Attachment D

West End Citizens Association
Washington, D.C.

Boundaries: 15th Street on the East • Potomac Park on the South
Rock Creek and the Potomac on the West • N Street on the North

September 13, 2002

Mr. Robert Kelly
Zoning Administrator of DC
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E. - Suite 2000
Washington, DC 20002

RECEIVED
D.C. OFFICE OF ZONING
2002 SEP 23 AM 9:46

Re: 9/6/02 DCRA/ZA Letter Regarding GWU's 1957 E Street, N.W.

Dear Mr. Kelly:

This letter constitutes the West End Citizens Association's (WECA) view of your September 6, 2002 letter to two of the Parties to Zoning Commission Case No. 01-17M/93-5F/91-18P, 1957 E Street, NW (Modification of an Approved PUD & related Map Amendment, Square 122, Lot 29 (formerly Lot 835)). Your letter was additionally addressed to a non-profit corporation, which was not a Party to this Case. In addition, you improperly attempted to add conditions to Zoning Order No. 746-C, for which you have no legal authority to do so.

In an August 20th letter to you, the WECA stated that "it would be premature for the Department of Consumer and Regulatory Affairs (DCRA) to issue a Certificate of Occupancy (CofO) for the George Washington University's (GWU's) 1957 E Street project. ... The WECA believes that **GWU is out of compliance with at least three provisions in the Order**, all of which must be corrected before DCRA is legally able to issue a CofO." Additionally, the WECA stated, "If DCRA has issued a CofO, nonetheless, the WECA requests that DCRA immediately revoke it under 12 DCMR §1184.3." The WECA's letter elaborated on all three provisions.

Since the WECA's August 20th letter, GWU has provided no proof of compliance with any of the three provisions. In fact, quite to the contrary, GWU has provided proof of **noncompliance** with one of the three provisions - the restriction on parking for students living on campus or off campus ("a condition restricting Freshmen and Sophomores living in the Foggy Bottom/West End Area ... from bringing cars to school or parking in the Foggy Bottom/West End Area"). And, on August 22nd, you informed the WECA that you had declined to serve as an Escrow Agent. Therefore, GWU's August 16th letter to you to justify a CofO **inaccurately** presented its so-called contribution to the Foundation. In fact, its action was merely a paper transaction between accounts totally controlled by GWU and, thus, in no way meets the terms of the Order. The Zoning Commission took great pains to try to ensure enforceable conditions.

In your ten telephone conversations and the various e-mail exchanges with the WECA from August 15th to September 5th, you consistently maintained that GWU needs to unconditionally present a check payable to the Foundation. On September 5th, after the last of these

BZA
Case No. 16950
Exhibit No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO.16950
EXHIBIT NO.5

conversations, the WECA was forced to file a "Notice of Intent to File an Appeal" of the administrative decisions by DCRA, including its improper issuance of a CofO and its nonenforcement of the Order. The WECA's Appeal will detail each of these communications as well as the proper regulatory provisions under which a Order can be legally modified.

If you have any questions about this letter, please call Barbara Kahlow on 226-3058.

Sincerely,

John C. Batham
President

cc The Honorable Carol Mitten, Chair, Zoning Commission
Jerrily Kress, OZ Director for the BZA
Alan Bergstein, Esq., DC Corporation Counsel
Phil Feola, Esq., Counsel for GWU