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D.C. OFFICE OF ZONING
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RECEIVED

August 20, 2001

VIA HAND DELIVERY

Chairperson Carol Mitten
D.C. Zoning Commission
441 4th Street, N.W., Second Floor
Washington, D.C. 20001

**Re: Zoning Commission Case No. 93-5F/91-18P (Z.C. Order Nos. 746, 746-A and 746-B)**

Dear Chairperson Mitten and Members of the Commission:

As part of Board of Zoning Adjustment Order No. 16701A, The George Washington University ("GW" or the "University") was instructed to provide the Zoning Commission with a written report as to the status of the settlement negotiations between GW and the West End Citizens Association (the "WECA") and the Advisory Neighborhood Commission ("ANC") 2A regarding the Planned Unit Development ("PUD") at 1957 E Street, N.W. This letter and attachments are meant to satisfy this requirement.

## I. University Discussions With The WECA

The University is very pleased to enclose herein as Exhibit A, a Memorandum of Agreement (the "Agreement") officially entered into by and between GW and the WECA. This Agreement was arrived at after a series of face-to-face meetings and correspondence between representatives of the University and the WECA and officially settles all matters in dispute between the University and the WECA, which relate to the 1957 E Street site.

The University and the WECA request that the Zoning Commission make the terms of the Agreement conditions of any PUD Modification Approval. These conditions, also fully set forth in Exhibit A, include:

### A. Retail Square Footage

(1) The PUD building (the "Building") shall include approximately 3,300 square feet of on-site street level community-oriented retail space with doors to the retail opening on E and 20th Streets. The location of this retail space is shown in

BZA
Case No. 16701
Exhibit No. 79

Board of Zoning Adjustment
District of Columbia
CASE NO.16701
EXHIBIT NO.79

Exhibit B. This retail space will include an area formerly designated as the loading dock for the residential portion of the Building on 20th Street at the northwest corner of the Building. As a result of providing this retail space, GW shall restrict all deliveries to the Building to the loading dock located on the 19th Street side of the Building, the underground parking garage, and the E Street entrances.

(2) GW will also make available to the public, as well as its students, faculty and staff, approximately 1,700 square feet of retail space in Mitchell Hall, located at 514 19th Street, NW, immediately north of the Building on 19th Street. GW will encourage public use of this space through appropriate outdoor signage and changes to the landscaping in front of the retail area. In addition, GW will be responsible for building out the interior space as needed for a retail tenant. This retail space shall be maintained for a minimum of 10 years.

**B. Use of the loading docks.** GW shall restrict truck deliveries via the loading dock to times other than 7:00 a.m. to 9:30 a.m. and 4:00 p.m. to 6:30 p.m., Monday through Friday.

**C. Enforcement of construction hours.** The construction hours for the Building shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday. Compliance with these construction hours shall be enforced by the District of Columbia government to the fullest extent of the law. GW shall appoint, and provide reasonable notice to the adjacent and nearby community residents of, a telephone contact for receiving and responding to complaints and inquiries from the surrounding community concerning excessive noise and construction outside of these hours. GW may request a special permit to work extended hours from DCRA only to address circumstances constituting a threat to public safety, health and welfare. In seeking such a special permit, GW shall consult with a committee of neighborhood residents to be established and take appropriate action to mitigate any adverse impact on surrounding properties from such extended work hours.

**D. Landscaping and Street lighting.** GW shall implement the same landscaping plan for the PUD as that proposed by the Associated General Contractors in its PUD application, dated January, 1993, Exhibit B in Z.C. Case No. 93-5F/91-18P, with additional landscaping for areas along 20th Street that will no longer be devoted to loading facilities. In addition, GW will provide street lighting for the Building.

E. **Residents of the Building.** GW shall restrict residential occupancy in the Building to (a) juniors, seniors and graduate students, and (b) students enrolled in an honors program.

F. **Subsidy to Foundation.** GW shall provide $100,000 after issuance by the Zoning Commission of its PUD Modification Order, $100,000 upon issuance of the Certificate of Occupancy, and then $100,000 annually on the anniversary of the Certificate of Occupancy, for a period of three years, for a total of $500,000, to a non-profit entity ("Foundation") for the public benefit of the operation of a program at Sholl's Cafeteria to provide meals for no charge or at reduced rates to elderly and poor residents of the District of Columbia and the homeless. The Foundation shall be organized under governing documents that are approved in advance of filing by GW and the WECA and that are prepared pro bono or otherwise not at the WECA's expense. Until the GW donation is expended, the Foundation shall provide GW an annual report on the Foundation's operation and permit GW to audit such operations upon reasonable notice. In addition, GW shall be afforded the opportunity to appoint one or more representatives to the Foundation board. Representatives from GW and the International Monetary Fund shall constitute less than the majority of the board.

G. **Environmental Compliance.** GW shall comply with the D.C. Environmental Policy Act (D.C. Code § 8-109.01 et seq.), subject to any applicable amendments, regulations or judicial interpretation, on all future campus construction projects.

H. **WECA Commitments.** In exchange for GW's commitments in the Agreement, the WECA agrees to support GW's PUD Modification Request, as amended by the request (discussed below) to eliminate the loading dock, and the amenities described in the Agreement, as well as to support any GW request to the Board of Zoning Adjustment in Appeal No, 16701 for a stay of the BZA Order, dated July 12, 2001, pending the Zoning Commission's issuance of a final Order on the PUD Modification Request. Further WECA agrees to support GW in any appeal of the Zoning Commission's Order for the PUD Modification Request, any building permit issued pursuant thereto, as well as GW's application for a Certificate of Occupancy.

I. **Conditions Necessary for GW Commitments.** GW's commitment to enforce construction hours, convene a committee of adjacent and nearby community residents and appoint and provide notice of a telephone contact for construction-related complaints and inquiries, set forth in the Agreement shall be effective immediately. Upon approval by the Zoning Commission of the PUD Modification Request, GW will take all reasonable efforts to secure any additional

necessary approvals required to complete the construction according to the PUD as modified, including any approvals required by the Commission of Fine Arts and DCRA. Upon securing such approvals, GW will take all reasonable efforts to complete construction on a timely basis and to complete the build-out of the retail space described herein within 6 months of GW's securing a Certificate of Occupancy for the Building. GW's performance of conditions A, B, D, E and F is dependent upon receipt of a Certificate of Occupancy for the Building pursuant to the PUD, as modified herein. GW agrees to make all reasonable efforts to secure such Certificate of Occupancy on a timely basis. Performance of GW's commitments are contingent upon GW's securing these necessary approvals, as well as securing a Certificate of Occupancy for the Building as constructed pursuant to the PUD as modified. GW agrees to make all reasonable efforts to secure such a Certificate of Occupancy.

The University and the WECA also request that the Agreement be attached to any approval of the Zoning Commission of the PUD Modification Request.

Additionally, as briefly discussed above, because GW will provide retail space in the residential portion of the Building in an area formerly designated as a loading dock, the University hereby requests Zoning Commission approval to eliminate the loading dock on 20th Street at the northwest corner of the Building. This modification request comes about as a direct result of the WECA's request for retail space in the Building. The delivery points that will remain (the loading dock on the 19th Street side of the Building, the underground parking garage and the E Street entrances) will be sufficient to serve deliveries to the building.

Also, partially as a result of the discussions between the University and the WECA, GW has agreed to separately address the issue of student parking in the Foggy Bottom/West End area.

## III. University Attempts To Negotiate With ANC 2A

Unfortunately, the University's numerous attempts to negotiate with ANC 2A were unsuccessful. As is evidenced by the log kept by University counsel, Charles Barber, attached as Exhibit C, GW made several formal overtures to the ANC to open negotiations. In spite of the University's repeated offers to negotiate, the ANC refused to discuss the PUD Modification Request.

**IV. Conclusion**

The University believes it has met the requirements for a PUD Modification, as set forth in § 3030 of the Zoning Regulations, as well as meeting the instructions set forth in BZA Order 16701A. Thus, the University respectfully requests that the Zoning Commission grant approval, in the form of a bench decision, to the PUD modification, submitted on August 13, 2001, as amended herein.

Respectfully submitted,

SHAW PITTMAN, LLP

By: Phil T. Feola

Phil T. Feola.

Sarah E. Shaw

Sarah E. Shaw

Enclosures

cc: James Draude, ANC 2A
Board of Zoning Adjustment
David Clark, Director, DCRA
Karen Edwards, General Counsel, DCRA
Barbara Kahlow, WECA
Arthur Parker, Esq.
Brenda Walls, Esq.
Marie Sansone, Esq.
Michael D. Johnson

A

## AGREEMENT

THIS AGREEMENT ("Agreement") is made this 17th day of August, 2001, by and between THE GEORGE WASHINGTON UNIVERSITY ("GW"), a federally-chartered institution of higher education, its successors and assigns, and the WEST END CITIZENS ASSOCIATION ("WECA"), a non-profit organization in the District of Columbia.

## RECITALS

WHEREAS, pursuant to Zoning Commission Orders No. 746, 746-A and 746-B (the "PUD Order"), the D.C. Zoning Commission (the "Zoning Commission") conditionally approved and extended a planned unit development ("PUD") and corresponding amendment to the Zoning Map for property located at address 1957 E Street, N.W., Washington, D.C. (Square 122, Lot 835) (the "Property"); and

WHEREAS, GW now owns the Property and wishes to develop the building provided for by the PUD (the "Building"); and

WHEREAS, on December 28, 2000, the Department of Consumer and Regulatory Affairs ("DCRA") issued GW Building Permit No. B434036 allowing construction of the Building, including certain modifications to the plans approved by the PUD Order, such modifications having been approved by the Zoning Administrator and the Commission of Fine Arts; and

WHEREAS, an appeal was made to the Board of Zoning Adjustment ("BZA"), appealing the issuance of Building Permit No. B434036, and BZA Order No. 16701 upheld the appeal, holding that Building Permit No. B434036 had been improperly issued; and

WHEREAS, without prejudice to GW's position in BZA Appeal No 16701, GW filed a PUD Modification Request with the Zoning Commission on August 13, 2001, attached as

Exhibit A, in order to obtain permission from the Zoning Commission to proceed with the construction and use of the Building as provided for by the current plans; and

WHEREAS, GW and the WECA agree to jointly request, in writing, that the BZA extend its stay until the Zoning Commission issues a final Order on GW's PUD Modification Request pursuant to BZA Order 16701-A and DCRA issues a building permit pursuant thereto, and the WECA agrees to support GW's defense of any appeal and GW's application for a Certificate of Occupancy; and

WHEREAS, GW has committed to the WECA to separately address student parking in the Foggy Bottom/West End Area; and

WHEREAS, as a condition of the WECA's support for the PUD Modification Request, in its entirety, GW and the WECA are desirous of entering into this Agreement, as outlined by the terms below.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Recitals.** The Recitals are incorporated by reference as though fully set forth herein.

2. **Retail square footage.**

(a) The Building shall include approximately 3300 square feet of on-site street level community-oriented retail space with doors to the retail opening on E and 20th Streets. This retail space will include an area formerly designated as the loading dock for the residential portion of the Building on 20th Street at the Northwest corner of the Building. As a result of providing this retail space, GW shall restrict all deliveries to the Building to the loading dock located on the 19th

Street side of the Building, the underground parking garage, and the E Street entrances. The WECA shall support, in writing, a modification to the PUD eliminating the loading dock on the residential side of the Building.

(b) GW shall also make available to the public, as well as its students, faculty and staff, approximately 1700 square feet of community-oriented retail space in Mitchell Hall, located at 514 19th Street, NW, immediately north of the Building. GW will encourage public use of this space through appropriate outdoor signage and changes to the landscaping in front of the retail area. In addition, GW will be responsible for building out the interior space, as needed, for a retail tenant. This retail space shall be maintained for a minimum of 10 years.

3. **Use of the loading docks.** GW shall restrict truck deliveries via the loading dock to times other than 7:00 a.m. to 9:30 a.m. and 4:00 p.m. to 6:30 p.m., Monday through Friday.

4. **Enforcement of construction hours.** The construction hours for the Building shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday. Compliance with these construction hours shall be enforced by the District of Columbia government to the fullest extent of the law. GW shall appoint, and provide reasonable notice to the adjacent and nearby community residents of, a telephone contact for receiving and responding to complaints and inquiries from the surrounding community concerning excessive noise and construction outside of these hours. GW may request a special permit required to work extended hours from DCRA only to address circumstances constituting a threat to public safety, health and welfare. In seeking such a special permit, GW shall consult with a

committee (including invitations to ANC-2A and the WECA) of neighborhood residents to be established and take appropriate action to mitigate any adverse impact on surrounding properties from such extended work hours.

5. **Landscaping and Street Lighting.** GW shall implement the same landscaping plan for the PUD as that proposed by the Associated General Contractors in its PUD application, dated January 1993, Exhibit B in Z.C. Case No. 93-5F/91-18P, with additional landscaping for areas along 20th Street that will no longer be devoted to loading facilities. In addition, GW will provide street lighting for the Building.

6. **Residents of the Building.** GW shall restrict residential occupancy in the Building to (a) juniors, seniors and graduate students, and (b) students enrolled in an honors program.

7. **Subsidy to Foundation.** GW shall provide $100,000 after issuance by the Zoning Commission of its PUD modification Order, $100,000 upon issuance of the Certificate of Occupancy, and then $100,000 annually on the anniversary of the Certificate of Occupancy, for a period of three years, for a total of $500,000, to a non-profit entity ("Foundation") for the public benefit of the operation of a program at Sholl's Cafeteria to provide meals for no charge or at reduced rates to elderly and poor residents of the District of Columbia and the homeless. The Foundation shall be organized under governing documents that are approved in advance of filing by GW and the WECA and that are prepared pro bono or otherwise not at the WECA's expense. Until the GW donation is expended, the Foundation shall provide GW an annual report on the Foundation's operation and

permit GW to audit such operations upon reasonable notice. In addition, GW shall be afforded the opportunity to appoint one or more representatives to the Foundation board. Representatives from GW and the International Monetary Fund shall constitute less than the majority of the board.

8. **Environmental Compliance.** GW shall comply with the D.C. Environmental Policy Act (D.C. Code § 8-109.01 et seq., 2001), subject to any applicable amendments, regulations and judicial interpretation, on all future campus construction projects. This paragraph makes no determination as to GW's prior compliance with the D.C. Environmental Policy Act.

9. **WECA Commitments.** In exchange for GW's commitments identified in Section 2 - 8, above, the WECA agrees to support GW's PUD Modification Request, as amended by the request to eliminate the loading dock as referenced in Section 2, above, and the amenities described herein, as well as to support any GW request to the BZA in Appeal No. 16701 for a stay of the BZA Order, dated July 12, 2001, pending the Zoning Commission's issuance of a final Order on the PUD Modification Request. Further, the WECA agrees to support GW in any appeal of the Zoning Commission's Order for the PUD Modification Request, any building permit issued pursuant thereto, as well as GW's application for a Certificate of Occupancy.

10. **Conditions Necessary for GW's Performance.** GW's commitment to enforce construction hours, to convene a committee of adjacent and nearby community residents, and to appoint and provide notice of a telephone contact for construction-related complaints and inquiries, set forth in Section 4, above, shall

be effective immediately upon the execution of this Agreement. Upon approval by the Zoning Commission of the PUD Modification Request, GW will take all reasonable efforts to secure any additional necessary approvals required to complete the construction according to the PUD as modified, including any approvals required by the Commission of Fine Arts and DCRA. Upon securing such approvals, GW will take all reasonable efforts to complete construction on a timely basis and to complete the build-out of the retail space described herein within 6 months of GW's securing a Certificate of Occupancy for the Building. GW's performance of sections 2, 3, 5, 6 and 7 is dependent upon receipt of a Certificate of Occupancy for the Building pursuant to the PUD, as modified herein. GW agrees to make all reasonable efforts to secure such Certificate of Occupancy on a timely basis.

11. **Incorporation.** GW and the WECA shall request that this Agreement be attached to and incorporated in the Zoning Commission's Order for the PUD Modification Request.

12. **Remedies.** This Agreement does not limit any common law or statutory rights or remedies available to any entity or person relating to damages sustained to person or property attributable to activities of GW.

13. **Severability.** This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the District of Columbia. If any term, provision, covenant or agreement contained herein, or the application thereof to any person or circumstances, shall be held to be invalid, illegal or unenforceable, the validity of the remainder of this Agreement or the

application of such term, provision, covenant or agreement to the persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

14. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the heirs, successors, assigns, parents, and subsidiaries, affiliates and related entities of GW and the WECA, and shall run with the land.

15. **Authority to Execute.** Each of the parties executing this Agreement represents and warrants to each of the other parties hereto that: (i) it has the full power and authority to enter into this Agreement and to consummate the transaction described herein without obtaining any further approvals or consents, and (ii) the entering into of this Agreement will not constitute or result in a violation or breach by any such party of any judgment, order, writ, injunction or decree issued against or imposed upon it or any agreement to which it is a party or by which it is bound.

16. **Modification/Waiver/Breach.** No change or modification of this Agreement shall be valid unless the same is in writing and signed by GW and the WECA. No waiver of a breach or default shall be deemed a waiver of any subsequent breach or default.

17. **Notices.** Any notices permitted or required under this Agreement shall be in writing and delivered to the parties at the addresses set forth below or to such other addresses as a party may specify by written notice to the other(s). Notices shall be effective upon delivery to the party, with best efforts to ensure actual receipt by the party. Notices sent by Federal Express or other recognized

overnight courier services for next-day delivery shall be presumed received on the following business day. Notices sent by certified mail, return receipt requested and postage prepaid, shall be presumed received three business days after the date of mailing unless such notice is returned unclaimed.

| | |
|---|---|
| To GW: | Charles K. Barber, Esq.<br>Office of the General Counsel<br>The George Washington University<br>Suite 525<br>Washington, D.C. 20052 |
| Copy to: | Phil T. Feola, Esq.<br>Shaw Pittman LLP<br>2300 N Street, N.W.<br>Washington, D.C. 20037 |
| To WECA: | West End Citizens Association<br>c/o Barbara F. Kahlow<br>2555 Pennsylvania Avenue, N.W. #404<br>Washington, D.C. 20037 |

**18. Counterparts.** This Agreement may be executed in counterparts and via original or facsimile signature.

IN WITNESS WHEREOF, the parties hereto have signed and delivered these presents as their own free act and deed as of the date and year first herein above written.

The George Washington University,
federally chartered institution of higher
education

By: _____

Its: Vice President and Treasurer

Subscribed and sworn to before me this 17th day of August 2001. Witness my hand and official seal.

_____
Notary Public

My Commission Expires: 06-30-2005

West End Citizens Association

By: _____

Its: President

Subscribed and sworn to before me this 17th day of August 2001. Witness my hand and official seal.

_____
Notary Public

My Commission Expires: 06-30-2005

ShawPittman LLP

*A Limited Liability Partnership Including Professional Corporations*

August 13, 2001

VIA HAND DELIVERY

Chairperson Carol Mitten
D.C. Zoning Commission
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001

**Re: Zoning Commission Case No. 93-5F/91-18P (Z.C. Order Nos. 746, 746-A and 746-B)**

Dear Chairperson Mitten and Members of the Commission:

This letter and enclosed material constitute an application for Consent Calendar approval of modifications to the above-referenced, approved planned unit development ("**PUD**"). This request is made pursuant to Board of Zoning Adjustment Order No. 16701A – Order Granting Temporary Stay, and 11 DCMR § 3030 et seq. (See Exhibit A.)[1] The George Washington University ("**GW**" or the "**University**"), seeks to modify the PUD approved by Zoning Commission Order No. 746 and extended by Zoning Commission Orders Nos. 746-A and 746-B (collectively, the "**PUD Order**"). (See Exhibit B.) The plans originally approved by the Zoning Commission in this case are attached as Exhibit C. As made clear in BZA Order No. 16701A, this request for modification is made without prejudice to any appeal GW may wish to bring with respect to the Board's final Decision and Order or to any order the Board may ultimately enter with respect to GW's Motion for Reconsideration.

## I. Background

When the PUD was originally approved in 1993, the Associated General Contractors ("**AGC**") owned the PUD site. GW purchased the PUD site from the AGC in 1999. Before making this purchase, the University obtained a series of confirmations

[1] The Zoning Commission has recently approved other PUD modifications pursuant to the Consent Calendar approach of 11 DCMR § 3030. For instance, in Z.C. Order No. 855A, the Commission approved a modification to add 9,000 square feet of residential gross floor area (an additional 1.26 FAR) to the project at 2200 M Street, N.W. This modification also changed the placement of the windows on the residential units. Additionally, in Z.C. Order No. 905A, the Zoning Commission approved, by Consent Calendar procedure, a series of design changes on a hotel PUD at 1000 K Street, N.W. These modifications were necessary in response to the requirments of a potential hotel franchisor.

Exhibit A to Agreement

from the Acting Zoning Administrator approving small changes it sought to make to the approved plans. Once GW had purchased the PUD site, it proceeded with the permitting process, and on December 28, 2000, the Department of Consumer and Regulatory Affairs ("**DCRA**") issued Building Permit No. B434036 to the University approving construction of the PUD. On January 19, 2001, Advisory Neighborhood Commission ("**ANC**") 2A filed an appeal of the issuance of the building permit. Public hearings were held on May 1 and 8, 2001. On June 5, 2001, the BZA verbally announced its decision granting the appeal and its written order, BZA Order No. 16701 ("**BZA Order**"), was signed on July 12, 2001. On July 20, 2001, the University filed a Motion to Reconsider and Reopen the Record, and on July 27, 2001, the University filed a Motion to Stay the BZA Order.

On July 31, 2001, at its public meeting, the BZA considered the University's Motion to Reconsider: two Board members voted in favor of the Motion to Reconsider and two voted in opposition. It was decided that a Zoning Commissioner would read the record and another vote on the Motion would be taken at the September 3, 2001 Board meeting. It was also decided that the Board would take up the Motion to Stay BZA Order No. 16701 at its August 3, 2001 special public meeting.

At the August 3, 2001 BZA public meeting, a motion was passed, memorialized in BZA Order No. 16701A that allows the University to apply to file a written request to modify the PUD Orders. The Board motion allows the University to ask that its modification request be placed on the Consent Calendar agenda. The Zoning Commission at a special public meeting on August 21, 2001 will decide upon this modification request. As part of its motion, the BZA also instructed the University, the ANC 2A and the West End Citizens Association ("**WECA**") to explore the possibility of a settlement in regard to the PUD modification.

This requested modifications to the PUD Order consist of: (i) the elimination of open balconies in the residential portion of the building; (ii) the change in materials from granite or limestone cladding to limestone for the first two floors and a limestone/pre-cast blend for the upper levels; (iii) the elimination of one of two parking garage entrances; and (iv) a change from commercial office use to university office use. Plans depicting these revisions are attached as Exhibit D.

## II. Description of the Approved PUD

Pursuant to the PUD Order, the Zoning Commission approved the subject PUD and related amendment to the Zoning Map, which changed the zoning of the property from SP-2 to C-3-C and allowed for the construction of a mixed use project, with a floor area ("**FAR**") not to exceed 7.96, of which not more than 5.79 FAR was to be devoted to

commercial use and not less than 2.17 FAR was to be devoted to residential use. The PUD Order changes the zoning of the property and contains few restrictions. It allows any commercial uses, requires at least 2.17 FAR for residential use and limits retail use to 5,000 square feet. Additionally, Order No. 746, particularly Condition No. 15, includes a substantial amount of flexibility as to detailing and design.

## III. Description of Modifications Requested

A. Elimination of the Balconies on the Residential Portion of PUD.

The open balconies have been eliminated from the design as a result of consultation between the University, its architects and the Commission of Fine Arts ("**CFA**"). When the University began its task of moving forward with design for the PUD, it re-evaluated this element of the façade treatment. After numerous discussions with the architectural team, the University concluded that the open balconies were not needed, and, in fact, did not make good design sense. The building is monumental in character and symmetrical around a recessed central element. The balconies at one end, which encompass only 2,520 gross square feet of the building, are, however, inconsistent with the basic design intent, which is to relate the institutional character of the important urban space surrounding nearby Rawlings Park. The elimination of the open balconies does not change the gross floor area of the building, and does not represent a major change in the design of the PUD. It is a design refinement and improvement that was made in response to the building's use and location. Further, the change was the product of close consultation with the CFA. (See Exhibit E.)

B. Change in Materials.

The original PUD plans included a notation that the exterior materials would consist of "granite or limestone cladding." The University plans to use pre-cast stone that is cast from a stone aggregate that is eighty-percent limestone. The alternative materials are visibly indistinguishable from one hundred percent limestone. It would be prohibitively expensive and extremely unusual for a private property owner to construct an entire building of this size with all natural limestone. Furthermore, the issue of materials is a matter normally within the CFA's jurisdiction, and as the CFA documentation submitted to the Board as part of the University's July 20, 2001 filing shows, the CFA was very involved in the ultimate selection of materials, and fully approves of those materials the University seeks to use.

C. The Elimination of One of Two Garage Entrances.

The original plans for the PUD show two garage entrances, one on 19th Street and one on 20th Street. The University plans to eliminate the 20th Street garage entrance into the parking area (a separate garage door for loading will be maintained). When the plans were originally approved, two parking garage entrances were needed because the project was to be built in two phases, and access to the garage for Phase I had to be provided while Phase II was being constructed. However, the University is developing the project in a single phase, thereby decreasing impact on the neighborhood during construction. The project will be operated as an integrated whole, not as two separate facilities, thus making two parking garage entrances superfluous. It bears mentioning that the second parking garage entrance was not provided as a response to a specific traffic circulation problem or pattern, and the University has obtained verification from traffic engineers Gorove/Slade that no adverse traffic effects will result from eliminating one garage entrance.

D. Use.

When the PUD was originally approved, it was to be used as offices for the AGC and as residential housing. The University seeks to use the PUD as academic classrooms and offices and as residential housing. Academic classrooms and offices, as well as residential housing are uses permitted as a matter-of-right in the C-3-C Zone District provided for by the PUD.

## IV. Community Dialogue

The University has had productive discussions with WECA and will continue to do so in the hopes of reaching a settlement agreement. The University invited ANC 2A to be a part of these discussions, but as of the date of this letter, the ANC has not met with the University. As discussed in BZA Order No. 16701-A, the University will update the Zoning Commission as to the status of its discussions with the community on August 20, 2001.

## V. Conclusion

The University respectfully requests that the Zoning Commission grant approval to the PUD modifications herein described.

We have enclosed a filing fee in the amount of $400.00 as required by 11 DCMR § 3040.4. Should you have any questions about the foregoing, please contact the either of the undersigned.

Respectfully submitted,

SHAW PITTMAN, LLP

By: _____
Phil T. Feola.

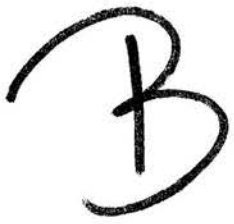
_____
Sarah E. Shaw

cc: David Clark, Director, DCRA
Karen Edwards, General Counsel, DCRA

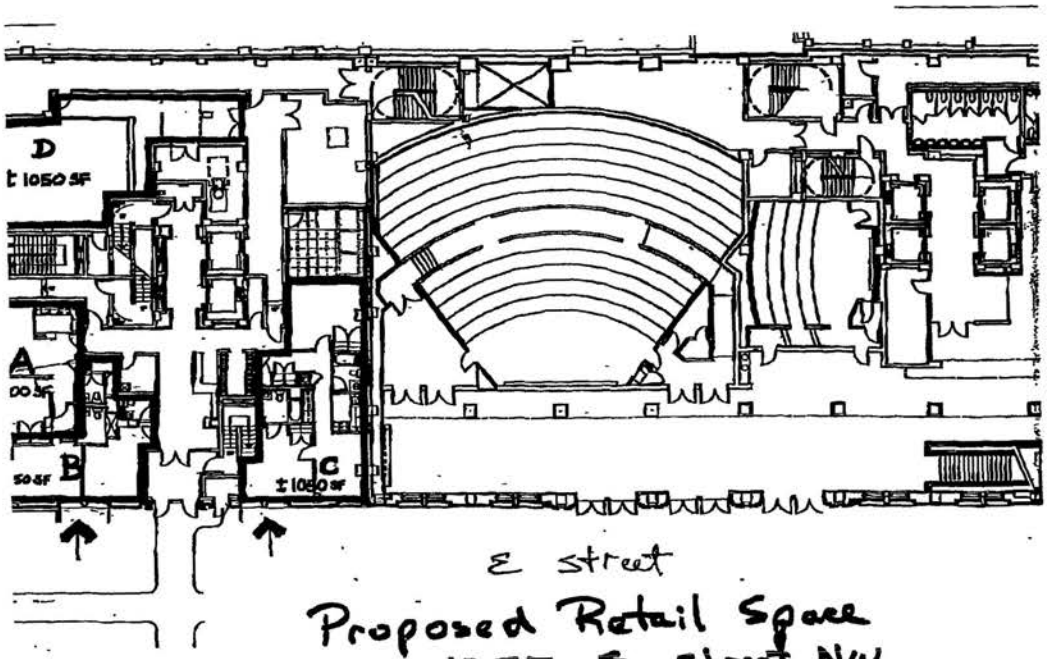
**EXHIBITS**

| DESCRIPTION | EXHIBIT |
|---|---|
| BZA Order No. 16701-A | A |
| Z.C. Orders Nos. 746, 746-A and 746-B | B |
| Plans for Approved PUD | C |
| Modified Plans | D |
| Letter from the Commission of Fine Arts | E |

Document #: 1149529 v.1



20th street




E street

Proposed Retail Space
in 1957 E Street, NW.
Ground Floor

Aug. 17, 2001



The George Washington University
WASHINGTON DC

VICE PRESIDENT AND GENERAL COUNSEL

# MEMORANDUM

DATE: August 17, 2001

TO: File

FROM: Charles K. Barber CKB

SUBJECT: Chronology of Attempts at Settlement Discussions on 1957 E Street Appeal

August 2, 2001—Meeting scheduled with representatives of West End Citizens Association, Advisory Neighborhood Commission 2A, and Corporation Counsel. GW representatives appear at Office of Corporation Counsel. No representatives appear from WECA or ANC2A.

August 3, 2001—I telephone Barbara Kahlow on behalf of WECA and James Draude, attorney for ANC 2A, offering to meet on August 6, 2001. Kahlow insists that President or Vice President Treasurer be in attendance. GW offers Monday, August 7th from 1:00 to 3:00. Draude says he is available, but must confer with ANC. Kahlow to confer with ANC reps and confirm. Kahlow calls back and says ANC reps cannot make it on Monday, but offers Wednesday, Thursday, Friday evenings, and all day Friday, as times when WECA and ANC reps are available.

August 6, 2001—GW offers to meet Friday, August 10th, 10:00-1200. Kahlow says that is acceptable to WECA and ANC reps. Draude sends letter stating he is conferring with his clients and will contact me on August 7th to arrange a meeting.

August 7, 2001—Draude sends letter stating that ANC reps will not attend the meeting scheduled for August 10th. Draude further states that the ANC is formulating positions on both the Campus Plan case and the Elliott School cases and intends to submit a settlement proposal covering both cases. I expressed concern about linking the two cases given the shorter time frame for the Elliott School appeal. (Zoning Commission hearing set for August 21, 2001.) Draude and I agree to look at BZA order on Elliott School case and discuss further.

August 8, 2001—BZA order is issued stating that submissions are to be limited to this case. I write Draude and attach the order and urge him to meet with me to discuss

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issues pertaining to the Elliott School case. (See copy, attached.) I invite Draude to meeting scheduled for August 10th.
August 9, 2001—I call Draude to follow up on letter. I leave voice mail. I get no response.

August 10, 2001—GW representatives, including its Vice President and Treasurer, meet with representative of WECA and Corporation Counsel.

August 14,2001---GW representatives meet with representatives of WECA and Corporation Counsel

August 15, 2001---GW provides WECA and Corporation Counsel draft of proposed agreement

August 16, 2001---GW representatives meet with representatives of WECA and Corporation Counsel to review draft agreement.

August 17, 2001—GW rep and WECA rep discuss final changes by phone. WECA rep e-mails final draft. Parties execute agreement.

CERTIFICATE OF SERVICE

I hereby certify that, on August 20, 2001, a copy of the foregoing materials were served by hand-delivery to:

Arthur Parker, Esq.
Brenda Walls, Esq.
Office of the Corporation Counsel
441 Fourth Street, N.W.
Suite 450 North
Washington, D.C. 20001

Marie Sansone, Esq.
Office of the Corporation Counsel
441 Fourth Street, N.W.
Sixth Floor
Washington, D.C. 20001

Michael Johnson
Zoning Administrator
DCRA
941 North Capitol, N.E.
Suite 2000
Washington, D.C. 20002

ANC 2A
c/o James T. Draude
Driscoll & Draude
1230 31st Street, N.W.
Washington, D.C. 20007

West End Citizens Association
c/o Barbara Kahlow
2555 Pennsylvania Avenue, N.W.
Apt. No. 404
Washington, D.C. 20037

Board of Zoning Adjustment
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001

David Clark
Director
DCRA
941 North Capitol
Washington, D.C. 20002

Karen Edwards
General Counsel
DCRA
941 North Capitol
Washington, D.C. 20002

Sarah E. Shaw

Sarah E. Shaw