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November 4, 2002

Rec'd.
12/17/02

By Hand Delivery

Ms. Jerily Kress
Director
Office of Zoning
District of Columbia Zoning Commission
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001

Re: Zoning Commission Order No. 746-C
Zoning Commission Case No. 01-17M/93-5F/91-18P,
1957 E Street, N.W.

Dear Ms. Kress:

This letter, and enclosed materials (including the requisite filing fee), constitute a request for "Consent Calendar" approval of a modification to the above-referenced, approved Planned Unit Development ("**PUD**") pursuant to 11 DCMR (Zoning) Section 3030. This request is made in order to modify, as well as clarify, the Commission's intent, with regard to Condition 9(a) of Zoning Commission Order No. 746-C, a copy of which is attached as Exhibit A. The George Washington University ("**University**"), owner of the Property and applicant in this matter, seeks this modification of Condition 9(a) so that the intent of 9(a), that is, to provide $100,000 per year for five years to a feeding program for persons in need, can be effectuated.

I. Background

The Zoning Commission, by Order No. 746-C, effective on August 16, 2002, approved a number of modifications to a previously approved PUD at 1957 E Street, N.W. (Square 122, Lot 29). The approval granted the University permission to use the residential portion of the building for student apartments and the commercial portion of the building for academic and office use. The Commission's Order and Decision was subject to a number of conditions, including Condition 9(a), the full text of which is attached as Exhibit B.

Case No. 16950
Exhibit No. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.16950
EXHIBIT NO.29

Condition 9(a) requires the University to contribute $500,000 (over five years) for "the purpose of operating a program for providing meals at reduced rates for the needy, elderly, and other low income residents of Foggy Bottom".[1] The contribution is required to be made in $100,000 increments for five years to "the Foggy Bottom Feeding Program Foundation, Inc. (the "Foundation")." The first $100,000 contribution is required to be made "on the date of the Certificate of Occupancy of the Subject Property." Further, the Condition requires that the "entirety of the $500,000 contribution paid by the University shall be conditioned upon its exclusive use to provide food and meals for the needy, elderly, and other low income residents" (emphasis added). The Order directs that "if, for any reason, the Feeding Program cannot operate as described above, or the Feeding Program fails to comply with the above-stated funding condition, then the University shall pay $100,000 a year to an existing, non-profit food service program selected by the Foundation until (a) the Feeding Program begins or resumes operation; (b) the Feeding Program achieves compliance with the funding conditions; or (c) the $500,000 is fully expended, whichever comes first." Thus, the Condition requires a $100,000 payment to the Foundation, unless the Foundation is not operating said Feeding Program and then the Foundation chooses the charity to which the donation must be made.

II. Events Leading to this Request

The University has attempted to fulfill the exact terms of the entirety of the Zoning order including Condition No. 9(a). Prior to receiving the Certificate of Occupancy (**"C of O"**) for the residential portion of the PUD, the University, by letter dated August 12, 2002 to Mr. Jack Batham, President of the Foundation, requested that the Foundation select an existing non-profit food service program to which the initial $100,000 payment could be made because the Feeding Program had yet to be established (a copy of this letter is attached as Exhibit C). Timing was critical to the University. While the Zoning Commission voted on the Order in June, it did not become final until August 16, 2002. The residential portion of the building was completely constructed and the University had an application for a C of O pending. The University needed to secure the C of O in order to provide the apartment units to students (193 residents) for the beginning of the 2002-03 school year.

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[1] The Commission will recall that the University originally proposed to fund a feeding program at a then existing establishment, Sholl's Cafeteria. During the hearing on GW's first PUD modification, however, Sholl's went out of business. While the University would have preferred to fund another existing establishment, WECA insisted that the Foundation be authorized to create a new feeding program. The University yielded to this position, with the condition that an alternative, existing service be funded if the new program could not be established.

The Foundation did not respond to the University's letter, did not establish a Feeding Program, and did not direct that the contribution be made to a recognized program. The University then proposed to the Zoning Administrator of the District of Columbia that it would place the $100,000 donation in an escrow account until such time as the Foundation either began operating its Feeding Program or chose the appropriate vehicle for disposition of these funds. If neither of these events occurred, the University agreed to seek clarification from the Zoning Commission on how to proceed. A copy of the letter to the Zoning Administrator, the escrow agreement, and receipt of the monies as attached hereto as Exhibit D. The Zoning Administrator then made a ruling that directs the Foundation to either set up a requisite feeding program or designate an alternative recipient as provided by Zoning Commission Order No. 746-C, a copy is attached hereto as Exhibit E. On information and belief, the Foundation has not responded to the Zoning Administrator's letter.

Since the August 12th letter to Mr. Batham, the Foundation Board has met just once, according to the two University representatives on the Board. Given the absence of a Feeding Program run by the Foundation and its failure to select an existing one, the University respectfully requests that Condition 9(a) be modified in order to allow the monies, currently being held in escrow by a bank, be donated to an organization which can fulfill the intent of the Commission and provide the meals to the needy.

III. Proposed Modification

The University requests Condition 9(a), marked to show changes from the existing 9(a), be modified so that if the Foundation has not established the Feeding Program and does not select an alternative for the donation, that the University unilaterally, after giving the Foundation 30 days to act, be authorized to chose a non-profit, established, existing feeding and/or homeless program, operating in the Foggy Bottom area and make the requisite donation directly to it. The University will, of course, report this donation, with proof thereof, to the Office of the Zoning Administrator, the Office of Zoning, ANC 2A and the West End Citizens Association.

The University's modified Condition 9(a), marked to show changes from the existing 9(a), would read as follows:

9(a). The University shall contribute $500,000 over five (5) years for the purpose of operating a program of providing meals at reduced rates for the needy, elderly, and other low income residents of Foggy Bottom (the "Feeding Program") at one or more food service venues in Foggy Bottom, such as venues in University-owned or leased facilities. The $500,000 contribution will be $100,000 a year for five (5) years to the

Foggy Bottom Feeding Program Foundation, Inc. (the "Foundation"), an established District of Columbia nonprofit corporation organized by the representatives of the University and WECA. The Foundation will set the eligibility requirements and provide oversight for the Feeding Program. The first $100,000 contribution will be made on the date of the Certificate of Occupancy for the Subject Property. Subsequent payments shall be made on the next four succeeding anniversaries of the Certificate of Occupancy. In addition to the $500,000 contribution, the University will pay for the build-out of University food service venues, if necessary, in an amount not to exceed $250,000. The University will also pay the cost of securing all necessary permits to operate the Feeding Program at the University venues. The contribution shall be conditioned so that no portion of the $500,000 contribution or the $250,000 "build out" referenced above may be used for salaries, expenses, and other costs relating to administering the Feeding Program. The entirety of the $500,000 contribution paid by the University shall be conditioned upon its exclusive to provide food and meals to needy, elderly, and other low income residents. If, for any reason, the Feeding Program cannot operate as described above, or if the Feeding Program fails to comply with the above-stated funding condition, then the University shall pay $100,000 a year to an existing, nonprofit food service program selected by the Foundation until (a) the Feeding Program begins or resumes operation; (b) the Feeding Program achieves compliance with the funding condition; or (c) the $500,000 is fully expended, whichever comes first. If the Foundation neither establishes the Feeding Program, in compliance with this condition, nor identifies an alternative existing food service program within 30 days after receipt of a written request from the University to the Foundation, the University shall select a non-profit food service and/or homeless program operating within the Foggy Bottom area to be the donee of the contribution and said contribution shall be delivered within 10 business days after the expiration of the above-referenced 30 day period. The University shall provide evidence of the annual payments for the Feeding Program each year to the Foundation, the Zoning Administrator, with copies to ANC 2A and WECA.

and not affiliated w/GWU

IV. Conclusion

The University believes that this Minor Modification would allow it to make the appropriate contribution, and feed the needy population, without further delay and would implement the full force and intent of the Zoning Commission when it crafted the original

Condition. All other conditions and requirements of Zoning Commission Order No. 746-C would remain unchanged.

Sincerely,

Phil Feola

Martin P. Sullivan

cc: Robert Kelly
Charles Barber, Esq.

Enclosures

ShawPittman LLP

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2002, a copy of the foregoing letter and request for Consent Calendar approval of a Minor Modification to Zoning Commission Order No. 746-C were served by hand-delivery to:

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

ANC 2A
St. Mary's Court
725 24th Street, N.W.
Washington, D.C. 20037

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

And by mail to:

West End Citizens Association
P. O. Box 58098
Washington, D.C. 20037

Office of Planning
801 North Capitol Street
4th Floor
Washington, D.C. 20002

Phil T. Feola

Document #: 1281719 v.1



Government of the District of Columbia
ZONING COMMISSION

Zoning Commission Order No. 746-C
Zoning Commission Case No. 01-17M/93-5F/91-18P
(Modification to the Planned Unit Development at
1957 E Street, N.W.)
June 10, 2002

Pursuant to Notice, the Zoning Commission for the District of Columbia held public hearings on Thursday, November 15, 2001, and on Thursday, January 17, 2002, to consider an application from The George Washington University for a modification to an existing planned unit development ("PUD"), pursuant to Chapters 1 and 24 of the D.C. Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. The public hearings were conducted in accordance with the provisions 11 DCMR § 3022.

FINDINGS OF FACT

1. On August 31, 2001, The George Washington University ("University") filed an application for a modification to a PUD previously approved by the Zoning Commission in Order No. 746, Case No. 93-5F/91-18P, as extended by Order Nos. 746-A and 746-B for the property located at 1957 E Street, N.W., lot No. 29 (formerly lot 835) in Square 122 ("Subject Property"). The PUD modification application is processed as a second stage PUD application.

2. The original PUD changed the zoning of the Subject Property from the SP-2 Zone District to the C-3-C Zone District by Zoning Commission Order No. 746, effective December 10, 1993. It permitted the construction of a mixed-use project, with a floor area ratio ("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 height of the PUD project was not to exceed 107 feet, exclusive of penthouses. The PUD project was to be developed with 47 to 56 residential units and a minimum of 200 on-site parking spaces.

3. The George Washington University purchased the Subject Property in 1999.

4. Before making this purchase, the University obtained a series of confirmations from the Office of the Zoning Administrator approving non-major changes it sought to make to the approved PUD plans. After the University purchased the Subject Property, it received a building permit approving the construction of the project, under the original PUD order.

Advisory Neighborhood Commission ("ANC") 2A and the West End Citizens Association ("WECA") filed an appeal of the issuance of this building permit. On June 5, 2001, in BZA Order No. 16701, the BZA overturned the Zoning Administrator's ruling and the building permit stating that the Zoning Administrator had exceeded his discretion and that the proposed changes should be presented to the Zoning Commission as a PUD modification. The University then filed this PUD modification application.

5. The PUD modifications requested by the University are as follows:

   a. The elimination of open balconies in the residential portion of the building;

   b. A change in building materials for the building - from granite/limestone cladding to limestone for the first two floors and to a pre-cast limestone aggregate for the upper levels;

   c. The elimination of one of two parking garage entrances;

   d. Inclusion of academic uses in the commercial portion of the building; and

   e. The elimination of one loading dock in order to provide ground floor retail.

6. The applicant entered into an Agreement with WECA, which had been granted party status in the BZA appeal and likewise by the Zoning Commission in this proceeding since it represented residents and property owners within the area that is affected by this project and thus is specially affected by this application. In the agreement, the University agreed to the following conditions in return for WECA's support of the PUD modification.

   a. The building shall include approximately 3,300 square feet of community-oriented retail space. An additional 1,700 square feet of community-oriented retail space shall be included in the University's Mitchell Hall located at 514 19th Street, N.W., immediately north of the subject property.

   b. The University agreed to restrict loading dock truck deliveries 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. The University agreed to limit construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Saturday.

   d. The University agreed to implement the same landscaping plan that was proposed in the original PUD order.

e. The University agreed to restrict student residential occupancies in the building to juniors, seniors, graduate students, and students enrolled in an honors program.

f. The University agreed to provide a total of $500,000 to a new foundation for the operation of a program to provide free or reduced-rate meals for poor residents of the District of Columbia and the homeless.

g. The University agreed to comply with all provisions of the D.C. Environmental Policy Act on all future campus construction projects.

h. The University agreed to make a proffer, as a proposed condition in the Campus Plan case then pending before the District of Columbia Board of Zoning Adjustment, to restrict freshman and sophomores living in the Foggy Bottom/West End Area (as defined on page 11 of the BZA Order dated March 29, 2001) from bringing cars to school or parking in the Foggy Bottom/West End Area, with certain exceptions for whom the University would arrange for parking in University parking facilities, and that the University would publish in its printed materials this restriction, i.e., that such freshman and sophomores living in the Foggy Bottom/West End Area may not bring cars to school.

7. Hearings were held by the Zoning Commission on Thursday, November 15, 2001, and on Thursday, January 17, 2002.

8. Commissioner John Parsons recused himself, citing a business relationship with ANC 2A's legal counsel, James Draude.

9. The Zoning Commission incorporates the record of the original PUD case into this PUD modification case.

10. Thomas Butcavage, the University's architect, recognized by the Commission as an expert witness, testified to the proposed modifications. Mr. Butcavage explained how the design changes evolved through submissions to the United States Commission of Fine Arts, design refinements and consultations with the Office of the Zoning Administrator leading to his filing of a building permit application, which was then approved, by the District of Columbia Department of Consumer and Regulatory Affairs. Regarding the change of balconies, Mr. Butcavage testified that the open balconies actually weakened the design of the building and the monumentality that the design was intended to create. Regarding the change in the exterior building materials, Mr. Butcavage presented a materials board with samples of the proposed materials and testified that the new materials were visually indistinguishable from those approved in the original PUD. He indicated that the University was maintaining natural limestone at the base to a height of approximately 30 feet, with a cast aggregate limestone above 30 feet to the building roof. Mr. Butcavage also testified that the effect of the elimination of the parking garage

entrance on 20th Street was an improvement because it is better to collect such parking in one location. He also stated that the provision of the community-oriented retail in the subject building would replace one of the two planned loading docks. He testified that the elimination of the loading dock and parking entrance resulted in a more appealing street façade and would have no material effect on loading or parking activities. The materials and the complete exterior design were approved by the United States Commission of Fine Arts.

11. Mr. Butcavage testified that the residential portion of the building is designed to be the equivalent of market rate apartments with kitchens, living rooms, washers and dryers, bathrooms, and other amenities indicative of market rate apartments and not a dormitory. He also stated that he evaluated the uses permitted in the commercial portion of the building and determined that the University's proposed uses, office (approximately 82%) and academic (approximately 18%) uses were permitted under the original PUD. He described that office uses today include many classroom-like features such as conference centers, large meeting rooms and the like, and University uses are allowed as matter-of-right in the C-3-C Zone District.

12. Mr. Butcavage opined that from a land use and architectural perspective, the proposed modification creates no additional impacts from the original PUD.

13. Nicole White, of Gorove-Slade Associates, recognized by the Zoning Commission as an expert in transportation planning and traffic engineering, testified that the change in the planned use of the subject building, from office and residential to office/academic and student residential, would result in an overall reduction of trip generation and less traffic than would have been generated under the original PUD. Ms. White also testified that eliminating the driveway access off of 20th Street would cause a diversion of some traffic, but would still be less traffic than that expected under the original PUD.

14. Charles Barber, Senior Counsel of The George Washington University, testified that the subject project is appropriately situated to contain student residents and an academic/office building, because of its location in a square with two (2) existing University dormitories and its proximity to the State Department.

15. Kathleen Reilly, Director of Public Affairs of the Elliott School of International Studies, the University's proposed occupant of the commercial portion of the project, testified as to the importance of the Elliott School's role in international affairs and the community. She described the deficiencies in the school's current building and described how its role would be enhanced by the project and the project's proximity to the State Department and the World Bank.

16. The University submitted a list of types of community-oriented retail uses that the University would provide. The permitted uses would include uses that would be attractive to both the University community as well as the non-University community in Foggy Bottom. Examples of these uses include, but not are limited to, a provisions or dry

goods store, coffee shop, delicatessen, bakery, or other establishment serving pre-prepared foods, or a beauty salon/barber shop. The sale of alcoholic beverages would not be permitted in the retail space or any use that does not permit, or would be inappropriate for, sales of goods or services to minors.

17. Mr. Barber testified that all the properties within Square 122 were University properties, with the exception of a commercial parking garage, and that the subject building was otherwise surrounded by large institutional buildings and an open plaza.

18. The University submitted into the record a Comparison of Benefits which showed that the University's use of the project substantially exceeds the benefits that would have flowed from the project if it had been built by the original PUD owner. The University also submitted a detailed analysis as to how this PUD modification is consistent with the District of Columbia Comprehensive Plan.

19. The Office of Planning ("OP") issued a report and testified that the PUD Modification was not inconsistent with the Comprehensive Plan and that the subject building would not create congestion in this part of the city. OP also noted that it was important to the community to provide more student housing. OP recommended that the Zoning Commission approve the PUD modification application.

20. DPW submitted a report dated November 16, 2001, into the record which stated that the changes in the site plan from the PUD modification will generate less traffic that the original PUD.

21. ANC 2A was a party in opposition to the PUD modification. Elizabeth Elliott, the Single Member District representative for this area, submitted written testimony that ANC 2A was opposed to the PUD modification because it believes that: the proposed modification represents a fundamental change to the purpose, benefits, and amenities included in the original PUD since it would be residential housing for students only; is not consistent with the District Elements of the Comprehensive Plan for the National Capital; eliminates all of the major benefits and amenities generated by the original PUD; represents an unwarranted expansion of the University beyond its approved Campus Plan boundaries; and is based on inadequate traffic analysis.

22. ANC 2A also offered Dr. Sol Shalit as an expert witness in economics. Dr. Shalit testified in opposition to the PUD modification that the amenities and benefits proposed by the University were not comparable to those proposed in the original PUD.

23. Barbara Kahlow, representing WECA, testified in support of the PUD modification. Ms. Kahlow testified that WECA, which was founded in 1910 and is the principal community organization in the University's neighborhood, executed an agreement with the University that provides both on-site and off-site amenities and other protections for the immediately impacted community. She further stated that the settlement agreement

benefits not only the immediately impacted community east of Washington Circle but also other elderly and poor residents of the District of Columbia.

24. Ms. Kahlow testified that WECA supports the University's PUD modification on the condition that the Zoning Commission include in its order all substantive provisions in the WECA - University Agreement including, but not limited to, the provision of 5,000 square feet of retail space, a $500,000 grant to a community-based foundation, compliance by the University with the D.C. Environmental Policy Act for all future campus projects, restrictions on deliveries to the project, restriction on residential occupants of the project to upperclass and honors students, and restricting parking in the Foggy Bottom/West End area for University students living in the area.

25. Sara Maddux, Board Member of WECA and a resident of Monroe House Condominium at 522 21st Street, N.W., testified in support of approval of the PUD modification. Ms. Maddux had been the Chair of ANC 2A and primarily responsible for the ANC's successful negotiations with the original owner of the PUD. Ms. Maddux commended the University's commitment to provide much desired community-oriented retail and especially its commitment to publishing a policy for reducing vehicles on campus.

26. Dorothy Miller and Laetitia Combrinck, residents in the area, testified in opposition to the PUD modification, because they believe the PUD amenities and benefits are not sufficient. They presented a petition signed by residents in the area supporting their position.

27. At its decision meetings of March 11, 2002 and April 19, 2002, the Commission gave the University an opportunity to provide into the record an enhanced benefits/amenities package. On March 27, 2002 and April 23, 2002, the University responded with additional amenities including: (a) the incorporation of the Foggy Bottom Feeding Foundation, Inc.; (b) the commitment to donate $500,000 during the next five years for the feeding program; (c) the re-establishment of a Scholl's Cafeteria in a University-owned facility; (d) contribution of an additional $250,000 to build out the cafeteria space; (e) a commitment to ensure that neighborhood retail uses are actually realized in the project; (f) enhanced use of the University police for security patrols in, and around, the neighborhood; (g) enhancement of the University's partnership with the District of Columbia Public School Without Walls; (h) staff support for community outreach in the area by the West End Public Library; (i) increased access for neighborhood residents to cultural events sponsored by the University; and (j) a number of other "good neighbor initiatives" suggested by the community residents.

28. WECA and ANC 2A responded to the University's enhanced amenities/benefits package. WECA generally supported it; the ANC continued to oppose the PUD because it believed that the amenities/benefits package was not sufficient.

29. The Zoning Commission finds that the proposed changes enhance the original PUD project because the residential portion of the building will house University students in a

University-controlled setting and the use of the commercial/academic portion of the building to house the Elliott School of International Affairs will be a benefit to the District of Columbia. Additional benefits including jobs, revenues, the provision of 5,000 square feet of neighborhood retail, compliance with the District's environmental policies, the $750,000 donation to benefit the elderly and poor in the neighborhood, the enhanced programs with the School Without Walls, the community outreach, and the West End Library programs, are superior to the original PUD, in as many of the original amenities suggested in the original PUD were unenforceable.

30. The Zoning Commission credits the design expertise of the United States Commission of Fine Arts with regard to the changes in the building's exterior materials open balconies, elimination of the garage door, and approving the overall building design.

31. The Zoning Commission credits the opinions of OP, DPW, and the University's expert witnesses in architecture and transportation that the PUD modification would not have an adverse impact on the surrounding community or on the District of Columbia.

32. The Commission notes that the University's agreement with WECA required the University to make a proffer to the BZA regarding student parking in Foggy Bottom/West End Area. The University attempted to make such a proffer, but it was not acted on by the BZA. Consequently, the University, by letter dated February 8, 2002, made part of this record, will voluntarily adopt and publish this policy beginning in University documents for Fall 2002. The University intends to maintain this policy at least until June 30, 2009, the stated duration of the current Campus Plan. If, prior to this time, changed circumstances warrant a modification of this policy, the University will make such modifications only with the agreement of WECA. WECA, by letter dated February 9, 2002, and made part of this record, expressed satisfaction with this commitment by the University.

33. The Commission concludes that the PUD modification is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital because the project will promote continued contributions made by private institutions toward the economic and cultural vitality of the District; it will promote the District as the national center for international business and financial activity; it will provide housing for District residents; it will provide desired student housing. Also, the project's design will maintain and enhance the physical integrity and character of the District as the Nation's Capital. The Commission concludes that the PUD modification is specifically not inconsistent with the Ward 2 Element of the Comprehensive Plan because the project would utilize the potential of the University to create an expanded center of knowledge and learning in the center of Washington and it would provide residential space to alleviate some of the pressure on the existing housing stock by students needs. Finally, the provision of a mixed-use, high-density project is consistent with the Comprehensive Plan General Land Use Map's designation for the subject site.

CONCLUSIONS OF LAW

1. The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia.

2. This PUD modification carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the construction of well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter-of-right development.

3. Approval of this application as a modification to the original PUD is provided for under the regulations and is appropriate within this regulatory scheme for carrying PUDs to final completion.

4. Approval of this PUD modification is appropriate, because the application is consistent with the present character of the area.

5. The Commission takes note of the position of ANC 2A and has accorded to the ANC the "great weight" consideration to which it is entitled. The Commission concludes, nevertheless, that the University has shown that the project is not a fundamental change to the purpose, benefits, and amenities included in the original PUD; that it is not inconsistent with the Comprehensive Plan, as stated in the Findings of Fact noted above; that it provides a level of amenities and benefits superior to that in the original PUD; that it represents an appropriate expansion of the University campus, based on the character of the surrounding area. The Commission also concludes that the University has shown that traffic generation will be less under the modified PUD project than it would have been under the original PUD and that approval of the PUD modification will not be disruptive or injurious to neighboring properties.

6. The approval of the Application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

7. The changes to the original PUD requested here with regard to the balconies, garage doors, loading facilities, and use are consistent with the design and intent of the original PUD as represented in Z.C. Order No. 746.

8. The proposed modification can be approved with conditions, which will ensure that development will not have an adverse effect on the surrounding area.

9. Approval of this PUD, as noted in the Findings of Fact above, is not inconsistent with the Comprehensive Plan.

10. The Application is subject to compliance with DC Law 2-38, the Human Rights Act of 1977, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this order, the Zoning Commission of the District of Columbia orders **APPROVAL** of this application for modification to the original PUD approved by Zoning Commission Order Nos. 746, 746-A, and 746-B, for property located in Square 122, lot 29 (formerly lot 835), subject to the following guidelines, conditions, and standards:

1. The project shall be built in accordance with the Plans, dated prepared by the Smith Group, and marked as Exhibit 16 of the record.

2. The Project shall include 3,300 square feet of on-site retail space. This retail space will include an area formerly designated as the loading dock on the residential side of the building.

3. The University shall restrict all deliveries to the project to loading dock located on the east side of the Building, the underground parking garage, and the E Street entrances.

4. The University will also provide 1,700 square feet of general retail space in Mitchell Hall, located at 514 19th Street, NW, immediately north of the building, and will encourage use of this retail space through appropriate signage.

5. The University 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.

6. The construction hours for the Project shall be limited to 7:00 A.M. to 7:00 P.M. Monday through Saturday. The University shall appoint a telephone contact for receiving and responding to complaints concerning the impact of construction on the surrounding community. The University may request a special permit to work extended hours only to address circumstances constituting a threat to public safety, health, and welfare. In seeking such a special permit, The University 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.

7. The University shall implement the same landscaping plan for the project as that approved in the original PUD.

8. The University shall restrict residential occupancy in the project to juniors, seniors, graduate students, and students enrolled in an honors program.

9. The University shall provide the following amenities as part of this PUD and the University shall provide a written report on the status of these amenities, annually from the effective date of this Order, to the Zoning Administrator of the District of Columbia, ANC 2A, and WECA. Where reports on individual amenities are referenced below, such reports will be included in the annual report, unless otherwise indicated.

(a) The University shall contribute $500,000 over five (5) years for the purpose of operating a program of providing meals at reduced rates for the needy, elderly, and other low-income residents of Foggy Bottom (the "Feeding Program") at one or more food service venues in Foggy Bottom, such as venues in University-owned or leased facilities. The $500,000 contribution will be $100,000 a year for five (5) years to the Foggy Bottom Feeding Program Foundation, Inc. (the "Foundation"), an established District of Columbia nonprofit corporation organized by the representatives of the University and WECA. The Foundation will set the eligibility requirements and provide oversight for the Feeding Program. The first $100,000 contribution shall be made on the date of the Certificate of Occupancy for the Subject Property. Subsequent payments shall be made on the next four succeeding anniversaries of the Certificate of Occupancy. In addition to the $500,000 contribution, the University shall pay for the build-out of University food service venues, if necessary, in an amount not to exceed $250,000. The University will also pay the cost of securing all necessary permits to operate the Feeding Program at the University venues. The contribution shall be conditioned so that no portion of the $500,000 contribution or the $250,000 "build-out" referenced above may be used for salaries, expenses, and other costs relating to administering the Feeding Program. The entirety of the $500,000 contribution paid by the University shall be conditioned upon its exclusive use to provide food and meals to needy, elderly, and other low-income residents. If, for any reason, the Feeding Program cannot operate as described above, or the Feeding Program fails to comply with the above-stated funding condition, then the University shall pay $100,000 a year to an existing, nonprofit food service program selected by the Foundation until (a) the Feeding Program begins or resumes operation; (b) the Feeding Program achieves compliance with the funding condition; or (c) the $500,000 is fully expended, whichever comes first. The University shall provide evidence of the annual payments for the Feeding Program each year to the Zoning Administrator, with copies to ANC 2A and WECA.

(b) The University shall use its best efforts to fill the retail space called for in this Order (in 1957 E Street and Mitchell Hall) with appropriate retail tenants. In the event that the University, despite its best efforts, is unable to rent the space within one (1) year of the issuance of the certificate of occupancy for the subject property, the University shall commence operation of the retail operation in the space under its own authority within that time frame pursuant to any required District approvals. The University shall provide status reports on such retail operations on an annual basis to the Zoning Administrator, WECA, and ANC 2A.

(c) The University's Police Department ("UPD") shall, to the extent of its authority, patrol areas to the south of the University's Foggy Bottom campus to deter criminal activity and to respond to events as needed. This patrol area shall consist of the area outside of the Campus Plan bounded by F Street on the north, 19th Street on the east, E Street and Virginia Avenue on the south, and 23rd Street on the west (the "Patrol Area"). Currently, UPD does not have arrest authority in the Patrol Area, but its responses shall include, as appropriate, immediate calls to the D.C. Metropolitan Police Department ("MPD") or emergency ambulances when such assistance is needed. The University shall include any crime statistics from the Patrol Area in the "pubic property" portion of the annual Campus Security Act report made available to the public. District legislation is currently being developed which would afford organizations like the UPD police powers in the Patrol Area, pursuant to an agreement with the MPD. Under such legislation, UPD would be authorized to make arrests in the Patrol Area. If such legislation is enacted, the University shall seek an agreement with MPD for this purpose within two (2) months after the effective date of the new legislation.

(d) The University, in cooperation with local authorities, shall enforce the prohibition on the placement of posters, flyers, and similar materials in areas in and around the Foggy Bottom Campus other than spaces designated for postings, and shall participate in the cleanup of materials improperly posted. The University shall designate staff in the Community Living and Learning Center for this purpose. The University shall track illegal postings and shall refer student violators to the University's Student Judicial Services for appropriate sanctions. For non-University violators, the University shall make written requests to such violators to cease and desist, and shall report repeat offenders to the appropriate District agencies. The University shall make an annual report of its activities, including the number of violators identified and actions taken with respect to such violators, to the District of Columbia Clean City Coordinator, as well as the Zoning Administrator, WECA, and ANC 2A.

(e) The University shall support, in communication directed to the District Division of Transportation, the long-standing request of community residents for the placement of a traffic light at the intersection of 21st and F Streets, N.W. This communication shall be made within two (2) months of the date of the order approving the PUD Modification. If the District of Columbia approves the light, the University shall contribute the sum of $10,000 towards the installation of this light.

(f) The University shall permit students and faculty from the School Without Walls ("SWW") to take cumulatively up to 120 University college courses each year for credit or enrichment for a minimum of five (5) years without

charge for tuition, with first preference going to students whenever possible. SWW shall be permitted to select the courses attended, however access to specific courses may be limited on a space available basis. The value of such courses as measured by forgone tuition under current rates is $360,000 a year, for a five (5) year commitment of $1.8 million. The University shall secure from the principal of SWW an annual verification of the receipt of these course opportunities each year and include it in its annual report to the Zoning Administrator, WECA, and ANC 2A.

(g) The University shall provide priority seating for non-student Foggy Bottom residents at productions of CNN's longest running political debate program, "Crossfire," for so long as such program is broadcast from the University's School of Media and Public Affairs. Non-student residents of Foggy Bottom shall, upon request, be given priority seating at no charge for up to 20 seats at each broadcast.

(h) The University shall provide, in response to a request of the D.C. Public Libraries, a graduate student committed to working for the West End Public Library (the "Library") for at least 20 hours a week for the purpose of conducting a program of outreach for the Library into the Foggy Bottom and West End communities. This graduate student shall be provided at no cost to the Library. The University shall pay for the graduate student's tuition, room and board, and an appropriate stipend, and will require the work for the Library as a component of his/her education. The University will identify prospective graduate students in appropriate disciplines for this program and the Library may select the student of its choice. Each graduate student selected shall be obligated to work for a minimum of one (1) year. The University's obligation shall commence this year and continue for at least four (4) additional years. The University shall secure an annual verification of this program from the Library and include it in its report to the Zoning Administrator, WECA, and ANC 2A.

10. The University shall enter into a First Source Agreement with the District of Columbia Department of Employment Services for the project.

11. The University shall enter into a Local, Small, and Disadvantaged Business Enterprises (LSDBE) Memorandum of Understanding with the District of Columbia Department of Human Rights and Local Business Development for the project.

12. The University shall comply with the D.C. Environmental Policy Act (D.C. Code § 6-981 *et seq.*), subject to any applicable amendments, regulations or judicial interpretation, on all future campus construction projects.

This order was adopted by the Zoning Commission at its public meeting on July 8, 2002, by a vote of 4-0-1 (Peter G. May, Carol J. Mitten, Anthony J. Hood, and James H. Hannaham to adopt; John G. Parsons not voting, having recused himself).

In accordance with the provisions of 11 DCMR § 3028.8, this order shall become final and effective upon publication in the D.C. Register; that is, on AUG 16 2002

CAROL J. MITTEN
Chairperson
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 14 IN TITLE 2 OF THE D.C. CODE. SEE D.C. CODE SECTION 2-1402.67 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER. NOTE IN SECTION 2-1401.01 OF THE D.C. HUMAN RIGHTS ACT THAT IT IS THE INTENT OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, IN ENACTING THIS CHAPTER, TO SECURE AN END IN THE DISTRICT OF COLUMBIA TO DISCRIMINATION FOR ANY REASON OTHER THAN THAT OF INDIVIDUAL MERIT, INCLUDING, BUT NOT LIMITED TO, DISCRIMINATION BY REASON OF RACE, COLOR, RELIGION, NATURAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, AND PLACE OF RESIDENCE OR BUSINESS.



9.(a) The University shall contribute $500,000 over five (5) years for the purpose of operating a program of providing meals at reduced rates for the needy, elderly, and other low-income residents of Foggy Bottom (the "Feeding Program") at one or more food service venues in Foggy Bottom, such as venues in University-owned or leased facilities. The $500,000 contribution will be $100,000 a year for five (5) years to the Foggy Bottom Feeding Program Foundation, Inc. (the "Foundation"), an established District of Columbia nonprofit corporation organized by the representatives of the University and WECA. The Foundation will set the eligibility requirements and provide oversight for the Feeding Program. The first $100,000 contribution shall be made on the date of the Certificate of Occupancy for the Subject Property. Subsequent payments shall be made on the next four succeeding anniversaries of the Certificate of Occupancy. In addition to the $500,000 contribution, the University shall pay for the build-out of University food service venues, if necessary, in an amount not to exceed $250,000. The University will also pay the cost of securing all necessary permits to operate the Feeding Program at the University venues. The contribution shall be conditioned so that no portion of the $500,000 contribution or the $250,000 "build-out" referenced above may be used for salaries, expenses, and other costs relating to administering the Feeding Program. The entirety of the $500,000 contribution paid by the University shall be conditioned upon its exclusive use to provide food and meals to needy, elderly, and other low-income residents. If, for any reason, the Feeding Program cannot operate as described above, or the Feeding Program fails to comply with the above-stated funding condition, then the University shall pay $100,000 a year to an existing, nonprofit food service program selected by the Foundation until (a) the Feeding Program begins or resumes operation; (b) the Feeding Program achieves compliance with the funding condition; or (c) the $500,000 is fully expended, whichever comes first. The University shall provide evidence of the annual payments for the Feeding Program each year to the Zoning Administrator, with copies to ANC 2A and WECA.

(b) The University shall use its best efforts to fill the retail space called for in this Order (in 1957 E Street and Mitchell Hall) with appropriate retail tenants. In the event that the University, despite its best efforts, is unable to rent the space within one (1) year of the issuance of the certificate of occupancy for the subject property, the University shall commence operation of the retail operation in the space under its own authority within that time frame pursuant to any required District approvals. The University shall provide status reports on such retail operations on an annual basis to the Zoning Administrator, WECA, and ANC 2A.



EXHIBIT C

FILE

The George Washington University
WASHINGTON DC

VICE PRESIDENT AND GENERAL COUNSEL

EMAIL
cbarber@gwu.edu

August 12, 2002

HAND DELIVERY

Mr. Jack Batham
2000 F Street, NW
Apt. 506
Washington, D.C. 20006

Re: *Foggy Bottom Feeding Program*

Dear Jack:

We just received a copy of the Zoning Commission's order for the PUD modification for 1957 E Street. Enclosed is a copy. The order is scheduled to become effective upon publication in the D.C. Register, August 16, 2002. We are currently applying for a certificate of occupancy for the residential wing and the parking and we hope to have them by the same date.

Condition 9(a) of the Order specifies the conditions for the Feeding Program. The Order requires the initial $100,000 payment to be made when the certificate of occupancy is issued. If the Feeding Program is not in operation, however, the Order provides that the $100,000 is to be paid to "an existing, nonprofit food service program selected by the Foundation until (a) the Feeding Program begins or resumes operation . . . ."

Given the long lag time between the Zoning Commission's hearings and vote, and the issuance of this order, the Feeding Program is not yet in operation. Accordingly, please convene a meeting of the Foundation and select an existing, nonprofit food service program to which the initial $100,000 payment should be made. Once the Foundation's selection is made, please advise me and the University will issue a check to that organization.

Sincerely,

Charles K. Barber

Enclosure

cc: Barbara Kahlow David Watts
Sara Maddux Johnnie Osborne

2100 PENNSYLVANIA AVE., N.W. • SUITE 250 • WASHINGTON, DC 20052 • (202) 994-0503 • FAX (202) 994-4640



EXHIBIT D

The George Washington University
WASHINGTON DC

VICE PRESIDENT AND GENERAL COUNSEL

EMAIL
dtarber@gwu.edu

August 16, 2002

FAX AND HAND DELIVERY

Mr. Jack Batham
2000 F Street, NW
Apt. 506
Washington, D.C. 20006

Mr. Robert Kelly
Zoning Adminstrator of the District of Columbia
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE
Washington, D.C. 20001

Re: 1957 E Street, NW/Foggy Bottom Feeding Program

Dear Gentlemen:

The Foggy Bottom Feeding Program described in Condition 9(a) in the Zoning Commission Order, effective August 16, 2002 (the "Order") has not been established. By letter dated August 12, 2002, The George Washington University requested that the Foggy Bottom Feeding Program Foundation, Inc. (the "Foundation") convene a meeting of its board of directors in order to select an alternative, existing food service program as a recipient of the initial installment of $100,000, as provided in Condition 9(a). To date, the Foundation has not designated an alternative food service program. Members of the West End Citizens Association have requested additional time to establish the Feeding Program described in the initial part of Condition 9(a). As a demonstration of the University's good faith commitment to this program, GW has deposited the $100,000 in escrow today under the following terms and conditions.

1. The escrow account has been established at Riggs National Bank. The term of the escrow will be three months from today, expiring on November 16, 2002 (the "Escrow Term"), unless the conditions of paragraph 5, below, apply. Attached is an acknowledgment from Riggs that the account has been established.

2. The Zoning Administrator of the District of Columbia will serve as escrow agent. Neither GW, the Foundation nor WECA will have rights to these monies until the Conditions of the Zoning Order are met.

3. The account has been established as an interest bearing account. If the Zoning Administrator determines that the Foundation has established the Feeding Program as described in Condition 9(a) by the end of the Escrow Term, GW will pay the $100,000 in escrow, together with all accumulated interest, to the Foundation for such Feeding Program.

4. If the Zoning Administrator determines that the Feeding Program has not been established by the end of the Escrow Term, GW will pay the escrowed funds to an alternative, existing food service program selected by the Foundation, as provided in Condition 9(a).

5. If the Zoning Administrator determines that the Feeding Program has not been established by the end of the Escrow Term, and the Foundation has not selected an alternative, existing food service program as provided in Condition 9(a), GW will request the Zoning Commission to determine how such monies should be applied. The funds will remain in escrow until the Zoning Commission renders a decision on such request.

If you have any questions, please contact me.

Sincerely,

C. K. Barber

Charles K. Barber

Enclosure

cc: Carol Mitten, Chair of the Zoning Commission
Dennis Blumer
Lou Katz
Barbara Kahlow
Sara Maddux
David Watts
Johnnie Osborne
Phil Feola



THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON DC

OFFICE OF THE VICE PRESIDENT AND TREASURER

August 16, 2002

Ms. Carolyn West
Riggs Bank
808 17th Street, NW
Washington, DC 20036
VIA FAX and Courier: 202 835 5169

RE: Opening of Escrow Account in the amount of $100,000

Dear Carolyn:

Please open an escrow account with the following conditions:

Amount: $100,000

1. The Zoning Administrator for the District of Columbia, Robert Kelly, will be the escrow agent.
2. The account is to be an interest bearing account.
3. The money will be held for three months.
4. After three months, one of the following will occur:

(a) GW will pay the escrowed funds to the Foggy Bottom Feeding Program Foundation, Inc., upon the Zoning Adminstrator's determination that the Feeding Program mandated by the Zoning Commission has been established.
(b) GW will pay the escrowed funds to an alternative, existing feeding program selected by the Foundation, if the ZA determines the Feeding Program in (a) has not been established.
(c) If neither (a) nor (b) occurs, the money will remain escrowed until the University receives further instructions from the Zoning Commission.

Please debit account number 09 001 923 for any charges associated with this transaction.

Please call Walter Leathers at 202-496-2217 if you have questions on this request.

Sincerely,

Catherine A. Lynch, CFA
Associate VP for Treasury Management

RIGGS

Date

George Washington University
2121 I St., NW, Suite 701
Washington, D.C. 20052

RIGGS Riggs Bank N.A.

Visit us at
www.riggsbank.com

This deposit or payment is subject to verification and may be returned according to the terms in our rules and regulations. Deposit may not be available for immediate withdrawal.

RIGGS 111 CASH DEPOSIT
0010128013786 17 2050109
25313732 100,000.00 CASH
16AUG02 15:54 100,000.00

BRANCH TELLER# DATE TIME



EXHIBIT E

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

Building and Land Regulation Administration
Office of the Zoning Administrator

September 6, 2002

Foggy Bottom Feeding Program Foundation, Inc.
c/o Corporation Service Company (Registered Agent)
1090 Vermont Avenue, N.W.
Washington, D.C. 20005

Mr. John C. Batham
President
West End Citizen's Association
P.O. Box 58098
Washington, D.C.

Charles K. Barber, Esq.
Senior Counsel
The George Washington University
2100 Pennsylvania Avenue, NW, Suite 250
Washington, D.C. 20052

RECEIVED
D.C. OFFICE OF ZONING
2002 SEP -6 PM 3:27

Re: Implementation of Zoning Commission Order 746-C (Decision, Paragraph 9) and Issuance of Certificate of Occupancy for 1957 E Street, NW, Washington, D.C.

Dear Sirs:

This letter will seek to respond to concerns that have been raised by representatives of both the West End Citizens Association and the George Washington University regarding implementation of that portion of Zoning Commission Order 746-C, which pertains to funding a feeding program in Foggy Bottom, and the issuance of a Certificate of Occupancy for 1957 E Street, NW, Washington, D.C.

The Order of the Zoning Commission (ZC Order) provides in Paragraph 9(a) of the Decision that George Washington University (hereinafter GWU or the University) "shall contribute $500,000 over five (5) years for the purpose of operating a program of providing meals at reduced rates for the needy, elderly, and other low-income residents of Foggy Bottom." The Order further provides that:

941 North Capitol Street, N.E., Suite 2000 Washington, DC 20002 Phone: (202) 442-4576 Fax: (202) 442-4371

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a) $100,000 a year is to be paid to the Foggy Bottom Feeding Program Foundation, Inc. (hereinafter Foundation);

b) "The Foundation will set the eligibility requirements and provide oversight for the Feeding Program."

c) "The first $100,000 contribution shall be made on the date of the Certificate of Occupancy" for 1957 E Street, NW."

d) If necessary, the University will pay up to $250,000 additional "for the build-out of University food service venues."

e) No portion of the $500,000 or the $250,000 can be used for salaries, expenses, or other administrative costs.

f) "The entirety of the $500,000 contribution paid by the University shall be conditioned upon its exclusive use to provide food and meals to needy, elderly, and other low-income residents."

g) "If, for any reason, the Feeding Program cannot operate as described above, or the Feeding Program fails to comply with the above-stated condition, then the University shall pay $100,000 a year to an existing, nonprofit food service program selected by the Foundation until (a) the Feeding Program begins or resumes operation; (b) the Feeding Program achieves compliance with the funding condition; or (c) the $500,000 is fully expended, whichever comes first."

The West End Citizen's Association (WECA) has urged that under the terms of the ZC Order, GWU should have issued a check for $100,000, to the Foundation, a duly incorporated non-profit corporation, prior to issuance of a Certificate of Occupancy by DCRA. Since a Certificate of Occupancy was in fact issued, prior to issuance of the check to the Foundation, WECA maintains that GWU should be required to issue a check to the Foundation immediately, or DCRA should revoke the C of O.

GWU, on the other hand, has expressed concern that while the Foundation exists, the Feeding Program itself has not been "established," as apparently there is no written plan describing how the feeding program will operate (eg: how food is to be distributed, location(s) from which food will be provided; who is eligible; how eligibility will be determined; etc.); nor is the Foundation currently implementing a feeding program. GWU is concerned that after it makes a contribution, if the Foundation fails to meet the

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conditions in the ZC Order for operating a feeding program (e.g. that the money be used exclusively to provide food and that no portion of the money be used for administrative services), GWU will then be unable to comply with the ZC Order directing it to pay the money to another nonprofit food service program, as it will no longer have control over those funds.

Based upon these alleged concerns, GWU announced that, rather than issuing a check to the Foundation, it placed the $100,000 in an "escrow" account at Riggs Bank. GWU has provided DCRA with a copy of a letter to Riggs Bank directing that the $100,000 deposited in Riggs: a) be issued to the Foundation if the Zoning Administrator determines that the Foggy Bottom Feeding Program is established; b) be issued to an existing program selected by the Foundation; or c) remain is escrow until the Zoning Commission further instructs GWU.

The Zoning Administrator has reviewed the Zoning Commission Order, as well as the correspondence from both parties. While, under the terms of the ZC Order, it is arguable that GWU should have given a check directly to the Foundation on the date the Certificate of Occupancy was issued, it is also understandable that GWU had legitimate concerns with respect to whether it should send the money directly to the Foundation, without some evidence that the Foundation is prepared to operate a feeding program. Since GWU has placed $100,000 in an interest bearing account, to be paid to the Foundation or an entity selected by the Foundation upon direction by the Zoning Administrator,[1] the Zoning Administrator cannot conclude that GWU should be cited at this time for violating the terms of the ZC Order.

Upon review, it is clear that since under the ZC Order, the money goes either to the Foggy Bottom Feeding Program Foundation or to a feeding program selected by the Foundation, that it is necessary to hear directly and formally from the Foundation, with respect to the status of the feeding program and the wishes of the Foundation. Therefore, the Zoning Administrator hereby requests that the Foggy Bottom Feeding Program Foundation provide to the Zoning Administrator, either:

---

[1] Although the directive to Riggs Bank references a 3-month holding period, DCRA has been advised that under the terms of the escrow, the money need not remain in the account for a full three months and that the Zoning Administrator can direct its disposition prior to that time. The Zoning Administrator did not ask to be "escrow agent" and in fact sent an e-mail to GWU to this effect. The Zoning Administrator recognizes, however, that DCRA has a role in interpreting and enforcing the terms of the ZC Order pursuant to 11 DCMR 3205.

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1) A resolution by the Board of Directors, duly adopted in accordance with D.C. law and the bylaws of the Foundation, certifying that a feeding program has been established and that the Foundation is prepared to operate the feeding program in conformance with the requirements of the Zoning Commission Order; or

2) A resolution by the Board of Directors, duly adopted in accordance with D.C. law and the bylaws of the Foundation, designating an existing non profit food service program to receive the first $100,000, in lieu of the Foundation.

Upon receipt of one of the resolutions described above, the Zoning Administrator will direct appropriate disposition of the funds in escrow by GWU. If the required disbursement is not made, DCRA will pursue appropriate enforcement action.

Thank you for your consideration in this matter. I can be reached at 442-4576.

Sincerely,

Robert W. Kelly
Zoning Administrator

cc: David Clark, Director, DCRA
Therese Lewis, Deputy Director for Operations
J. Gregory Love, BLRA Administrator
Denzil Noble, Deputy Administrator, BLRA
Jerrily Kress, Director, Office of Zoning
Barbara Kahlow, WECA

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