 2000 application proposed to continue. Such a revision would delete the two features of present Condition 15 to which the Court objected – the 4,080 *minimum* parking space requirement, and the one percent allowance for taking parking spaces out of service for maintenance purposes. Such a revised condition, in our view, would not, by itself, dilute the effectiveness of the order in protecting neighboring property, such as Hillandale's, from adverse traffic impacts on Reservoir Road traffic. Hillandale defers to its neighbors concerning whether and how the other challenged conditions should be revised, both to accord with the Court's opinion, and nevertheless continue to mitigate the proposed plan's adverse impacts on neighboring property.

## CONCLUSION

For the reasons given above, (1) the Board should decide the remand proceeding on the basis of written submissions, without holding another public hearing; (2) the issues that should be addressed on remand are (a) whether and how the eleven challenged conditions of approval should be revised so that they will be consistent with the Court's opinion, and (b) whether such a revised order would sufficiently mitigate the plan's adverse impacts as to warrant such a conditional approval of Georgetown's proposed plan; (3) Condition 15 should be revised so that it only establishes a 4,080 parking space maximum or "cap" on the number of parking spaces allowed on Georgetown's entire Georgetown Historic District campus; and, (4) Hillandale defers to its neighbors on the question of whether and how the other ten challenged conditions should be revised.

Respectfully submitted,

for Charles R. Braun

Charles R. Braun
Representative of

HILLANDALE HOMEOWNERS ASSOCIATION
Application No. 16,566
August 2, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Hillandale Homeowners Recommendations Concerning Issues Board Should Address on Remand, was mailed, postage prepaid, on August 2, 2004 to:

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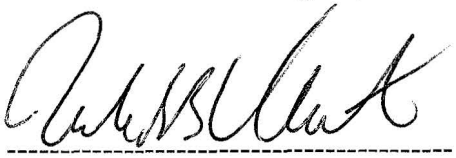
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