2A-16-01

Rec'd. 11/29/00

Government of the District of Columbia
OFFICE OF ZONING

Rec'd.
APR 10 2001

November 20, 2000

Commissioner Barbara Spillinger
Chair ANC 2A
c/o St. Mary's Court
725 24th Street, NW
Washington, DC 20037

Re: Motion to Declare PUD Null and Void – (1957 E Street; Square 122, Lot 835)

Dear Commissioner Spillinger:

The Office of Zoning is in receipt of your letter dated October 2, 2000, concerning a motion submitted by your organization, Advisory Neighborhood Commission 2A, pertaining to the property located at 1957 E Street, N.W. (Square122, Lot 835). The letter has been previously forwarded to Mr. Michael Johnson, Zoning Administrator, for action.

The letter refers to the above referenced site; a property, prior owner, Associated General Contractors, obtained conditional approval for a Planned Unit Development (PUD) and George Washington University (GWU) has now acquired the property and begun construction.

Your motion requested a declaration that the Zoning Commission Order approving the PUD, be rendered null and void - contending that the GWU plans "to move an on-campus institutional use to this off campus site and to build dormitory rooms without long-term taxpaying occupants, i.e., plans that differ substantially from the conditional 1993 PUD". This motion presents an issue of enforcement that should be pursued by your organization with the Zoning Administrator, who can make a determination of whether or not GWU's use of the site is in compliance with the conditions stated in the PUD order or allowed as a matter of right.

Regrettably, the motion is not properly before the ZC. The Zoning Administrator (ZA), at the Department of Consumer & Regulatory Affairs (DCRA), is responsible for administering, interpreting and enforcing the D.C. Zoning Regulations as well as the conditions of Board of Zoning Adjustment and Zoning Commission orders. The ZA is responsible for zoning code compliance and assuring the correct permit(s) and

BZA
Case No. 16701
Exhibit No. 20

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
(202) 727-6311 • (202) 727-6072 fax
E-Mail: zoning.info@dcoz.dcgov.org • Web Site: http://www.dcoz.dcgov.org/

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.20

certificate(s) of occupancy have been obtained by the applicant. All correspondence pertaining to foregoing issues should be addressed to:

Mr. Michael Johnson, Zoning Administrator
Department of Consumer & .
Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002
(202) 442-4455 / (202) 442-4863-fax
mjohnson@dcra.dcgov.org

If the ANC-2A feels that any of the permits or certificates of occupancy issued by the ZA are not in accordance with the ZC orders and/or conditions, the next appropriate action would be an appeal of the ZA's decision to the BZA to issue the requisite building permits or certificates of occupancy.

We hope we have been of some assistance.

Sincerely,
OFFICE OF ZONING

Jerrily R. Kress, FAIA
Director

cc: Mr. Michael Johnson, Zoning Administrator
Commissioner Anthony Hood
Commissioner Carol Mitten
Ms. Barbara Kahlow

Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

October 2, 2000

Ms. Jerrily Kress, Director
Office of Zoning
441 4th Street, NW - Suite 210
Washington, DC 20001

Re: Motion for Declaratory Ruling - Noncompliance with GWU's Current Campus Plan (BZA No. 14455) (1957 E Street; Square 122, Lot 835)

Dear Ms. Kress:

This letter constitutes a motion for declaratory ruling by the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A), of which I am Chair, regarding noncompliance by the George Washington University (GWU) with the Board of Zoning Adjustment's (BZA's) approved campus plan boundaries for GWU (BZA No. 14455). ANC-2A, at its regularly scheduled public meeting on September 20, 2000, properly noticed and with a quorum present, approved a resolution to file a motion with the BZA.

The current campus plan only includes Lots 824 and 825 in Square 122, i.e., GW made no request to use Lot 835 in Square 122 for an institutional use. Based on "new evidence ... which could not reasonably have been presented at the original hearing" (11 DCMR, 3332.6), ANC-2A requests that the BZA issue a declaratory ruling of GWU's noncompliance with the current campus plan, i.e., that Lot 835 cannot be used for an institutional use without an amendment to the campus plan.

ANC-2A is interested in maintaining a residential neighborhood in Foggy Bottom West End and in keeping GWU - especially its institutional uses - within its campus plan boundaries.

If the Board is unwilling to issue a declaratory ruling, ANC-2A requests that the BZA hold a hearing on GWU's plans for Lot 835 in Square 122 since GWU intends to move an on-campus institutional use at 2013 G Street, NW (Square 102) to an off-campus location at 1957 E Street, NW (Square 122, Lot 835). In the interest of constraining GWU's boundaries, in its 1988 Order, the Board removed not only Square 43 but also part of Square 121 (which is just north of Square 122) from the prior-approved campus plan area (see Conclusion of Law and Opinion #4). The Board was not made aware of GWU's intent to acquire additional property in Square 122 and to use this property for institutional uses.

The Zoning Commission's 1993 conditional approval for the original PUD required a building permit application by December 1995. In March 1996, the Commission approved a two-year extension until December 1997. In March 1999, the Commission approved a second two-year extension until December 1999. To our knowledge, no building permit application was filed by the Commission's December 10, 1999 deadline. Therefore, since the December 1999 deadline was missed, ANC-2A believes that the Commission should declare the PUD null and void. At the very least, the Commission should request new owner GWU to present its revised plans at a public hearing.

Thank you for your prompt consideration of this motion.

Sincerely,

Barbara Spillinger

Barbara Spillinger, Chair
Advisory Neighborhood Commission 2A

Enclosures

cc: By 1st Class Mail to:
Other Parties including:
Associated General Contractors
c/o Phil Feola, Esq.
Linowes & Blocher
800 K Street, NW - Suite 840
Washington, DC 20001

All State Hotel Properties
c/o Whayne S. Quinn, Esq.
Wilkes, Artis, Hedrick & Lane
1666 K Street, NW - Suite 1100
Washington, DC 20006

Non-Party
George Washington University
c/o President Stephen Joel Trachtenberg
Rice Hall
2121 Eye Street, NW
Washington, DC 20052

DATE: Sept 20, 2000

SMD	AYE	NAY	ABSTAIN	ABSENT	MOVED	SECONDED
01 SHEEHEY			X			
02 PRICE	X					
03 TYLER	X					
04 SPILLINGER	X					
05 MILLER	X					X
06 MANDELBAUM	X				X	

Barbara Spillinger
CHAIRPERSON/SECRETARY

Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

October 2, 2000

Ms. Jerrily Kress, Director
Office of Zoning
441 4th Street, NW - Suite 210
Washington, DC 20001

Re: Motion to Declare PUD Null and Void - Zoning Commission Case No. 93-5F/ 91-18P (1957 E Street; Square 122, Lot 835)

Dear Ms. Kress:

This letter constitutes a motion by the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A), of which I am Chair, for the Zoning Commission to declare null and void its 1993 conditional approval for a Planned Unit Development (PUD) at 1957 E Street, NW (Case No. 93-5F/91-18P; Square 122, Lot 835). ANC-2A, at its regularly scheduled public meeting on September 20, 2000, properly noticed and with a quorum present, approved a resolution to file a motion with the Zoning Commission.

Also, on April 18, 2000, ANC-2A sent the Commission the enclosed letter and the enclosed unanimous resolution about the proposed future use of this property. On September 7, 2000, Alberto Bastida sent a nonresponsive reply to ANC-2A's April 18th letter and resolution. He stated that the Commission has not yet received an extension request for the 1993 PUD.

In 1999, ownership of the subject property changed. The Associated General Contractors (AGC) sold the subject property to the George Washington University (GWU). GWU has not yet presented its plans to ANC-2A. Nonetheless, GWU recently held a groundbreaking ceremony and made known its intentions to move an on-campus institutional use to this off-campus site and to build dormitory rooms, i.e., plans that differ substantially from the conditionally-approved 1993 PUD (see the enclosed April 2000 resolution). The September 7, 2000 GW Hatchet newspaper announced GWU's intent to move the Elliott School of International Affairs from its on-campus location at 2013 G Street to this off-campus site at 1957 E Street, with a projected opening date in 2002.

ANC-2A is interested in maintaining a residential neighborhood in Foggy Bottom-West End and in keeping GWU - especially its institutional uses - within its campus plan boundaries. ANC-2A is further concerned about GWU's plan to not provide the 47-56 new residential (non-dormitory) apartment units, whose approval ANC-2A successfully obtained in 1993.

The Zoning Commission's 1993 conditional approval for the original PUD required a building permit application by December 1995. In March 1996, the Commission approved a two-year extension until December 1997. In March 1999, the Commission approved a second two-year extension until December 1999. To our knowledge, no building permit application was filed by the Commission's December 10, 1999 deadline. Therefore, since the December 1999 deadline was missed, ANC-2A believes that the Commission should declare the PUD null and void. At the very least, the Commission should request new owner GWU to present its revised plans at a public hearing.

Thank you for your prompt consideration of this motion.

Sincerely,

Barbara Spillinger

Barbara Spillinger, Chair
Advisory Neighborhood Commission 2A

Enclosures

cc: By 1st Class Mail to:
Other Parties including:
Associated General Contractors
c/o Phil Feola, Esq.
Linowes & Blocher
800 K Street, NW - Suite 840
Washington, DC 20001

All State Hotel Properties
c/o Whayne S. Quinn, Esq.
Wilkes, Artis, Hedrick & Lane
1666 K Street, NW - Suite 1100
Washington, DC 20006

Non-Party
George Washington University
c/o President Stephen Joel Trachtenberg
Rice Hall
2121 Eye Street, NW
Washington, DC 20052

DATE: Sept 20, 2000

SMD	AYE	NAY	ABSTAIN	ABSENT	MOVED	SECONDED
01 SHEEHEY			X			
02 PRICE	X					
03 TYLER	X					
04 SPILLINGER	X					
05 MILLER	X					X
06 MANDELBAUM	X				X	

Barbara Spillinger
CHAIRPERSON/SECRETARY

Government of the District of Columbia
OFFICE OF ZONING

RECEIVED 9-12-00

SEPTEMBER 7, 2000

Ms. Barbara Spillinger, Chair
ANC 2A
C/O St. Mary's Court
725 24th Street, N.W.
Washington, D.C. 20037

Re: Z.C. Case No. 93-5F/91-18P (1957 E Street -Square 122, Lot 835)

Dear Ms. Spillinger:

The Office of Zoning is in receipt of your letter and attached resolution addressed to Mr. Anthony J. Hood on April 18, 2000.

In response to the resolution, the request for a time extension regarding AGC (Zoning Commission Case Number 93-5F/91-18P) has not been received by this office. The Office of Zoning will notify your ANC upon receipt of any such request.

Regarding the compliance of GWU with the DC Environmental Policy Act, this is a matter handled by the DC Department of Regulatory Affairs (DCRA). Accordingly, the Zoning Administrator has been made aware of your concerns.

Should you have any further questions, please contact me at (202) 727-0330.

Yours,

Alberto P. Bastida, AICP

Cc: Michael Johnson

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
Tel: (202) 727-6311 • Fax: (202) 727-6072
E-Mail: zoninginfo@dcoz.dcgov.org • Web Site: http://dcoz.dcgov.org/

★ ★ ★ Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 736-1775

April 18, 2000

'00 APR 18 P4:25

Mr. Anthony J. Hood, Chair
Zoning Commission
441 Fourth Street, N.W. - Room 210
Washington, D.C. 20001

Re: 1957 E Street (Square 122, Lot 835)

Dear Mr. Hood:

ANC-2A, at its regularly scheduled public meeting on April 12, 2000, properly noticed and with quorum present, unanimously approved the enclosed resolution with respect to George Washington University's (GWU) purchase, razing and proposed future use of the above cited property.

You will note that the resolution asks that the 1993 conditional PUD not be extended to GWU; that GWU be required to present its plans that differ from the 1993 conditional PUD at a public hearing, and that GWU be required to fully comply with the DC Environmental Policy Act prior to any construction on the site.

Your support of the community in assuring due process in this matter is urgently requested.

Sincerely,

Barbara Spillinger

Barbara Spillinger, Chair
Advisory Neighborhood Commission 2A

Enclosure

cc: Jerrily R. Kress, Zoning Secretariat
Andrew Altman, Office of Planning

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DATE: April 12, 2000

SMD	AYE	NAY	ABSTAIN	ABSENT	MOVED	SECONDED
01 SHEEHEY	X				X	
02 PRICE	X					
03 TYLER	X					X
04 SPILLINGER	X					
05 MILLER	X					
06 MANDELBAUM	X					

Barbara Spillinger
CHAIRPERSON/~~SECRETARY~~