Rec'd
APR 10 2001

Dorothy Miller
Commissioner ANC 2A05

2440 Virginia Avenue NW Washington, D.C. 20037 Tel. (202) 331-0191

April 10, 2001

Re: Statement in BZA Case No. 16701, ANC-2A's Appeal of Zoning Administrator's Decisions on 1957 E Street NW (Sq. 122, Lot 834)

Dear Chair and Members of the Board:

I am Dorothy Miller, Commissioner for ANC-2A05. My Single Member District (SMD) borders Square 122. I am here today to challenge the permits issued in error by the Zoning Administrator (ZA) to George Washington University (GWU) for Square 122, Lot 834 that violates the conditions of ZC Orders No. 746 and 746A.

The Zoning Commission's (ZC) Order No. 746 dated November 15, 1993, approved the request of Associated General Contractors (AGC) to build a PUD at 1957 E Street, NW, with 31 conditions. The Order became effective on December 10, 1995. Condition No. 17 states "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." On June 23, 1999, AGC sold the property to GWU. (news account of sale attached). It is our contention that the covenant limits the new owner to the same rights as the previous owner but no more, unless the applicant applies to the ZC for approval of the changes.

In 1995 the AGC filed a request for a two-year extension of time and a change of zoning from SP to C-3-C (copy of my ZC statement and NCPC statement attached). The ZC approved the request, ZO Order 746A until December 10, 1997, but the zoning change approval was conditioned on the applicant applying for a building permit for the residential components within one year. No residential component has been built and the permit had expired before the ZA issued GWU's first of four permits. (Copies of permits issued by ZA attached, note GWU supplied incorrect permit information.)

ZC Order No. 746 Conditions violated by the permits issued by the ZA:

No. 16. That the setbacks have been increased to 20 feet along the street frontage perimeter of the building.

No. 17a. No less than 47 residential units in the project, with no reduction in the gross square footage devoted to residential use.

No. 17e. Not more than 5,000 square feet of ancillary, retail-related space shall be provided on the ground floor of the property,

BZA
Case No. 16701
Exhibit No. 23
Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.23

No. 22. That any violations of the final PUD order be prosecuted in accordance with Section 2407.5 of the Zoning Regulations and Section 1229.1(c) of the civil infractions law, which specified that failure to comply with a Zoning Commission order will result in substantial fines.

No. 26. The proposed PUD will provide essential housing in the Downtown area.

Decision Lack of compliance by new owner:

No. 2. The PUD shall be developed with mixed-use buildings, including residential and commercial uses with below-grade parking.

No. 6. The PUD project shall be developed with 47 to 56 residential units.

No. 7. There shall be a minimum of 200 on-site parking spaces with at least one parking space designated for each residential unit.

No. 17. No building permit shall be issued for the PUD project until the applicant has recorded a covenant in the land records of the District of Columbia between the owner and the District, satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). **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.**

No. 19. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the applicant has filed a certified copy of said covenant with the records of the Zoning Commission.

No. 21. Nothing in the order shall be understood to require the Zoning division of DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38, as amended.

ZC Order No. 746A Conditions violated by the permits issued by the ZA

Page 2, pp 2. ZC referred this matter to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Map or Regulations, or to the Comprehensive Plan changed that will affect the request.

Page 2, pp 4. OP stated, "the Comprehensive Plan Amendments Act, effective October 6, 1994, changed the land use classification of the site from high-density commercial to medium-density commercial and high-density residential.

Page 3, pp 2 The validity of ZC Order 746 was extended for a period of two years; that is until December 10, 1997. ZA issued a permit after this date even though the PUD had expired..

I respectfully request that the BZA overturn the ZA's decision and refer GWU's request to the ZC for review. Since these Zoning Orders were issued, the Comprehensive Plan Amendment Act of 1999, D.C. Act 12-609, excluded this site from the Central Employment Area, and the changes being requested are subject to the DC Environmental Policy Act. GWU's Campus Plan has been approved with conditions and this request should be evaluated in relationship to the new plan. The ZA failed to consider the increased traffic problems in the change of use with the current construction of a 10-story building with four levels of parking to accommodate 2,000 employees by the American Red Cross in Square 104 next to Square 122. A new traffic study is essential to update and evaluate the adverse impact of the changes in Square 122 on the residential community.

In closing, the issue is not whether GWU builds on this lot but that what it builds is compatible with the Comprehensive Plan, conforms to the zoning regulations that govern campus plans; meets all environmental requirements, and is in compliance with 11 DCMR 210, Colleges and Universities. The ZA failed to supply the ANC or the community any verification of compliance with these requirements and failed to provide copies of the request before issuing the permits as required by law

Attachments (4)

(1) News of sale
(2) Copies of ZA permits
(3) ZC Statement
(4) NCPC Statement

GW buys contractors' building for $15 million

By DOUGLAS FRUEHLING
Managing Editor

George Washington University has bought the Associated General Contractors building and plans to build a new residence hall.

AGC, a construction industry trade organization, sold the 30,149-square-foot structure a block from the American Red Cross building for $15 million. The association plans to move into leased space at the Carlyle development in Alexandria Aug. 16.

The university will demolish the four-story building and 80-car garage before year-end to make way for the dorm.

"Our biggest complaints from the neighborhood is students housed off campus," said GW spokeswoman Barbara Porter. "This obviously answers that complaint."

The university has not determined the building's size or number of rooms it will contain. The architect and completion date were not available.

The new building also will contain GW administrative offices.

This is the second major residential project planned by the school. GW also recently paid $19 million for the 193-room Howard Johnson Premier Hotel next to the Watergate complex and plans to convert it into a dorm.

AGC built its headquarters in 1958 and has occupied it since. The group, which represents 33,000 companies, put the aging property on the market last year.

"It was going to need a lot of work," said AGC spokesman Dennis Day.

AGC considered redeveloping the site itself or finding a partner with which to undertake the project.

Richard Nixon, who was vice president of the United States at the time, helped dedicate the building, which features a time capsule to be opened at AGC's annual convention in Seattle next March.

The group signed a five-year lease for its new office at 333 John Carlyle St. It plans to move to a new headquarters location when the lease expires.

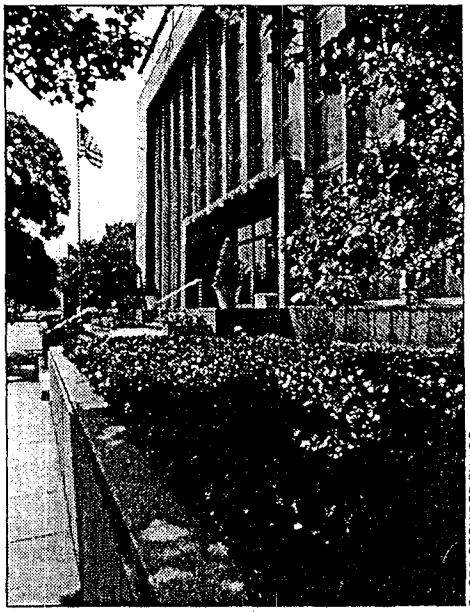


PHOTO PROVIDED BY AGC

George Washington University will demolish the Associated General Contractors building at 1957 E St. NW to build a new student dorm.

Sold June 23, 1999
AGC Is Gwu

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B433764

PERMIT

Date 12/13/00 (Type) MISC.

Address of work 1957 E STREET NW

Lot 835 Square 122

Permission is hereby granted to

GEORGE WASHINGTON UNIVERSITY

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

INSTALL TEMPORARY CONSTRUCTION FENCE ON THE ALREADY TEMPORARILY CLOSED SIDEWAL AND PUBLIC ROADWAY. ISNTALL THREE CONSTRUCTION TRAILERS ON THE ALREADY CLOSED SIDEWALK AS PER PLANS.

TOTAL PERMIT FEE $

FILING FEE $

(Owner) NO. DATE

FEE PAYABLE $ 100.00

FOR INSPECTIONS CALL [illegible] 442-4641

Builder—

Width of Bldgs. Length Height

Zone SP2

Height of terrace above grade

Address of owner 2025 E STREET NW

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER 32301

DIRECTOR

Value $ No. of Bldgs.

No. of Stories 6

To be occupied as NEW BUILDING

Projections:

Chief, Permit Issuance Branch

Permit Clerk

Reg# 134382 12/13/00 at 14:39 Clk# 11
EB220001 Storage 0001 DISTRICT GOVERNMENT
BUILDING STRUCTURE & EQUI

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B434029

PERMIT

Date 12/28/00 (Type) MISC./AFTER HOURS

Address of work 1957 E STREET N.W.

Lot 835 Square 122

Permission is hereby granted to

GEORGE WASHINGTON UNIVERSITY

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

PERMISSION TO WORK AFTER HOUR TO TV THE SEWER LINE. CAMERA WORK ONLY! 7 PM TO 7 AM. IF NOISE FROM MECHANICAL EQUIPMENT WILL EXCEED 60dB (A) AT THE PROPERTY LINE CONTACT THE DCRA AT 442-4322.

TOTAL PERMIT FEE $

FILING FEE $

(Owner) NO. DATE

FEE PAYABLE $ 25.00

FOR INSPECTIONS CALL [illegible] 442-4641

Builder—

Width of Bldgs. Length Height

Zone SP2

Height of terrace above grade

Address of owner 2025 F ST NW

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER 32301

DIRECTOR

Value $ No. of Bldgs.

No. of Stories 6

To be occupied as CONFERENCE CENTER

Projections:

Chief, Permit Issuance Branch

Permit Clerk

Reg# 136944 12/28/00 at 14:32 Clk# 28
EB220001 Storage 0001 DISTRICT GOVERNMENT
BUILDING STRUCTURE & EQUI

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGUL Y AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

PERMIT

BUILDING PERMIT

PERMIT NO. B434036

Date 12/28/00 (Type) NEW CONST/NEW BLDG.

Address of work 1957 E ST. N.W.

Lot 835 Square 122

Permission is hereby granted to
THE GEORGE WASHINGTON UNIVERSITY (Owner)
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

NO.

Authorized work and conditions of performance thereof:

TOTAL PERMIT FEE $72,875.00
FILING FEE $ 2,000.00
DATE
FEE PAYABLE $ 70,875.00

FOR INSPECTIONS CALL 727-7682

TO ERECT AN II STORY MULTI USE BUILDING ACADEMIC, RESIDENTIAL AND OFFICES. SEAPRATE ELECTRICAL, PLBG AND MECH. INSTALLATION PERMITS ARE REQUIRED. INSPECTION BRANCH 442-4641. 32301.

Builder—
Width of Bldgs. Length Height No. of Bldgs.
Zone C-3-C
Height of terrace above grade
Address of owner 2025 F ST. N.W.
Deposit No. Amount $

Value $ No. of Stories
To be occupied as ACADEMIC RESIDENTIAL AND OFF.
Projections:

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER
DIRECTOR

Chief, Permit Issuance Branch
D. MINOR
Permit Clerk

EB220012 J6609 Receipt# 142983 Amount $*70,875.00 01/30/01 10:55 Cl# 15 DTR/DCRA CASHIER OFFICE D.C. GOVERNMENT Store# 0001 BLD STRUCTURE & EQUI

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

PERMIT

BUILDING PERMIT

PERMIT NO. B434629

Date 1/29/01 (Type) MISC.

Address of work 1957 E STREET NW

Lot 29 Square 122

Permission is hereby granted to
CW UNIVERSITY (Owner)
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

NO.

Authorized work and conditions of performance thereof:

TOTAL PERMIT FEE $
FILING FEE $
DATE
FEE PAYABLE $ 1,000.00

FOR INSPECTIONS CALL [redacted] 442-4641

PROJECTION BEYOND BUILDING LINE CIRCUIT ARRAWAY.

Builder—
Width of Bldgs. Length Height No. of Bldgs.
Zone C3C
Height of terrace above grade
Address of owner 2025 F ST NW
Deposit No. Amount $

Value $ No. of Stories
To be occupied as DORM & ACADEMIC
Projections: 3 VAULTS (ARRAWAYS) 3 STAIRS, 2 ARRAWAYS

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER

DIRECTOR

Permit Clerk

EB220012215 Receipt# 142983 Amount $**1,000.00 01/30/01 9:03 Cl# 11 DTR/DCRA CASHIER OFFICE D.C. GOVERNMENT Store# 0001 BLD STRUCTURE & EQUI

32301

DOROTHY MILLER, VP
Columbia Plaza Tenants Association
2440 Virginia Avenue, NW
Washington, DC 20037

DISC
98 JAN 29 P2:00

January 29, 1998

Zoning Commission Case No. 97-7 (Text and Map Amendments - Updating the Special Purpose Zones, Part 2 - Map Amendments)

At the close of the hearing on January 5, 1998, the Zoning Commission kept the record open for responses to be received by the close of the business day of January 29, 1997. This is in response to the Statement on behalf of George Washington University (GWU) regarding Zoning Commission Case No. 97-7, SP Map Amendments filed by Wilkes, Artis, Hedrick & Lane.

In meetings with the community, the Office of Planning stated that the objectives of the proposed changes, in updating the SP-2 zones, were to stabilize the residential neighborhoods. SP-2, as suggested, does not stabilize housing, but allows housing to become non-profit offices. Case in point is what has happened in and around Dupont Circle since the SP-2 zoning for the stabilization of residential areas was instituted in the late 50's. Lawsuits brought by Dupont Circle Citizens Association in the 1970s sought to insure that housing was protected in SP zones. It failed in the courts and OP has <u>never</u> successfully rewritten the regulations to protect housing in SP zones. The special exception rules are so vague and nebulous that conversion from residential to non-profit is virtually assured in all cases.

The proposed rezoning by GWU is disastrous for securing housing for DC income tax-paying residents. Of the three Squares 58, 43 and 122 mentioned in the proposed recommendation by GWU, two are outside the campus boundary In the third Square 122, three of the five lots are **also** outside the campus boundary.. GWU states that it owns 43 percent of Square 122; 60 percent of Square 43 and 45 percent of Square 58. Ownership of land outside the campus boundary needs more protection from abuse by this oversized, aggressive, tax-exempt institution.

The BZA Order No. 14455, issued February 25, 1988 on page 3, No. 4 of this order states, "Square 43 and Lot 17 of Square 121 shall be removed from the campus boundary established by the Board in Order No. 10403, and, as amended by the foregoing, the campus boundaries shall be those depicted in Figure 1 of Exhibit 44." The University has aggressively purchased 30 of the 35 townhouses in Square 43 and then razed 16 of these houses. The University has bulldozed the land leaving heavy equipment and an ugly pile of dirt. The Board's intent in removing this square from the approved Camp Plan <u>has not</u> and <u>is not</u> working. In fact it opened the door for greater destruction of residential housing and further expansion by the

University outside the campus area. This Square must be rezoned from R-5-D to R-5-C or at a minimum to R-5-B if the residential housing is to be protected for those remaining houses that have not already been razed by GW.

Office of Planning recommends rezoning of Square 58 from R-5-E to R-5-C and the University concurs. Here, again the recommendations by OP carry the fingerprints of GWU. If the residential neighborhood is to have any protection at all, Square 58 must be rezoned from R-5-E to R-5-B to help the Foggy Bottom/West End neighborhood retain the character of a residential neighborhood and hold on to its citizens. The housing that has survived in Foggy Bottom is fully occupied. In contrast, I have learned from sources in the City Council that over 20% of the total housing units in the District of Columbia are vacant. Our neighborhood is highly desirable for housing. The Zoning Commission should value and protect this desirable urban neighborhood, as the Comprehensive Plan mandates, rather than continue to destroy it.

For Square 122, Office of Planning recommends rezoning from SP-2 to R-5-E. The same is true in Square 122 as in the previous cited Square 58. The zoning must be changed , but to R-5-B from SP-2. because the part of this Square not owned by GWU, faces away from the campus. This would give the three lots, not owned by the University, protection from being swallowed up by the University, and lost to the tax rolls and the community.

GW's claim that the denial of its suggested zoning would impede its expansion is disingenuous. It has recently acquired the 26 acres and buildings, of the Mt. Vernon College at 2100 Foxhall Road, NW. The phone there is answered, "George Washington University at Mt. Vernon College." Expansion of the University should be encouraged, as a matter of policy, at the new commodious site, and not at the expense of displacing DC income tax-paying residents..

The telling part of GWU's presentation appeared in its Conclusion. "Rezoning as advertised unnecessarily penalizes the University." "Unnecessarily" seems to indicate that GW feels penalized for land **outside** the Campus Plan, most of which it **does not own**. The statement of "Reduction of potential university housing opportunities..." seems to imply that GWU's future plans for campus housing will all be built **outside** the campus boundaries. This is completely contrary to the approved Campus Plan and the Comprehensive Plan. It is this type roughshod aggression of land use in the Foggy Bottom/West End Neighborhood by GWU, or the disastrous lack of enforcement of the BZA Order No. 14455, that has contributed to the continuing devastation of housing in Foggy Bottom.

In closing, I restate that SP-2 zoning gives no protection for residential housing. Instead it opens up residential housing to non-profit, i.e. university, use. The tax-base is needed and this desirable neighborhood must be saved. With the devastation of the Districts' planning department, citizens must rely on the Zoning Commission as their de facto planner. The citizens are counting on you to save Foggy Bottom from virtual destruction and future oblivion as a residential community. Is the Zoning Board listening and does it care?

cc: City Manager

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

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 (202) 659-0011

Re: Advisory Neighborhood Commission -2A Statement on Z.C. Case No. 97-7, Special Purpose Zones before the National Capitol Planning Commission, August 6, 1998

Good afternoon, Chairman Gantt and Members of the Commission:

I am Dorothy Miller, Chair of ANC-2A and today, I speaking for my Advisory Neighborhood Commission 2-A. I agree with the Commission's staff report that 97-7 should be returned to the Zoning Commission for further hearings not only for revisions of conideration for limitations and conditions applicable to chanceries but the failure of this modification of the zoning regulations to conform to the requirements of the Comprehensive plan as it relates to the residential area of the Foggy Bottom/West End community. (Maps attached of the area in question, as was, as recommended and as approved)

The destruction of the Nations's Capitol by the DC Zoning Office and the lack of an adequate Planning Office without the proper equipment to perform adequate planning for the Nation's Capitol, even if it had sufficient and trained personnel, is a disgrace. This distruction must be of Federal interest

The staff report states, "The Commission finds that the proposed amendments would adversely affect the federal establishment and other fedral interests in the National Capital and be inconsistent with the Comprehensive Plan..." I agree with this. The adverse impact of this text amendment by the Zoning Commission on the Nation's Capitol, that is inconsistent with the Comprehensive Plan, covers more than the concerns of the State Department and the Foreign Missions Act is not consistant with the Ward 2 Comprehensive Plan because it destablizes a residential neighborhood..

In meetings with the community, the Office of Planning stated that the objectives of the proposed changes, in updating the SP-2 zones, were to stabilize the residential neighborhoods. SP-2, as suggested, does not stabilize housing, but allows housing to become non-profit offices. Case in point is what has happened in and around Dupont Circle since the SP-2 zoning for the stabilization of residential areas was instituted in the late 50's. Lawsuits brought by Dupont Circle Citizens Association in the 1970s sought to insure that housing **was** protected in SP zones. It failed in the courts and OP has **never** successfully rewritten the regulations to protect housing in SP zones. The special exception rules are so vague and nebulous that conversion from residential to non-profit is virtually assured in all cases.

The Office of Planning's proposal for SP-2 zones in Foggy Bottom/West End was ignored by the Zoning Commission when GWU counter-proposed with the zoning it desired. The zoning proposed by GWU it is disastrous in securing housing for DC income tax-paying residents of Foggy Bottom/West End. The southern boundary of GWU's campus is the north side of F Street. Of the three Squares 58, 43 and 122 mentioned in the proposed recommendation by GWU, two are outside the campus boundary In the third Square 122, three of the five lots are **also** outside the campus boundary.. GWU states that it owns 43 percent of Square 122; 60 percent of Square 43 and 45 percent of Square 58. Ownership of land outside the campus boundary needs more protection from abuse by this oversized, aggressive, tax-exempt institution.

The BZA Order No. 14455, issued February 25, 1988 (a part of the Comprehensive Plan) page 3, No. 4 of this order states, "Square 43 and Lot 17 of Square 121 shall be removed from the campus boundary established by the Board in Order No. 10403, and, as amended by the foregoing, the campus boundaries shall be those depicted in Figure 1 of Exhibit 44." (Copy of maps attached showing area in question.

The University has aggressively purchased 30 of the 35 townhouses in Square 43 and then razed 16 of these houses. The University has bulldozed the land leaving heavy equipment and an ugly pile of dirt. The Board's intent in removing this square from the approved Camp Plan **has not** and **is not** working. In fact it opened the door for greater destruction of residential housing and further expansion by the University outside the campus area. This Square must be rezoned from R-5-D to R-5-C or at a minimum to R-5-B if the residential housing is to be protected for those remaining houses that have not already been razed by GW.

Office of Planning recommends rezoning of Square 58 from R-5-E to R-5-C and the University concurs. Here again, the recommendations by OP carry the fingerprints of GWU. If the residential neighborhood is to have any protection at all, Square 58, the PAHO building) must be rezoned from R-5-E to R-5-B to help the Foggy Bottom/West End neighborhood retain the character of a residential neighborhood and hold on to its citizens. The housing that has survived in Foggy Bottom is fully occupied. In contrast, I have learned from sources in the City Council that over 20% of the total housing units in the District of Columbia are vacant. Our neighborhood is highly desirable for housing. The Zoning Commission and the NCPC should value and protect this desirable urban neighborhood, as the Comprehensive Plan mandates, rather than continue to destroy it.

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Do send Case No. 97-7 (Text and Map Amendments - Updating the Special Purpose Zone, Part 2 - Map Amendments) back to the Zoning Commission with instructions to rewrite the rules for the SP Zones clear and consite language which is not misunderstood and can be enforced fairly for all, local as well as foreign. Thank you.