G

Board of Zoning Adjust
District of Columbia

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Appeal No. 16507 of Watergate West, Inc., pursuant to 11 DCMR 3105 and 3106 (now 3100.2 and 3101.5), from the administrative decision of Armando Lourenco, Acting Zoning Administrator, Department of Consumer and Regulatory Affairs in the issuance of an occupancy permit (No. 85776/024273) issued on July 28, 1999, to George Washington University for the use of a dormitory housing 388 beds as a matter-of-right without the need for a special exception in an R-5-E District at premises 2601 Virginia Avenue, N.W. (Square 6, Lot 825).

Hearing Date: November 10, 1999
Decision Date: December 1, 1999

ORDER

Findings of Fact:

1. The subject appeal was filed on August 2, 1999, by J. Edward Sheridan, Chairman of Ad Hoc Committee, on behalf of Watergate West, Inc. (the "appellant"). The appeal challenges the decision of Armando M. Lourenco, then the Acting Zoning Administrator, to approve the issuance of Certificate of Occupancy No. 185776 to the George Washington University to use the premises at 2601 Virginia Avenue, N.W., as a "dormitory – 388 beds."

2. The George Washington University (hereinafter referred to as GW or the University) is the owner of the subject building. Pursuant to §3399 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment, GW is a party to the appeal.

3. The appellant raised two essential issues which it asserts constitute error on the part of the Acting Zoning Administrator and which are the bases on which it argues that the certificate of occupancy should be revoked. First, University use is not permitted in a residential district as a matter-of-right and, therefore, approval from the Board of Zoning Adjustment (BZA) should have been required before the certificate of occupancy was issued. Second, the Acting Zoning Administrator should have determined that use as a dormitory is not consistent with the Comprehensive Plan.

4. As to the first basis, that approval from the BZA was required, the appellant argued that:

A. The Zoning Regulations do not permit a "university" use as a matter-of-right in a residential district and that a special exception is required for such a use under §210.

B. A campus plan is required for a university use, the BZA has approved a campus plan for GW and the subject property is not included within the boundaries of the approved campus plan.

C. Use of the subject property as a dormitory is a de facto expansion of the campus plan boundaries.

D. Approval of the BZA is required for a dormitory within the campus boundaries and it does not make sense for the Zoning Administrator to allow a dormitory outside the campus boundary without BZA approval.

E. A rational reading of the Zoning Regulations would not include a university dormitory within the term "dormitory" permitted as a matter-of-right.

5. As to the second basis, that the Zoning Administrator should have determined that the proposed use was not consistent with the Comprehensive Plan, the appellant argued as follows:
   A. The Comprehensive Plan (§112.6(c)) requires the Zoning Administrator and the BZA to evaluate a proposed certificate of occupancy in conjunction with the applicable sections of the Comprehensive Plan.

   B. The Comprehensive Plan recognizes the deleterious effects of housing large numbers of GW students in residential areas outside the campus plan boundaries.

   C. The Comprehensive Plan has a policy that GW should provide housing for its students within the current campus plan boundaries and that GW should stop converting buildings outside the campus boundaries to dormitories.

   D. Therefore, the Zoning Administrator should have concluded that conversion of the subject property to a dormitory was inconsistent with the Comprehensive Plan and he should not have approved the certificate of occupancy.

6. Armando Lourenco, the Acting Zoning Administrator at the time the certificate of occupancy was issued, appeared and testified at the hearing on the appeal. He stated that he approved the certificate of occupancy for the following reasons:
   A. A dormitory is a use permitted as a matter-of-right in an R-5 District and the proposed use was consistent with the definition of a dormitory as found in the dictionary.

   B. A university campus plan only applies to property within the campus boundaries.

C. GW must follow the same zoning requirements as apply to any other property owner, including the provision of off-street parking.

D. The provisions of the Comprehensive Plan were considered and they led to the conclusion that the proposed use was consistent with the Plan.

7. As to the issue of whether BZA approval was required, GW argued that the Zoning Administrator properly interpreted and applied the Zoning Regulations for the following reasons:

A. The structure and plain language of the Regulations make it clear that approval from the BZA is not required for the proposed use at the subject location. A college or university use is first permitted in an R-1 District as a special exception under §210, as follows:

> "Use as a college or university that is an academic institution of higher learning, including college or university hospital, dormitory, fraternity, or sorority house *proposed to be located on the campus* of a college or university ..." (emphasis added)

The statement of uses permitted within the "college or university" use category includes, by example, enumerated uses that are not otherwise permitted in an R-1 District and any such use would therefore require BZA approval.

B. The structure of the Zoning Regulations is such that the zone districts are generally cumulative, from the most restrictive to the least restrictive, with all uses permitted in a given zone generally incorporated into and permitted within the next less restrictive zone. Uses which are permitted as special exceptions in more restrictive zones often are permitted as a matter-of-right in less restrictive zones. The import of the cumulative nature of the Regulations is that a use which might be deemed to be a college or university use and therefore requires BZA approval in a more restrictive zone eventually becomes a use which is permitted as a matter-of-right and does not require a special exception in a less restrictive zone.

C. Under §330.5(g) of the Regulations, a "private club, lodge, fraternity house, sorority house or dormitory, except when the use is a service customarily carried on as a business" is a use permitted as a matter-of-right in an R-4 District. Under §350.4, all those uses permitted in the R-4 District are permitted in an R-5 District as a matter-of-right. A dormitory is therefore permitted as a matter-of-right in an R-5-E District.

D. The requirements of §210 clearly apply only to dormitories on the campus of a college or university. Inclusion within the campus boundaries contains other implications, including the ability to aggregate the FAR with other property within the campus and to satisfy the parking requirements on a campus-wide basis. Since the subject property is not within the approved boundary of the GW Foggy Bottom campus, the proposed use must stand on its own in terms of satisfying all zoning requirements. However, BZA approval is not needed for a use that is specifically provided for as a matter-of-right.

E. The Court of Appeals upheld the proposition that the Zoning Administrator and the BZA must follow the Zoning Regulations in *Spring Valley Wesley Heights Citizens Association, et al. v. District of Columbia Board of Zoning Adjustment*, 644 A.2d 434 (D.C. App. 1994), upholding the BZA's decision that it was without authority to proscribe a use permitted as a matter-of-right:

> "If the BZA were to attempt to proscribe such matter-of-right use, it would be exercising powers reserved to the Zoning Commission. Under these circumstances, the BZA reasonably concluded that it lacked authority to prohibit the University from acquiring the property for the purpose of using it as a law school." (footnotes omitted)

F. Zoning regulates use, not ownership. A private party unassociated with the University may, as a matter-of-right, construct and/or operate a dormitory in the subject property and lease beds in that dormitory in whole or in part to GW students. If that use is permitted for a private party, then it is impossible to read the Regulations in a way that would deny the University the right to institute a use permitted for any other person.

G. The consistent policy and interpretation of the Zoning Regulations over many years has been to allow use of property in R-5 and SP Districts by colleges and universities for residential uses otherwise permitted in those zones as a matter-of-right and without requiring BZA approval, including the buildings at 3700 Massachusetts Avenue, N.W. (Alban Towers), 1239 Vermont Avenue, N.W. (former Eton Towers), 2601 16th Street, N.W. (former Meridian Hill Hotel), 1230 13th Street, N.W. (Sutton Plaza), 2201 Virginia Avenue, N.W. (Riverside Towers) and 2100 F Street, N.W. (The Dakota). For each of these buildings, a certificate of occupancy had been issued to a private party before the university acquired the property. A subsequent certificate of occupancy for the same use was issued to the university. In the case of the Meridian Hill Hotel, a subsequent certificate of occupancy was issued to the university for another permitted residential use. In none of these cases was approval from the BZA required.

H. The appellant's citation to *George Washington University v. District of Columbia Board of Zoning Adjustment*, 429 A.2d 1342 (D.C. App. 1981) does not stand for the proposition that the subject dormitory use is not a proper R-5-E use. The Court expressly noted that the case presented two principal questions:

> "(1) whether the Board of Zoning Adjustment (BZA or the Board) properly concluded that the intervenor has not abandoned his right to nonconforming use of his property, and (2) whether the Board erred in failing to take specific account of the effect of the proposed change in nonconforming use from a clothing store to a restaurant on the campus plan of George Washington University (GWU or the University)."

The Court specifically ruled that the BZA had properly considered, interpreted and applied the change of nonconforming use provisions then set forth in Article 71 of the Zoning Regulations and whether the University's campus plan was binding upon property not owned by the University. The Court was not asked to consider and did

not rule upon whether the University was able to construct a permitted dormitory use outside its campus boundaries.

I. Likewise, *Steve Levy, et al. v. District of Columbia Board of Zoning Adjustment*, 570 A.2d 739 (D.C. App. 1990), was not a case about whether the University was able to construct a permitted dormitory use outside its campus boundaries. *Levy* was a challenge to the BZA's approval of GW's campus plan. The Court's citations to the Zoning Regulations regarding college or university uses can in no way be construed to read that the Court was precluding a university from operating and occupying a building with a residential use otherwise permitted in the zone district applicable to the property. In fact, the Court noted the University's argument that the BZA could not set conditions more restrictive than the Zoning Regulations impose and that the "The University has a number of off-campus uses which exist as a matter of right in non-commercial districts." *Levy, supra*, at 753.

8. As to the issue that the Zoning Administrator should have considered and taken into account the Comprehensive Plan in approving the certificate of occupancy, GW argued as follows:
   A. The Zoning Administrator is required to interpret and apply the Zoning Regulations. The Zoning Administrator may not use the Comprehensive Plan to interpret the Zoning Regulations in a manner which is inconsistent with the plain meaning of the Regulations. It is the Zoning Commission which has the responsibility and authority under the Zoning Act to make the Zoning Regulations "not inconsistent with the Comprehensive Plan." See *Tenley and Cleveland Park Emergency Committee, et al. v. District of Columbia Board of Zoning Adjustment*, 550 A.2d 331 (D.C. App. 1988). The Court ruled that "the Zoning Commission is the exclusive agency vested with responsibility for assuring that the zoning regulations are not inconsistent with the Comprehensive Plan."

   B. The Court's ruling in *TACPEC, supra*, confirms the specific language of the Comprehensive Plan still in effect. In 10 DCMR 112.3, the Plan currently provides that "the District elements of the Plan are a guide intended to establish broad policies and goals while affording flexibility for future implementation *and are not binding policy directives.*" (emphasis added)

   C. The Court reaffirmed *TACPEC* in a case decided after §112 was added to the Comprehensive Plan. The Comprehensive Plan Amendments Act of 1994 was enacted by the Council on December 1, 1994, was signed by the Mayor on December 27, 1994 and became effective on March 21, 1995. On May 15, 1995, the Court decided *Kindy French, et al. v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023 (D.C. App. 1995) in which the Court cited its opinion in *TACPEC* that "the Zoning Commission is the exclusive agency vested with the responsibility for assuring that the Zoning Regulations are not inconsistent with the Comprehensive Plan." The Court went on to restate that "The Board's limited function is to assure that the Regulations adopted by the Commission are followed; it has no authority to implement the Comprehensive Plan." The Court

also followed *TACPEC* in *Spring Valley*, also decided after the Comprehensive Plan was amended.

D. If the appellant's argument is sustained, the Zoning Administrator and/or the BZA would effectively be amending the Zoning Regulations to change the circumstances under which a matter-of-right use is permitted, a power which is expressly reserved under the Zoning Act to the Zoning Commission.

E. Notwithstanding that the Comprehensive Plan cannot be applied by the Zoning Administrator in a manner inconsistent with the plain meaning of the Zoning Regulations, the various Plan provisions cited by the appellant do not make the case that the proposed use is inconsistent with the Plan. The previous use of the subject property was a hotel. It has been converted from a transient accommodation to a dormitory housing GW undergraduate students for an academic year. The Plan provisions cited by the appellant generally speak to the loss of housing stock and problems associated with insufficient parking.

F. The subject property was built as and continually used as a hotel, not an apartment house or other permanent housing accommodation. No residential units were lost by the issuance of the certificate of occupancy.

G. The Acting Zoning Administrator determined that the subject building met all of the requirements of the Zoning Regulations, including those related to off-street parking and loading, before the certificate of occupancy was issued.

9. Advisory Neighborhood Commission 2A, by report dated October 20, 1999, advised the BZA that it recommended that the appeal be granted. . As the basis for that recommendation, the ANC argued that:
   A. University use is not permitted in a residential district as a matter-of-right and, therefore, approval from the Board of Zoning Adjustment (BZA) should have been required before the certificate of occupancy was issued; and

   B. The Acting Zoning Administrator should have determined that use as a dormitory is not consistent with the Comprehensive Plan.

   As set forth in the ANC's resolution, these arguments are virtually word-for-word the same arguments made by the appellant. The only additional comment made by the ANC which goes beyond the appellant's statement is that the ANC has a long-standing policy and goal that GW should provide housing for all undergraduate students within the boundaries of the current campus plan.

10. As to the issues raised by the appellant and the ANC, the Board finds as follows:
    A. The Zoning Regulations permit a dormitory as a matter-of-right in an R-5 District. For all the reasons cited by the Zoning Administrator and GW, approval from the BZA is not required as a college or university use if the premises is to be used for a use otherwise permitted as a matter-of-right in the particular zone.

B. The provisions of the Comprehensive Plan do not lead to the conclusion that a university dormitory should not be permitted on the subject site. The BZA concurs with the rationale cited by the Zoning Administrator and GW and notes that the property had been used as a transient housing accommodation since it was constructed. The BZA further notes that the Zoning Administrator required all of the requirements of the Zoning Regulations to be satisfied on this site, including the provision of the required number of off-street parking spaces and loading berths.

C. As to the ANC's policy that GW should house all its undergraduate students on campus, such a policy is not part of any approved plan or Zoning Regulation. GW has constructed a new dormitory on campus, and has made housing available to its students in property it owns both on and off campus. No other college or university in the District of Columbia is required to house all of its undergraduates on campus.

Conclusions of Law and Opinion:

In considering an application for a certificate of occupancy, the Zoning Administrator is required to determine whether the proposed use meets the requirements of the Zoning Regulations. The BZA concludes that a dormitory is a use expressly permitted by the Regulations as a matter-of-right in an R-5-E District and that the Zoning Administrator correctly applied the Regulations in making the decision to approve the certificate of occupancy. The Regulations specifically require BZA approval for a dormitory on a campus, but the reach of §210 does not extend beyond a campus to a use otherwise permitted. In so concluding, the BZA notes that some of the complementing provisions of the regulations (the ability to aggregate FAR or to satisfy parking on a campus-wide basis) also do not extend to property not on the campus.

The BZA also notes the long-standing and consistent interpretation of the Regulations to allow a university to operate a dormitory or apartment house in a residential district without BZA approval as a special exception. The BZA concludes that if the Zoning Administrator had reached a different conclusion for the subject property without any change in the Regulations, such a decision would have been arbitrary and capricious.

As to the issue of consistency with the Comprehensive Plan, the BZA concludes that the Court of Appeals decision in *Tenley and Cleveland Park Emergency Committee, et al. v. District of Columbia Board of Zoning Adjustment* still controls as to the Comprehensive Plan not being a self-executing document. The Zoning Commission is the body having exclusive jurisdiction over amendments to the Zoning Regulations. It would be improper for the Zoning Administrator to read the Comprehensive Plan to require an action not provided for in the Zoning Regulations.

The appellant's argument that the Comprehensive Plan was amended after *TACPEC* is not persuasive. The section interpreted by the Court in 1988 is still part of the Comprehensive Plan and the Board notes that the Court has cited *TACPEC* in decisions made after the Plan was amended. The Board also notes that §112.1 of the Plan specifies the intent to broadly interpret the District elements. The Plan requires the Zoning Administrator to evaluate an application for a certificate of occupancy in conjunction with the Plan, but §112.6(c) does not give the Administrator the authority to override the plain language of the Zoning Regulations.

The Zoning Administrator testified, however, that he took the Comprehensive Plan into account in approving the proposed use. His determination that the dormitory was consistent with the Plan is a reasonable interpretation of the intent of the Plan, which addresses generally the pressure on the housing stock occasioned by conversions to dormitories. The Zoning Administrator's conclusion that the use was consistent with the Plan also squared with the application of the Zoning Regulations.

The Board concludes that it has accorded to ANC 2A the great weight to which it is entitled under the statute. In addressing the issues raised by the appellant, the Board has also addressed the ANC's issues, since the ANC's resolution was virtually identical to the appellant's statement. Additionally the Board concludes that it is outside its authority in this proceeding to establish a policy to house all undergraduates on campus as a new requirement applicable to GW.

The Board concludes that the issuance of a certificate of occupancy for a dormitory on the subject property was appropriate for a residential use permitted as a matter-of-right in an R-5-E District, which is the highest intensity, least restrictive residential district. The Acting Zoning Administrator properly applied the Zoning Regulations in accordance with the language of the Regulations and consistent with past precedents of the District of Columbia, in determining that the proposed use was permitted without approval of the Board of Zoning Adjustment. The provisions of the Comprehensive Plan are not self-executing and the Zoning Administrator is without authority to apply the Regulations in a different manner than they are adopted by the Zoning Commission. In any event, the Board concludes that the appellants have not demonstrated that the conversion of a hotel to a dormitory is inconsistent with the Comprehensive Plan.

In consideration of the above findings of fact and conclusions of law, it is therefore hereby **ORDERED** that the appeal is **DENIED** and the decision of the Acting Zoning Administrator to issue certificate of occupancy No. 185776 is upheld.

Vote: 3-1 (Jerry Gilreath, Kwasi Holman and Sheila Cross Reid to deny the appeal and uphold the decision of the Zoning Administrator, Robert Sockwell opposed to the motion)

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

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
DIRECTOR

Final date of order: FEB 11 2000

UNDER 11 DCMR 3103.1 (NOW 3125.9), "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPEAL NO.: 16507

As Director of the Office of Zoning, I certify and attest that on FEB 11 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Armando Lourenco (for DCRA)
941 North Capitol Street, NE, Suite 2200
Washington, D.C. 20002

Steven E. Sher, Esquire
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W. Suite 1100
Washington, D.C. 20006

Mr. J. Edward Sheridan, Chairman of Ad Hoc Committee
2700 Virginia Avenue, N.W.
Washington, D.C. 20037

Barbara Spillinger, Chairperson
Advisory Neighborhood Commission 2A
St. Mary's Court
725 24th Street, N.W.
Washington, D.C. 20037

Michael D. Johnson, Zoning Administrator
DCRA/BLRA
941 North Capitol Street, N.E., Suite 2112
Washington, D.C. 20002

Attested by: _____
JERRILY R. KRESS, FAIA
Director

Date: FEB 11 2000

Attest/Appeal #16507/1-14-00/poh

H

DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINISTRATION

BUILDING PERMIT APPLICATION SUPPLEMENTAL FORM - ENVIRONMENTAL QUESTIONNAIRE

PROJECT ADDRESS: 1957 E ST, NW LOT 835 SQUARE 122

Note: please answer all 10 questions in this questionnaire, by checking either column "Yes" or "No" for each question. If you answer "Yes" to any of the questions, you should contact the corresponding office(s) indicated in column 'contact person/office', as soon as possible. Until this application is reviewed and approved by the concerned office(s), the permit will not be issued.

SCOPE OF PROJECT	YES	NO	CONTACT PERSON/OFFICE	OFFICE USE
1. Does the total cost of the project exceed $1 million? This does not apply if project is for internal (tenant space) renovation only and there will be no change in the use of the building.	X		(202) 645-6617, EIS Coordinator, EHA	
2. Will the work to be performed involve the installation, removal, abandonment, or repair of an underground storage tank (UST) system?		X	(202) 645-6080, Underground Storage Tank Division, EHA	
3. Will the work to be performed involve the assessment Or clean-up of soils associated with the release of materials from an underground storage tank (UST)?		X	(202) 645-6080, Underground Storage Tank Division, EHA (202) 645-6093, Air Quality Division, EHA	
4. Will the work to be performed involve the assessment or clean-up of groundwater associated with the release of materials from an underground storage tank (UST)?		X	(202) 645-6080, Underground Storage Tank Division, EHA (202) 645-6093, Air Quality Division, EHA (202) 645-6601, Water Quality Division, EHA	
5. Will the proposed project involve the installation or drilling of wells other than for the purposes stated in questions 3 and 4?		X	(202) 645-6601, Water Quality Division, EHA (202) 645-6093, Air Quality Division, EHA	
6. Will the proposed project involve the generation, treatment, storage, disposal or transportation of chemicals or other substances which may be considered hazardous?		X	(202) 645-6080, Hazardous Waste Division, EHA	
7. Will the proposed project involve construction which will disturb the sediment in rivers, streams or wetlands?		X	(202) 645-6601, Water Quality Division, EHA	
8. Will the proposed use involve the construction of a facility for the handling, transfer, storage, disposal or treatment of solid waste, medical waste, or recyclable materials?		X	(202) 645-6617, EIS Coordinator, EHA	
9. Will the proposed project result in the discharge into the air of gases, dust, or the creation of any objectionable odors?		X	(202) 645-6093, Air Quality Division, EHA	
10. Will the proposed project involve the removal, handling, transportation, disposal, or encapsulation of asbestos?		X	(202) 645 – 6093, Air Quality Division, EHA	

AFFIDAVIT

I hereby certify that I have the authority of the owner of the property to make this application. I declare that the answers to the above questions in this Questionnaire are complete and correct to the best of my knowledge.

Signature_____ Name (print)_____

Address_____ Date _____ Phone _____

OFFICE USE ONLY

EHA APPROVAL BY _____ NAME (Print)_____

CONTACT NUMBER : (202)_____ DATE: _____

COMMENTS AND PERMIT RESTRICTIONS:_____



Government of the District of Columbia
Department of Health

Environmental Health Administration

MEMORANDUM

TO: Denzil Noble, Acting Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
C/o Lorraine Bennett or Marquette Johnson

FROM: Jim Granger
Environmental Review Coordinator
DOH

DATE: 10/20/00

SUBJECT: Environmental Review for GWU Residential/Educational Building
1957 E Street, NW. EHA Control Number 00-0025

The Environmental Health Administration of this department has completed its review of the Environmental Impact Screening Form (EISF) for the proposed athletic fields at 2100 Foxhall Road, NW.

Based on our review, we have determined that there will be no significant adverse environmental impacts from the proposed project in our areas of responsibility, which include Air Quality, Surface and Ground Water Quality, Storm Water Management, Sediment and Erosion Control, Hazardous Waste Management, Toxic Substances Control and Underground Storage Tanks. Therefore, it is our recommendation that for areas under the jurisdiction of the Environmental Health Administration, an Environmental Impact Statement (EIS) will not be required for this project.

Our review indicates that one 500-gallon diesel underground storage tank (UST) for an emergency generator was removed in December 1998. A Leaking Underground Storage Tank (LUST) case was opened in June 1993 and closed in July 1993. Currently there is no UST or LUST case for the site.

An environmental site assessment during construction will reveal any unknown or buried tanks and other subsurface conditions. Please be advised that during all construction activities, the excavated soil must be screened in the field to determine its petroleum contamination. If the

sample(s) test results indicate greater than 100 PPM Total Petroleum Hydrocarbons (TPH) or a total of 10 PPM of benzene, toluene, ethylbenzene and xylenes (BTEX), or is above established disposal criteria for volatile organic compounds (VOC)-impacted soil, the soil must be shipped to an approved off-site treatment facility. Any contaminated groundwater extracted during the dewatering stage must be treated according to the District's water discharge standards. A pretreatment discharge permit must be obtained from the D.C. Water and Sewer Authority (WASA) prior to discharge to any sanitary or combined sewer. Any issues related to USTs have to be addressed as required under Title 20 DCMR Chapters 55 through 70. Any questions about USTs should be referred to Dr. V. Sreenivas at (202) 535-2525.

Attachment

cc: Doreen Thompson, OECEJ

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health
Environmental Health Administration

Watershed Protection Division

MEMORANDUM

TO: James Sweeney, EIS Coordinator
Hazardous Waste Division

FROM: Hamid Karimi, Program Manager

DATE: October 4, 2000

SUBJECT: Comments on EISF Review Pertaining to EHA LOG # 00-00025
1957 E Street, N.W., Washington, D.C.; LOT #s 835; SQUARE #s 122;
George Washington University - Residential/Educational Building

The Watershed Protection Division is providing the following comments as a response to your request for an EISF review of the above project :

The site for this project is located on E street, between 19th and 20th streets, N.W. Proposed improvements to the site include site preparation and demolition of existing structures for the future construction of a student dormitory and a classroom building. The current design includes provisions for controlling storm water runoff by utilizing two sand filter water quality structures capable of handling runoff from the 30,000 square feet impervious area. Appropriate sediment control measures are also included in the design with provisions for dewatering should groundwater be encountered during excavation. We have reviewed approvable plans for the above project, and based on our review, we see no significant environmental impact in our area of concern. Therefore, in our view an EIS should not be required for the project. Furthermore, implementation of the sediment control and storm water management systems proposed for the project should be sufficient to mitigate any environmental impact associated with surface runoff, erosion and sedimentation during construction as well as post construction.

Please, contact Mr. Timothy KariKari of my staff on (202) 535 - 2240 or 2248 if you have any questions about this matter.

Thank you.

Government of the District of Columbia
Department of Health
Environmental Health Administration

Bureau of Hazardous Material & Toxic Substances

Hazardous Waste Division

MEMORANDUM

TO: Site File
EHA Log # 00-00025

FROM: James P. Sweeney, Acting Program Manager
Hazardous Waste Division

DATE: September 22, 2000

SUBJECT: EISF Review
GWU – Residential/Educational Building
1957 S Street, NW
EHA Log Number 00-00025

We have reviewed the Environmental Impact Screening Form (EISF) for the George Washington University Residential/Educational Building, located at 1957 S Street, NW. We have determined that since there are no hazardous substance issues associated with the project, there will be no significant adverse environmental impact in the areas of interest to the Hazardous Waste Division.

Therefore, the BHMTS does not recommend that an Environmental Impact Statement be required for this project.

JPS/js

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health, Environmental Health Administration

Office of the Program Manager



MEMORANDUM

TO: James Granger
Environmental Review Coordinator,
Office of Enforcement, Compliance and Environmental Justice

THROUGH: Jerusalem Bekele
Program Manager, Water Quality Division

FROM: Diane Douglas
Environmental Specialist, Water Quality Division

DATE: October 19, 2000

SUBJECT: GWU 1957 E Street, NW - EISF No. 00-00025 revised

The Water Quality Division (WQD) has reviewed the abovementioned Environmental Impact Screening Form (EISF). Based on the information contained in this EISF, additional information from George Washington University to the Environmental Health Administration (EHA) and other in-house documents, the WQD has the attached comments.

(c) The action might significantly deplete or degrade ground water resources;

(d) The action might significantly interfere with groundwater recharge.

(l) The action might cause significant adverse change in the existing surface water quality or quantity.

Ground Water

The following addresses Section 7201.1(c) and (d) of the Environmental Policy Act regulations.

It is noted on the EISF (Part1.B.1) that the average and maximum depths of excavation will be 45 feet and 60 feet respectively. These depths place the sub-basement below the ground water table. According to SEA (Facsimile Transmission, 2000), "...a pump capacity of about 25 gallons per minute should be initially selected" with adjustments made to the size of the pump as required. This initial recommended pump capacity suggests that dewatering at the site will only have a small to moderate impact on ground water flow in the vicinity of the project site.

The responses to Part 1.B.17, 18, 21, and 22 of the EISF indicate that contaminants will not be generated or used at the site. In addition, there are no known sources of contaminants in the vicinity. As a result, no substantial impact is anticipated to ground water quality.

The EISF incorrectly states that the percent of pervious area before construction at the project site is 100 percent (Part 1.A.1b). However, according to a GWU representative (Personal Communication, 2000) no pervious area will be lost. Therefore, the proposed project is not expected to significantly interfere with ground water recharge.

Surface Water

The following addresses Section (l) of the Environmental Policy Act regulations.

The nearest downgradient surface water body is several miles away. Therefore, this project is not anticipated to have an impact on surface water quantity or quality.

(c) The action might significantly deplete or degrade ground water resources;

(d) The action might significantly interfere with groundwater recharge.

(l) The action might cause significant adverse change in the existing surface water quality or quantity.

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It is noted on the EISF (Part1.B.1) that the average and maximum depths of excavation will be 45 feet and 60 feet respectively. These depths place the sub-basement below the ground water table. According to SEA (Facsimile Transmission, 2000), "...a pump capacity of about 25 gallons per minute should be initially selected" with adjustments made to the size of the pump as required. This initial recommended pump capacity suggests that dewatering at the site will only have a small to moderate impact on ground water flow in the vicinity of the project site.

The responses to Part 1.B.17, 18, 21, and 22 of the EISF indicate that contaminants will not be generated or used at the site. In addition, there are no known sources of contaminants in the vicinity. As a result, no substantial impact is anticipated to ground water quality.

The EISF incorrectly states that the percent of pervious area before construction at the project site is 100 percent (Part 1.A.1b). However, according to a GWU representative (Personal Communication, 2000) no pervious area will be lost. Therefore, the proposed project is not expected to significantly interfere with ground water recharge.

Surface Water

The following addresses Section (l) of the Environmental Policy Act regulations.

The nearest downgradient surface water body is several miles away. Therefore, this project is not anticipated to have an impact on surface water quantity or quality.

Government of the District of Columbia
Department of Health
Environmental Health Administration

Bureau of Hazardous Material & Toxic Substances

Toxic Substance Division

MEMORANDUM

TO : James Sweeney
Environmental Review Coordinator

FROM : Mark A. Greenleaf, Program Manager
Toxic Substance Division

DATE : September 8, 2000

SUBJECT : **EISF Review**
George Washington University
Residential/Educational Building
1957 E Street, NW
EHA Log Number: 00-00025

We have reviewed the Environmental Impact Screening Form (EISF) for the proposed George Washington University Residential/Educational Building, 1957 E Street, NW. We have determined that based upon the plan submitted, there is no indication that adverse environmental impacts would occur in the areas of interest to the Toxic Substance Division based upon the following:

- No species of plant or animals were identified as threatened or endangered and therefore would not be affected if there were any releases of pesticides.
- There are no reported effects of pesticides to public health and safety originating from this site where pesticides may have been applied according to label directions.
- Pesticide products will not be applied at this site as part of the project according to the information provided.

Therefore, the Division does not recommend that an Environmental Impact Statement be required for this project.

MAG/gh
eisf-00-00025

51 N Street, NE, Third Floor, Washington, DC 20002 Tel: (202) 535-2299 Fax: (202) 535-1425

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health
Environmental Health Administration

Underground Storage Tank Division

MEMORANDUM

To: Mr. Jim Sweeny
EIS Coordinator

From: Dr. V. Sreenivas
UST/LUST Division

Date: September 1, 2000

Re: George Washington University Residential/Educational Bldg. – 1957 S Street, NW

This memo is in regards to the Environmental Impact Screening (EIS) of the George Washington University's Residential/Educational Building. Based on our database search, a 500-gallon diesel UST for an emergency generator was removed in December 1998. A Leaking Underground Storage Tank (LUST) case was opened in June 1993 and closed in July 1993. Currently, there is no UST or LUST case for the site.

The existing USTs on the site should be managed and operated in accordance with all applicable District and federal regulations. However, an environmental site assessment will reveal the unknown or buried tanks and other subsurface conditions. Please be advised that during all construction activities, the excavated soil must be screened in the field to determine its petroleum contamination. If the sample(s) test results indicate greater than 100 ppm Total Petroleum Hydrocarbon (TPH) or total of 10 ppm of benzene, toluene, ethylbenzene and xylenes (BTEX), or is above established disposal criterion for volatile organic compound (VOC) - impacted soil, the soil must be shipped to an approved off-site treatment facility. Any contaminated groundwater extracted during the dewatering stage must be treated according to the District's water discharge standards. A pretreatment discharge permit must be obtained from the D.C. Water and Sewer Authority (WASA) prior to discharge to any sanitary or combined sewer. Please contact this office for further guidance.

However, any issue related to USTs has to be addressed as required under Title 20 DCMR Chapters 55 thru' 70. Since EIS is not based on just one program, UST will give its input assisting in overall EIS approval programs. Please do not hesitate to call this office at (202) 535-2525 for any concerns or issues related to UST/LUST.

cc: Dr. Lynette Stokes, Bureau Chief

G:\ENF\UST\TSS\jsm

ON LOG
Recd 10/17

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINISTRATION
BUREAU OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
51 N Street, N.E., 5th Floor
Washington, D.C. 20002-3323

10/17/00

MEMO TO: James Granger

FROM: Donald E. Wambsgans II
Program Manager

SUBJECT: EISF #00-025-GWU Residential Education Building

This is to respond to your August 25th request to review Environmental Impact Screening Form (EISF) #00-025, regarding the proposed residential education building at GWU at 1957 E Street, N.W.

Based on our review of the EISF, we have determined that an environmental impact statement will not be necessary and that further information will not be needed for air quality purposes, provided that the proposed action is as described in the application.

In addition, the construction or operation of incineration facilities in the District of Columbia is prohibited pursuant to §602.5 of Title 20 of the District of Columbia Municipal Regulations.

If we can be of further assistance, please call.

Read 10/16/00

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Health, Environmental Health Administration

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Fisheries and Wildlife Division

[redacted]

MEMORANDUM

TO: Jim Granger
Environmental Review Coordinator

FROM: Ira F. Palmer, Program Manager
Fisheries and Wildlife Division

DATE: October 13, 2000

SUBJECT: Comments on EISF Review Pertaining to EHA LOG #00-00025
1957 E Street, N.W., Washington, D.C. Lot #s 835; SQUARE #s 122;
George Washington University -Residential/Educational Building

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The following is a review of the EHA LOG #00-00025 1957 E Street, NW Washington, DC George Washington University - Residential/Educational Building for:

Section 7201.2 (h) of the Environmental Policy Act implementing regulations provides that a project should be assessed to determine whether:

The action might significantly diminish habitat for fish, wildlife or plant;

A site visit and review of the proposal project EHA LOG #00-00025, the following comments on the project related to 7201.2 (h).

List of Documents Consulted

1.District of Columbia list of Endangered and Threatened Species
2.U.S. Fish and Wildlife Service Federal list of Threatened and Endangered Species
3. Section 6 Guidelines for Threatened and Endangered Species Act

Environmental Setting

The site for this project is located on E Street, between 19th and 20th streets, NW Proposed improvements to the site include site preparation and demolition of existing structures for the future construction of a student dormitory and a classroom building. Site located in the central business district.

Environmental Consequences

After we reviewed the plans for the above project, and based on our site visit and review, we see no significant environmental impact that might significantly diminish habitat for fish, wildlife or plants. Therefore, in our view an EIS should not be required for this project.

Please contact me on (202 535-2266, if you have any questions or concerns,