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

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| Foggy Bottom and West End Advisory Neighborhood Commission 2A's Appeal from the D.C. Zoning Administrator's Decision to Issue Building Permit No. B434036 | ) | BZA Appeal No. 16701 |
| Appellant | ) | |

## DISTRICT OF COLUMBIA'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The District of Columbia ("District"), through Counsel, submits the following proposed findings of fact and conclusions of law on the appeal from the District Zoning Administrator's decision to issue a building permit (No. B434036) on December 28, 2000, to the George Washington University (GWU), to permit the construction of an 11-story multi-use building, pursuant to a planned unit development (PUD) in a C-3-C Zone District at premises 1957 E Street, N.W.

This appeal came before the Board of Zoning Adjustment (BZA) for a hearing on April 10, 2001 and May 1, 2001. The appellant raised four issues on appeal, which it asserts constitute error on the part of the Zoning Administrator, and which are the basis on which it argues that the building permit should be revoked. These issues are that: 1) GWU filed building permit applications and began construction untimely; 2) the use of the PUD site by GWU violates the PUD; 3) GWU did not comply with the District of Columbia Environmental Policy Act, D.C. Code § 6-981 et seq. (1995 Rpl.) and should have done so prior to issuance of the permit; and 4) whether proper notice of the building permit application had been given to the ANC.

#48

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.48

At the April 10, 2001 hearing, party status was granted to GWU as the landowner (GWU) and to the West End Citizens Association. GWU has prepared its proposed findings of facts and conclusions of law. The District adopts GWU's findings of fact and conclusions of law and incorporates them by reference herein. The District proposes additional findings of fact and conclusions of laws as to the issue of notice to the appellant.

**Findings of Fact**

1. The application for building permit No. B434036 was filed on December 7, 1999. Although a formal notice of this application was not sent to the appellant, the appellant had actual notice of the application prior to the permit being issued on December 20, 2000. (Tr. 4/10/01, p. 20).

2. Nearly one year elapsed from the time the building permit application was submitted and it was approved. During this time the appellant was able to present to the Zoning Administrator its objections to the issuance of the building permit. These objections were expressed by the appellant's Resolution No. 4D dated April 12, 2000 and were communicated to the Zoning Administrator before his decision to approve the building permit. (Exhibits 1, 20, 27 and Tr. 4/10/01 p. 51).

3. In addition to the appellant, members of the West End Citizens Association had a meeting with the Zoning Administrator to express objections to the building permit which included the objections stated in the appellant's resolution. (Tr. 4/10/01 p. 123-125).

**Conclusions of Law**

1. The BZA concludes that the question of whether the appellant received proper notice from Department of Consumer and Regulatory Affairs that a building permit application had been filed by GWU is not within its jurisdiction.

2. To the extent that the BZA has jurisdiction to review whether or not the appellant received proper notice of the building permit application, the BZA concludes that the appellant had actual notice of the challenged building permit and was able to present its objections to the Zoning Administrator prior to his decision to approve the building permit, and that any failure in the notice procedure was harmless error. See Shiflett v. Board of Zoning Adjustment, 431 A.2d 9,11 (D.C. 1981)

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CERTIFICATE OF SERVICE

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