GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

December 27, 2000

John C. Batham, President
West End Citizens Association
Post Office Box 58098
Washington, D.C. 20037-8098

Re: Zoning Commission Case No. 93-5F/91-18P (1957 E Street, N.W.; Square 122, Lot 835)

Dear Mr. Batham:

This letter is in response to your letters to the Office of Zoning, dated September 25, 2000, in which you allege certain violations have been or are to be committed by George Washington University ("GWU"), as a result of the proposed expansion to 1957 E Street, N.W., the site of an approved planned unit development ("PUD") that is just outside of the University's campus plan boundaries. Your letters were referred by the Zoning Commission to the Office of the Zoning Administrator to determine whether the activities you described constitute violations of the Zoning Regulations, which would require an enforcement action at this time or that would furnish grounds for denying GWU's request for a building permit.

In particular, you assert the following: 1.) That GWU has not presented its plans for the PUD site to ANC-2A or the Zoning Commission. 2.) That GWU intends to re-locate the Elliott School of International Affairs from the current on-campus site to the site referenced above. 3.) That GWU is not complying with its campus plan. 4.) That GWU intends not to provide the 47-56 new residential units required by the PUD order. After a review of the facts, applicable Zoning Regulations, staff's re-review of the building development plans submitted to BLRA, consultation with the Office of Corporation Counsel and review of relevant cases involving university campus plans, I have concluded that GWU is in compliance with the Zoning Regulations, Zoning Commission Order No. 746, building plans and the 1985-2000 George Washington University Campus Plan. Therefore, for the reasons outlined below, an enforcement action against GWU is not warranted at this time and the building permit may be issued.

BZA
ase No. 16701
xhibit No. 22

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.22

First, there is no requirement that GWU present its building plans for the PUD site to ANC-2A, the Zoning Commission, or the Board of Zoning Adjustment ("BZA"). To develop the site in accordance with the zoning relief granted, GWU must comply with the PUD order and the covenant recorded in the Land Records pursuant to Z.C. Order No. 746, which reads in part, "The covenant shall bind the owner and all successors in title to construct on and use the property in accordance with the order and amendments thereto of the Zoning Commission." *Id.* Z.C. Order No. 746 at 11, ¶17. There is no language in the Zoning Regulations or the PUD order that requires GWU to submit its plans to the Zoning Commission or the community for additional review.

Second, review by the BZA is not required because the proposed building is not included in nor is it a part of GWU's current campus plan. I do not agree with your contention that such a review is required by D.C. Code §1-249(c). That section provides that "When a major new building proposed for a college or university campus, and included in its campus plan, is instead moved off campus, the college or university must submit the plans for the review and approval of the Board of Zoning Adjustment as a specific amendment to its campus plan, limited to review of the change affecting the specific site, before the college or university may substitute another major new building for that campus plan site." The entire citation may be found in the District of Columbia Comprehensive Plan Act of 1984, effective April 10, 1984, D. C. Law 5-76, (D.C. Code §1-249(c)).

You have written that GWU plans to locate the Elliott School of International Affairs at 1957 E Street, N.W. Even if true, the Elliott School is an existing building and not a proposed major new building included in its campus plan. Moreover, this provision does not prohibit a university from moving a proposed new building off campus, but instead requires that no new building be substituted on campus without BZA approval. It is my opinion that the statute cannot be reasonably interpreted as making a university's establishment of a matter of right use, subject to BZA approval. That action would be tantamount to the Council's enactment of a zoning regulation, which is precluded by law and can only be initiated by the Zoning Commission, which has the legal authority to do so.

Third, you allege that GWU intends to remove the 47-56 new residential units required in the PUD order. It is premature for this Office to make any findings regarding the actual uses in the proposed buildings. The plans submitted with the application for a building permit reflect residential uses consisting of no less than 2.17 FAR as required by Z.C. Order No. 746. As a result, there is no basis for this Office to withhold a building permit on the grounds of non-compliance with the applicable zoning regulations. However, in the event that GWU's use of the PUD is inconsistent with this, or any other condition stated in the PUD order, the Office of the Zoning Administrator will take appropriate enforcement action.

In closing, it was a pleasure meeting with you and Ms. Kahlow and I appreciate you taking the time to bring this matter to our attention. Should you have any questions or need additional assistance from this office, please do not hesitate to contact me at 442-4576.

Respectfully,

Michael D. Johnson
Zoning Administrator of the
District of Columbia

Cc: Carlynn Fuller, Interim DCRA Director
Theresa Lewis, Deputy Director
Denzil Noble, Acting BLRA Administrator
Anthony Hood, Zoning Commission Chair
Sheila Cross Reid, BZA Chair
Charles Barber, GWU
Jerrily Kress, Director, Office of Zoning
Andy Altman, Director, Office of Planning
Alan H. Bergstein, OCC
Patricia N. Young, OCC

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