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May 7, 2002

VIA HAND DELIVERY
Carol J. Mitten, Chair
D.C. Zoning Commission
441 4th Street, N.W., Suite 220
Washington, DC 20001

Re: Zoning Commission Case No. 02-03: The George Washington University (the "University"), Applicant

Dear Ms. Mitten and Members of the Commission:

By letter dated May 2, 2002, Advisory Neighborhood Commission 2A ("ANC 2A") requested the Commission to waive its order to allow the late filing of ANC 2A's Findings of Fact and Conclusions of Law in this case. That document was filed in the Commission on May 2nd and received by the undersigned on Monday May 6, 2002. Under these circumstances, the Commission is requested to receive and consider the Applicant's response, made below.

Respectfully, the "facts" that the ANC urges the Commission to adopt have little, if any, relationship to the issues or to the record in this case. Actually, the record reveals that the University has presented sworn, written and expert evidence:

- that the property at issue is unique due to its shape, topography and location; (expert testimony of Barry Goldfarb at pp. 17-18; Office of Planning Report at pp. 3,6; Fondersmith testimony at pp. 35-38)[1]
- that the strict enforcement of the Zoning Regulations will lead to practical difficulties to the University (and to the local and federal interests); (Goldfarb testimony at pp. 19-20; Office of Planning Report at pp. 6-7; Fondersmith testimony at pp. 35-38)

[1] All page references are to the public hearing transcript.

ZONING COMMISSION
District of Columbia
Case 02-03
Exhibit 32

ZONING COMMISSION
District of Columbia
CASE NO.02-03
EXHIBIT NO.32

- that the requested variance will not cause substantial detriment to the public good; (Goldfarb testimony at pp. 19-20; Office of Planning Report at pp. 6-7; Fondersmith testimony at pp. 35-38)
- that 23rd Street is designated as a "Special Street" in the Comprehensive Plan of the National Capital. (Goldfarb testimony at pp. 17-18; Office of Planning Report pp. 3, 6, 7; Fondersmith testimony at p. 36)
- that the site is located at a Gateway location to the University; (Goldfarb testimony at pp. 11, 12, 18; Office of Planning Report at pp. 3, 6; Fondersmith testimony at pp. 35-36)
- that the Commission of Fine Arts has approved the design of this proposed dormitory with the building "hinge" that causes the closed court variance to become necessary; (Goldfarb testimony at pp. 15, 18, 20, 25; Office of Planning Report at pp. 6,7; Fondersmith testimony at pp. 36-38; written recommendation of Commission of Fine Arts submitted into the record by the Applicant on April 24, 2002)
- that designing the closed court out of the dormitory will result in the loss of over 100 beds that would otherwise be available to students when the dormitory is completed; (Goldfarb testimony at p. 15, 22, 23; Goldfarb testimony at pp. 18-19; Office of Planning Report at pp. 6-8; Fondersmith testimony at p. 36)
- that the loss of the hinge feature will adversely impact the architectural interests of the local and the federal governments;
- that the Board of Zoning Adjustment has directed the University to increase the number of on-campus beds for its undergraduate students on an as-soon-as possible basis;
- that the Commission is not in a position to judge this variance's impact on any future development that Dr. Kreuzer may or may not choose to bring to his property;
- that the Kreuzer property will not be adversely affected by the granting of this variance (Goldfarb testimony at pp. 11, 13, 17)[2]; and
- that the University has not violated any zoning order in acquiring and seeking to put this property on Square 43 to dormitory use.

As referenced, the April 4, 2002 memorandum and the April 11, 2002 public hearing testimony of the D.C. Office of Planning corroborates and substantiates the evidence presented by the University.

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[2] Dr. Kreuzer's representatives did not claim that this variance would have an adverse effect on his property. Their expressed concern was that the University not use this variance, if granted, to object to any variance that Dr. Kreuzer may seek to accommodate the future development of his property. Transcript pp. 49-55.

Other than its expressions of concern for the impact that this building may have on Dr. Kreuzer's property, the ANC has presented no colorable evidence either to support its allegation that the University has not met its burden or proof or to weaken any of the University's evidence that it has. As was discussed in our submission of April 24, 2002, the concerns of the ANC are entitled to "great weight" but not deference. This is especially true when, as here, the concerns of the ANC are without substance or proof in the record and, on some subjects, irrelevant.[3]

The University has made its case and is entitled to obtain the requested zoning relief to enable it to proceed with the construction of this important building – as to use and as to design – at the soonest practicable date.

Respectfully submitted,

Jerry A. Moore III

Enclosures

cc: Parties of Record

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[3] See, for example, the allegations the ANC propounds at paragraphs 1, 5, 6, 10 and 11. Other ANC concerns, such as those written in paragraphs 2, 3, 12 and the "Conclusions of Law" are argumentative and untrue.

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oject at hand fronts on 23rd Street and Virginia Avenue and G Street, which is, as Jerry mentioned, a very prominent corner of the city, and the building is 90 foot high, the limits of the zoning for the site, and we felt it important in designing the structure to maintain the strong street frontage, fronting on 23rd Street and Virginia Avenue and G Street.

The university wished us to construct a large facility for 700-plus beds, and that basically dictated the shape of the project and its filling out the lot on the basis to Dr. Cruiser's property, which is the townhouse property.

The building facade -- I'll just go through these very quickly -- is traditional in nature with brick and limestone, precast trim, cornices, bell courses (phonetic), and whatnot to be developed consistent with the character of the university, which is to provide and also consistent with the historic nature of the Foggy Bottom area in general.

To explain this hinge concept a little further, this is creating the need for this closed court. Essentially it's this area here. These are the townhouses right here. This is Dr. Cruiser's property, and beyond that are the surrounding properties of Bremmington (phonetic) on the same lot, and the facility across G Street.

The university is also constructing a dorm on the other side, which was considered the last time we met, which together with this facility formed the niche of the university campus and gateway.

There was a court in terms of this hinge element, and

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call it a hinge because essentially we have these wings of the building that held the street lines and the avenue, and essentially it articulates the rotation of these two wings. It's basically an architectural device which is designed to heighten the interest of the building as one approaches on 23rd Street, which is a major commuter route into the city. And as Jerry mentioned, it has special street status in the comprehensive plan.

The recess of the course, essentially without it, where the hinge, which is a sweeping curve which isn't shown too well here, but this is a blow-up of the hinge area in that court, is meant to enliven that facade and to help articulate it. Without that, it would be a very flat facade and lacking in character.

Looking further at this detail, just to explain the dimensions of this court, it really is quite small. This is the townhouse property, and essentially at its eastern most extreme it's about one foot, seven inches in dimension from the property line, and at the corner of Dr. Cruiser's property, it's approximately four foot in depth, and then it wraps around corner, but this is a three foot alley that exists between our building and the townhouse properties.

CHAIRPERSON MITTEN: Would you repeat how wide is it on that extreme there where your finger --

MR. GOLDFARB: At this extreme here, it's only one foot, seven inches.

CHAIRPERSON MITTEN: Okay.

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MR. GOLDFARB: The width of this on here, and now you can't see the dimensions, is approximately 27 feet, although that by definition of a closed court would not be considered the width, but that's the width of the frontage.

And across that frontage, as you can see, because of this arc for about half that gap, it maintains approximately that one foot, six dimension, and then as it sweeps away at the west-most edge of the townhouse property, it's about four feet. And back at this notch, which is afforded at the end of the corridor inside, it's a five foot, four dimension. It's a very irregular shape. So it's difficult to describe the dimensions.

Just to put that in further context of the entire building, this is the entire site with our project juxtaposed, and while this does not show in this particular site plan Dr. Cruiser's current property, what we imposed on here was a building and built up against that which shows now that that's really just a little sliver of space in terms of the grand scheme of things.

If you were to look down, you're really looking from the roof just into a very narrow crevice.

I should mention that it does not extend below the existing roof of the existing townhouses. Below the roof, and you can't see it here because it's obscured by the trees and whatnot, we are building adjacent to the party wall. So we fill in that gap that's created.

In terms of why we feel the court is necessary, I think I

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uld not -- basically it would be detrimental to the facade and, I think, would not be supported by the Commission of Fine Arts. An articulation was desired there. This would create a hole in the facade, and I really don't think would further the architectural embellishment or special place.

If we were to press in, we also would lose beds, as I mentioned before, and that, of course, is undesirable in terms of the university's desire to provide a lot more beds on campus.

MR. MOORE: Mr. Goldfarb, how many beds would you lose?

MR. GOLDFARB: Excuse me?

MR. MOORE: How many beds would you lose by building a closed court?

MR. GOLDFARB: Approximately by our calculation 120 beds. We think it would affect three units per floor, and the units typically have two bedrooms with two beds each. So doing the math by ten floors, that would equal about 120 beds.

To address what would happen to our project if Dr. Cruiser was to further develop his project, and we're operating here somewhat on speculation. We're not -- obviously have no way of knowing what that development would be, but we tried to illustrate a worst case type of situation for the Commission, and in so doing we did a quick zoning analysis.

Let me go back to the other graphic here.

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e next paragraph in the building code required to be covered by covenant.

In terms of accommodations the project made to lessen the impact on Dr. Cruiser's property, unfortunately as I explained before, in order to get the number of beds in the project, it mandates that we build out to the property lines. The 90 foot height limit is within the rights of that project.

However, we did try to lessen some of the impact. The loading entrances, which are over here, and the driveway entrance are well away from this property.

Additionally, at the three foot alley there were some mechanical openings that the university directed us to remove. They had been located down the extremes of the project so as to avoid an adverse effect.

Those aren't necessarily major, but we have tried in the ways that we could to be sensitive.

In terms of the uniqueness of the lot, which is one of the tests for a zoning variance, as you can see, the lot is very irregular in shape. It's triangular, and in addition, it's L-shaped with an irregular boundary. It also has a certain topography where it goes from G Street down Virginia Avenue to 23rd Street down. I've already explained how the shape of that site and the program for the building dictated a project in the shape that we have.

The other uniqueness to this site is, of course, this

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ecial location bordering both on 23rd Street, which in the campus or -- I'm sorry -- not the campus plan, but the --

MR. MOORE: Comp. plan.

MR. GOLDFARB: -- comprehensive plan -- thank you -- has special status, and also its frontage on Virginia Avenue which, I think, bring Fine Arts' approval, a requirement that's in the process.

And then by the very nature of this project on 23rd Street, as we've mentioned several times, it, of course, forms an important gateway to the campus.

The practical difficulty basically on that, losing the articulation of the facade would result in a very flat facade. We were commissioned before we got involved with the Office of Planning, Commission of Fine Arts, by the university. They directed us to make a special gateway and make this a special place.

That was then reinforced by meetings with the Commission of Fine Arts and also with the input that we received from the Office of Planning. Eliminating the hinge would obviously, in our opinion, diminish our ability to create that special place and that special embellishment.

In closing, it's an extremely visible and important corner on two very important streets, and it's also an important gateway to the university, and therefore, in our opinion it deserves to be treated as a special place.

We think that this hinge recess that we're asking for,

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ile it is technically an illegal closed court, if one looks at the zoning in terms of protecting the light and air and applies that to this, it really in our opinion is not affecting that.

And just to reiterate, none of the windows, in fact, that front on this court or on the adjacent facade, which really aren't under consideration here, are code required or necessary for the function of the building. So it's not detrimental to any future development of the adjacent property because, as we mentioned, we'll simply close up the windows if that comes to be.

In the meantime, if that project is not developed, I think we have to consider that that's a possibility. Then this remains a very prominent corner on a prominent place.

And finally, the difficulties that may arise from developing the townhouse property we feel are actually inherent to the property itself. It suffers from a small area and very irregular lot lines which I won't go into further. We haven't studied it extensively, but in some of the looking in it that we did do, by the time one takes the core out of it and whatnot, the height of that development, there would be some difficulty, in our opinion in achieving that.

But regardless, we're prepared, and the university would obviously take measures that would be necessary to accommodate any of those changes.

MR. MOORE: Mr. Goldfarb, if this variance is not granted, will it cause the building to be redesigned?

MR. GOLDFARB: It would require a redesign of the building. It would also require us to go before the Commission of Fine Arts. Again, they have approved this facade and --

MR. MOORE: What time element would you estimate it would take to redesign that building to eliminate the closed court?

MR. GOLDFARB: It's a little bit difficult to say. It probably would impact us directly by possibly a month. I say it's difficult to say also because we're in a fast track situation right now. We're submitting for permits, and we're scheduled to submit the project in packages so as to expedite the construction of the project in order to fulfill the university's desire to get these dorms.

MR. MOORE: And would it take a significant redesign?

MR. GOLDFARB: Yes, it would.

MR. MOORE: No questions, Madame Chair.

CHAIRPERSON MITTEN: All right. Is that the conclusion?

MR. MOORE: Yes.

CHAIRPERSON MITTEN: Okay.

MR. MOORE: We would reserve some time to rebut.

CHAIRPERSON MITTEN: Okay. Thank you.

Any questions from the Commissioners for the applicant? Any questions?

VICE CHAIRPERSON HOOD: Madame Chair, I think my question is probably a little quicker.

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COMMISSIONER MAY: So it doesn't really have any bearing. I'm sorry. Did I misunderstand that date, August 31st of this year?

MR. MOORE: Yes. That's the date that's in the BZA order.

COMMISSIONER MAY: Okay. So I still don't understand how this is relevant to that date if it's this year and that's not coming on line.

MR. MOORE: The only point I'm making here, Mr. May, is that there is a pressure on the university to create housing just as quickly on campus as it can. To the extent that this project is delayed, it delays the university's efforts to create on campus housing as ordered by the BZA, supported by the Office of Zoning, and supported by the community.

COMMISSIONER MAY: But the completion of this building has no direct bearing on the date this year.

MR. MOORE: Correct.

COMMISSIONER MAY: Okay. I'll continue then?

CHAIRPERSON MITTEN: Please do.

COMMISSIONER MAY: Okay. This is questions for the architect.

You stated that you would lose something in the neighborhood of 120 beds if you designed that closed court to comply with the requirements for a closed court, right?

MR. GOLDFARB: Correct.

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COMMISSIONER MAY: Okay. First of all, I'd like to compliment you on the fact that you actually calculated the closed court area requirement correctly as opposed to everything else that I've seen, which missed it by half.

But that being beside the point, at least you did the drawing right.

Now, the question I have with regard to 120 beds, did that assume that there would be bedrooms facing into that court or did it simply assume that the lobby would be pushed further in? Because 120 beds, it seems like it's a big loss.

MR. GOLDFARB: It basically results from, you know, as I mentioned before, if we push the building in, we lose perimeter on the back side. We lose units there.

COMMISSIONER MAY: My point being that you gain perimeter on the front side. So did you take that into consideration?

MR. GOLDFARB: It's not the usual perimeter in terms --

COMMISSIONER MAY: You couldn't have a bed on that closed court?

MR. GOLDFARB: You could have a bed on the closed court. I think the configuration of the building would make that difficult.

COMMISSIONER MAY: I'd agree with that, but --

MR. GOLDFARB: Because of the old problem of inside corners aren't very good for housing.

COMMISSIONER MAY: Right.

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MR. GOLDFARB: I believe it did, but my memory is not the best in terms of that.

COMMISSIONER MAY: Okay. Because there seems to be the implication that the creation of the hinge was a result of consultation with the Commission of Fine Arts as opposed to being something that they reacted to positively.

MR. GOLDFARB: In all honesty there, my designers had more impact or more direct interaction with them, and so I can't speak as directly to that.

COMMISSIONER MAY: Would you say that, given the constraints on this edge of the property, this side of the property, that it would be possible to come up with a design that does not have the closed court that would be acceptable to the CFA?

MR. GOLDFARB: It would be speculative on my part.

COMMISSIONER MAY: Yeah, but you're an expert remember.

MR. GOLDFARB: Anything's possible. It would also, of course, have the problem of potentially delaying the project as we went back through the process.

COMMISSIONER MAY: I understand. Okay. I just want to understand whether or not you believe it's possible. Give me one second if you would.

It seems to me that one of the issues with that area has to do with the public alley and its very strange configuration and how it

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CHAIRPERSON MITTEN: Now we'll turn to Mr. Fondersmith, and I would just remind you that we're very familiar with the project because it was before us not too long ago. So an abbreviated report.

MR. FONDERSMITH: Very good, Madame Chair.

Chairman and members of the Commission, I'm John Fondersmith to give the OP report.

And, I think, certainly as you say, with what just recently you went through and the explanation given tonight, we can, I think, skip most of the description here.

We do stress in our report the importance of this location, and that's been talked to before, the kind of gateway effect and the importance of 23rd Street.

In terms of kind of background for laying it out, and I would say, too, that we talked about the building configuration there, and that's been well explained, I think, how the lower stories come out to the building line and then the court is set back.

We suggested four things to keep in mind. First, that this, as has been said here tonight, is a small part of the large building that's already been approved. This dormitory, this building once completed will likely remain well into the second half of the 21st Century. So it's prudent to be concerned at this time about the appearance of the building.

Clearly a variance is needed, and technically it's a closed court. In reality when you look at this, this is an unusual situation

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terms of what the closed court regulations really are trying to do. It doesn't fit the actual situation too well, although clearly it does need this variance.

It's primarily to improve the aesthetic appearance of this gateway at these two special streets. This has been recognized by the Office of Planning, the Commission of Fine Arts, the university, and I believe, although I couldn't find it, I think there's been some community recognition of the importance of 23rd Street, but I'm not sure of that.

But regardless, this is a special place on 23rd Street and at the entrance to the campus.

And finally, as has been discussed here today, we think the discussion should include an understanding of what may happen with respect to Dr. Cruiser's property if something is built there, and I think that's been lifted up in the previous testimony.

So in analyzing the requested variance, we think that this is a unique situation. We look at the plan of the building. Where the elevator core has been located seems to be a logical location for that, and the shape of the university at this point has to, therefore, fit around the three small, which are one unit, of course, non-university properties at the southeast corner of the square, Dr. Cruiser's properties.

The strict application of zoning regulations would mean that this hinge design could not be built, and as has been said, there's theoretically a way to just build along the party wall and then what

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mmissioner May called the incision around or a small indentation around the alley.

But I think it's clear -- at least we think so and the Fie Arts Commission thought so -- that this solution produces a better appearance in the building, and we believe that the variance can be granted without causing substantial detriment to the public good and won't impair the intent, purpose and integrity of the zoning regulation.

Indeed, we believe that granting this variance will serve the public good by allowing the construction of a more attractive building at this gateway location, and this whole thing is primarily an aesthetic relationship here, which is the reason it's being done.

And we then indicated that the Commission should be aware of what would have to be done if Dr. Cruiser does go ahead with a building on his property. Obviously there's nothing before the Commission at this time, and I think what you saw here tonight and what we saw really for the first time in these illustrative things, which of course is not from Dr. Cruiser, but does give us a sense of kind of what form a building might take.

And we should note that if there were some variance required by a building proposal on his property, that would have to come back to the -- I guess technically it would come back to the BZA, but they would certainly be aware of this relationship.

And a building on that site would also be subject to design review by the Commission of Fine Arts. So there would be some

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reful looking at and tailoring of anything that goes there.

We had not seen -- we just mentioned the ANC. We had not seen their report until just this evening. We mentioned here the Commission of Fine Arts' recommendation, and they have spent some time on this, as on the dormitory building across the street. They actually considered them both at the same time, as of course did the Zoning Commission.

So in summary recommendation, we recommend that the Zoning Commission approve the variance to allow a small portion of the approved dormitory building to be set back from the building line in a way that technically constitutes a closed court and, again, recommended that you in your discussion be aware of what could happen on the properties on the corner.

CHAIRPERSON MITTEN: Thank you, Mr. Fondersmith.

Any questions for Mr. Fondersmith from the Commission?

Any questions, Mr. Moore?

Ms. Elliott, any questions for Mr. Fondersmith?

Mr. Farmer, any questions?

Okay. I don't believe there are any other agencies here, represented here to make any reports this evening. So we'll move to the report of the ANC.

MS. ELLIOTT: Again, Commissioners and Madame

GOVERNMENT OF THE DISTRICT COLUMBIA
OFFICE OF PLANNING

Office of the Director

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MEMORANDUM

TO: D.C. Zoning Commission

FROM: Andrew Altman
Director

DATE: April 4, 2002

SUBJECT: Zoning Commission Case No. 02-03 (Area Variance for a George Washington University Dormitory -Lot 26 in Square 43)

APPLICATION

Application of George Washington University, pursuant to 11 DCMR Section 3104.1 for a special exception for further processing of an existing campus plan (16553) under Section 210 for an area variance from the minimum closed court area and width requirements of Section 406.1 of the Zoning Regulations in the R-5-D District at premises 616 23rd Street, N.W. (Square 43, Lot 26).

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends approval under Section 3104.1 and Section 210 for an area variance from the minimum closed court area and width requirements of Section 406.1.

BACKGROUND

This application involves a request for an area variance to allow an architectural feature on the dormitory building that George Washington University proposes to build at 616 23rd Street, N.W. on Lot 26 in Square 43. This architectural feature, which the University calls a "hinge," is technically a "closed court" that does not meet the width and area requirements for a closed court. The size of this "closed court" and the reasons for it, are described in more detail below.

Last year, George Washington University filed an application for further processing as a special exception in accordance with an approved George Washington University campus

plan for authorization for construction and use of a new dormitory on lot 26 in Square 42 (Zoning Commission Case No. 01-21CP). The Zoning Commission held a hearing on this case on December 6, 2001. The Office of Planning submitted a report on that case (Exhibit 29) and recommended approval of the special exception to allow construction and use of the dormitory.

On January 14, 2002, the Zoning Commission voted 5-0-0 to approve the special exception application to construct and use this dormitory. Zoning Commission Order 958 dealing with Case No. 01-21 CP/16553 was issued on April 3, 2002.

In the course of the December 6, 2001 hearing, and at the January 14, 2002 decision meeting, a question about a design feature at the southeast corner of the dormitory and how that feature would be addressed was raised and discussed. George Washington University acknowledged at the hearing that this architectural feature, later termed a recess in the building façade, constituted a closed court that did not meet zoning requirements. George Washington University indicated at the hearing that the University would seek a variance for relief from the closed court requirements. On January 18, 2002, George Washington University filed an application for the variance that is the subject of this case. This case therefore deals with a specific feature at the southeast corner of the approved dormitory building, near the northwest corner of 23rd Street and Virginia Avenue, N.W.

SITE AND AREA DESCRIPTION

The site and area are described below, drawing on the description provided by the Office of Planning in Zoning Case 01-21CP but edited to focus on the area pertinent to this variance request. To make the context clearer, four graphics are attached:

- Aerial photograph submitted by OP in the George Washington University further processing cases on December 6 and 13, 2001. This aerial photograph shows the western portion of the George Washington University campus, including Square 43, and surrounding areas.

- A more detailed aerial photograph of Square 43 and adjacent squares, labeled to show where the "hinge" element of the dormitory building is located. This photograph, which also shows the location of the Columbia Plaza buildings and the Pan American Health Organization Building south of Virginia Avenue, emphasizes the "gateway to the campus" role of the dormitory site on Square 43 (the subject of this case) and the dormitory site across 23rd Street on Square 57.

- A copy of the proposed site plan from the University's report shows the property and building relationships on Square 43, including the proposed footprint of the new George Washington University dormitory.

- A copy of the Typical Floor Plan from the University's report shows the "hinge" location and the closed court area that is the subject of this variance request.

The site in this case, Lot 26, occupies most of the eastern portion of Square 43. Square 43 is almost triangular in shape, and is bounded by 23rd Street on the east, Virginia Avenue on the southwest, 24th Street on the west and G Street, N.W. on the north. The entire Square is zoned R-5-D.

The George Washington University property has an irregular shape and totals approximately 32,723 square feet in area. The University property has frontages on 23rd Street, Virginia Avenue and G Street, N.W. Square 43 has two other properties. West of the George Washington University property is property occupied by the Remington, a nine-story, 52-unit residential condominium building. The Remington property includes the actual building site plus an open area east of the building that is used for service access and a surface parking lot for the apartment residents. This surface service area and parking lot is accessed from G Street.

On the southeastern corner of the square is a group of three two-story townhouses. These three properties, owned by Dr. Donald Kreuzer, total approximately 3,277 square feet and have frontages on 23rd Street and Virginia Avenue. The George Washington University property borders Dr. Kreuzer's property on the north and west. The topography of Square 43 slopes downward from 23rd Street to 24th Street and from G Street to Virginia Avenue. A portion of Square 43 (the land in the square owned by George Washington University) was added to the George Washington University campus area by the March 29, 2001 BZA order (BZA Application No. 16553). The George Washington University property in Square 43 therefore comprises the southwest corner of the George Washington University campus.

Square 57, east of Square 43 across 23rd Street, is completely University property. It is occupied by the Smith Center (the University's athletic center) and a narrow parking lot along 23rd Street. The University is proposing a new four-story, 204-bed dormitory (affinity housing) on the parking lot site (Zoning Commission Case 01-20CP). That dormitory was also the subject of Zoning Commission hearing on December 6 (Zoning Commission Case No. 01-20CP) and the Zoning Commission also approved this dormitory on January 14, 2002.

Twenty-third Street, N.W. borders Square 43 on the east and is a major north-south street in this part of the city. It connects Washington Circle on the north to the Lincoln Memorial on the south. From Washington Circle to Virginia Avenue, 23rd Street extends through the campus of George Washington University. The intersection of 23rd Street and Virginia Avenue marks the "gateway" into the George Washington University campus from the south. Twenty-third Street is designated as a "special street" in the Historic Preservation Chapter of both the District and Federal Elements of the Comprehensive Plan for the National Capital.

Virginia Avenue is a major diagonal avenue in the city, extending northwest from Constitution Avenue near 18th Street to Rock Creek and Potomac Parkway. At 23rd Street, the main traffic lanes of Virginia Avenue in both directions pass under 23rd Street, with service lanes leading to 23rd street to the east and west from both sides of the street.

Square 58, east of 23rd Street and south of F Street, includes the four-story Allen Lee hotel building at 2224 F Street and, further east, Riverside Towers (2201 Virginia Avenue) owned by George Washington University. The March 29 BZA campus plan order extended the GWU campus boundary south into this square to include the Riverside Towers property.

South of Virginia Avenue is the Columbia Plaza complex, a predominately residential complex (801 units) that also includes an office building and ground floor retail facing on the plaza which opens off 23rd Street. Square 59, east of 23rd Street and south of Virginia Avenue, is occupied by the Pan American Health Organization office building

In summary, most the area around Square 43 is developed and not likely to greatly change in the future. The major exceptions are the two nearby projects proposed by George Washington University, the expansion of Funger Hall on Square 56 and the new Townhouse Row dormitory on Square 57, across from the Square 43 dormitory site. As noted below, Dr. Kreuzer may seek to construct a building on his properties at the southeast corner of Square 43.

APPLICANT'S PROPOSAL

The design of the dormitory at its southeast corner is determined by the shape of the Lot 26, owned by George Washington University, which does not extend to the corner of Virginia Avenue and 23rd Street, N.W. The property at the corner consists of three lots (lots 7, 8 and 9) occupied by three townhouses, all owned by Donald W. Kreuzer, DMD. Dr. Kreuzer lives in and conducts a dental practice in these buildings (Watergate Dental Associates). The townhouses are two stories high. There is also a narrow three-foot alley off Virginia Avenue between the townhouse lots and the University property. The dormitory therefore has to fit around the property (the three lots) and the alley at the southeast corner of the square. The dormitory above grade essentially consists of three connected wings: The G Street wing, the 23rd Street wing and the Virginia Avenue wing. The elevator core for the building is located where the 23rd Street wing and the Virginia Avenue wing join together, just north of the northernmost townhouse on Lot 7.

At this point, the design of the dormitory includes a building feature that was described in the University's November 21, 2001 submission on Zoning Commission Case 01-21CP (pages 13-14) and is described as follows in the University's submission in this case (pages 12-13): "Another significant element which has been given special consideration is the "hinge" which rises above the townhouses at the intersection of 23rd and Virginia Avenue. The hinge is an architectural expression of the shift in geometry between the orthogonal and the diagonal. A sweeping curve of pre-cast concrete and glass sets back

slightly from the property line to allow the masonry blocks which front the streets to be expressed. The windows in the curve provide light and views for the elevator lobby. The closed court for which this variance relief is requested is at the base of this hinge." It is this "hinge" element of the building, which is set back from the property line that raises the closed court issue and the need for George Washington University to seek a variance.

The Zoning Regulations include the following definition of a closed court in Section 199:

Court, closed-a court surrounded on all sides by the exterior walls of a building, or by exterior walls of a building and side or rear lot lines, or by alley lines where the alley is less than ten (10 ft.) in width.

Section 406.1 of the Zoning Regulations includes the requirements for courts in a residential district. The closed court requirement for this dormitory in a R-5-D District is:

- **Width**: 4 in. per foot of height of court, but not less than 15 ft.

- **Area**: Twice the square of the required width of court dimension based on the height of the court, but not less than 350 ft.^{2}

The dormitory building is built out to the lot line at this southeast corner for the first three floors. Above that point, the recess of the hinge begins. The closed court created by the recess is 60 feet high. The University submission indicates the court width as four feet with a court area of 77 square feet. Since the required width is 20 feet (60 feet high x 4 inches per height of court = 20 feet) the court width is 16 feet less than required by the regulations. The required area of the closed court is 400 square feet (20 feet squared or 400 square feet) so the area of 77 square feet is 323 square feet less than what is required. It should be noted that this "closed court" results from applying the definition to an unusual situation so the resulting calculations in some ways overstate the problem. However, this is the variance that must be addressed.

ANALYSIS

Background Considerations

In reviewing this variance, several factors should be kept in mind.

1) The design feature for which the variance is being requested is a small part of a large dormitory building that has already been approved by the Zoning Commission. This dormitory, once completed, will likely remain well into the second half of the 21st century. It is prudent to be concerned at this time about the appearance of the building, especially this highly visible southeast corner,

2) The request for a variance is needed because the design feature does not meet the "closed court" requirements of the regulations, though in this case the regulations do not relate too well to the actual situation.

3) The design feature for which the variance is being sought has been proposed in order to improve the aesthetic appearance of the building, especially with respect to its "gateway to the campus" role at Virginia Avenue and 23rd Street, N.W. The importance of this site as a gateway at the intersection of two "special streets" (23rd Street and Virginia Avenue) has been recognized by the Office of Planning, the Commission of Fine Arts and George Washington University.

4) Discussion of the variance should include an understanding of what may happen with respect to the potential development of the three non-GWU properties at the northwest corner of Virginia Avenue and 23rd Street, N.W.

Tests for a Variance

Section 3103.2 of the Zoning Regulations provides three tests for a variance.

- The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition.

- By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

- The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Analysis of the Requested Variance

The Office of Planning believes that the property is unique because of its shape and its location. This shape results in the way the wings of the approved dormitory building come together at the southeast corner of the site and make that the a logical location for the elevator core and lobby. The shape of the University property at this point relates to the three small non-University properties at the southeast corner of the Square.

The strict application of the Zoning Regulations in this case would mean that the "hinge" design feature could not be built. George Washington University has proposed this building feature in order to create a more attractive design at the southeast corner of the dormitory building. Not allowing this feature would result in a peculiar practical difficulty and hardship in that the University would have to proceed with a different

design that did not articulate as well this point where two main wings of the building come together.

The variance can be granted without causing substantial detriment to the public good and will not impair the intent, purpose and integrity of the Zoning Regulations and Map. Indeed, OP believes that granting this variance will serve the public good by allowing the construction of a more attractive building at this gateway location. The Office of Planning and the Commission of Fine Arts have recognized the importance of this gateway location and the Commission of Fine Arts approved this design feature (the hinge).

Relationship to Adjacent Properties

The Office of Planning recommends that the Zoning Commission consider the relationship of the dormitory building to the possible development of the adjacent properties owned by Dr. Kreuzer. If Dr. Kreuzer moves forward with a building proposal to replace the three townhouses, resulting in a higher building (higher than the townhouses) at the southeast corner of the Square, some adjustments may be needed to the design of the southeast corner of the George Washington University dormitory (blocking in windows, etc.). Dr. Kreuzer does not have a building proposal before the Commission so there is nothing specific to evaluate at this time. The design of any new building on the site of the three townhouses would be subject to design review by the Commission of Fine Arts. If zoning relief were requested for a new building in the future, that relief would have to be considered at that time.

ANC AND COMMUNITY GROUPS

The Office of Planning understands that ANC-2A is holding a special meeting on Zoning Commission Case No. 02-03 on Sunday, April 7 to receive a presentation from George Washington University on this variance request.

OTHER AGENCY COMMENTS

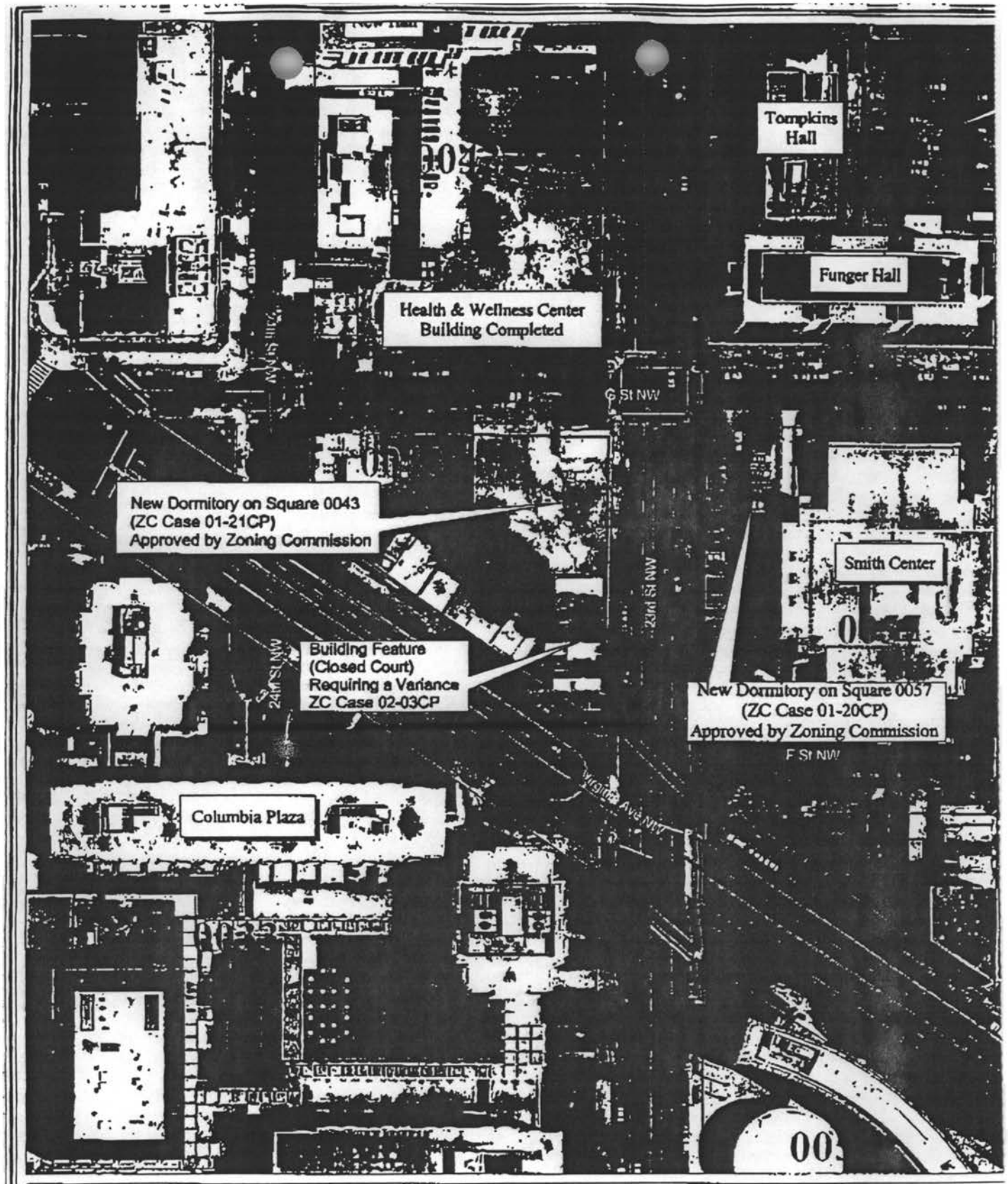
This building is subject to design review by the U.S. Commission of Fine Arts because the dormitory fronts on Virginia Avenue, one of the areas where the Commission of Fine Arts has design review authority under the Shipstead-Luce Act. The Commission of Fine Arts reviewed the overall dormitory design concepts on December 20, 2001, including the design for the "hinge." The Commission discussed the role of the building as part of a gateway to the campus at this meeting. The design for a second George Washington University dormitory across 23rd Street on Square 57 was also discussed at the same meeting. The Commission made the following recommendation to DCRA, dated December 26, 2001: "No objection to the concept design for a new 10-story, 700 bed student residence building as shown in supplemental drawings received and dated 14 Dec. 2001. File new submission of working drawings, including details and material samples, with permit application for review by the Commission when ready."

RECOMMENDATION

The Office of Planning recommends that the Zoning Commission approve the variance requested in this application to allow a small portion of the approved dormitory building to be set back from the building line in a way that technically constitutes a "closed court." The Office of Planning also recommends that the Zoning Commission note the need for design relationships between the dormitory building and the adjacent townhouse property, in terms of relating to a possible new building on that site if such a building is proposed and approved in the future.

Attachments

AA/jf



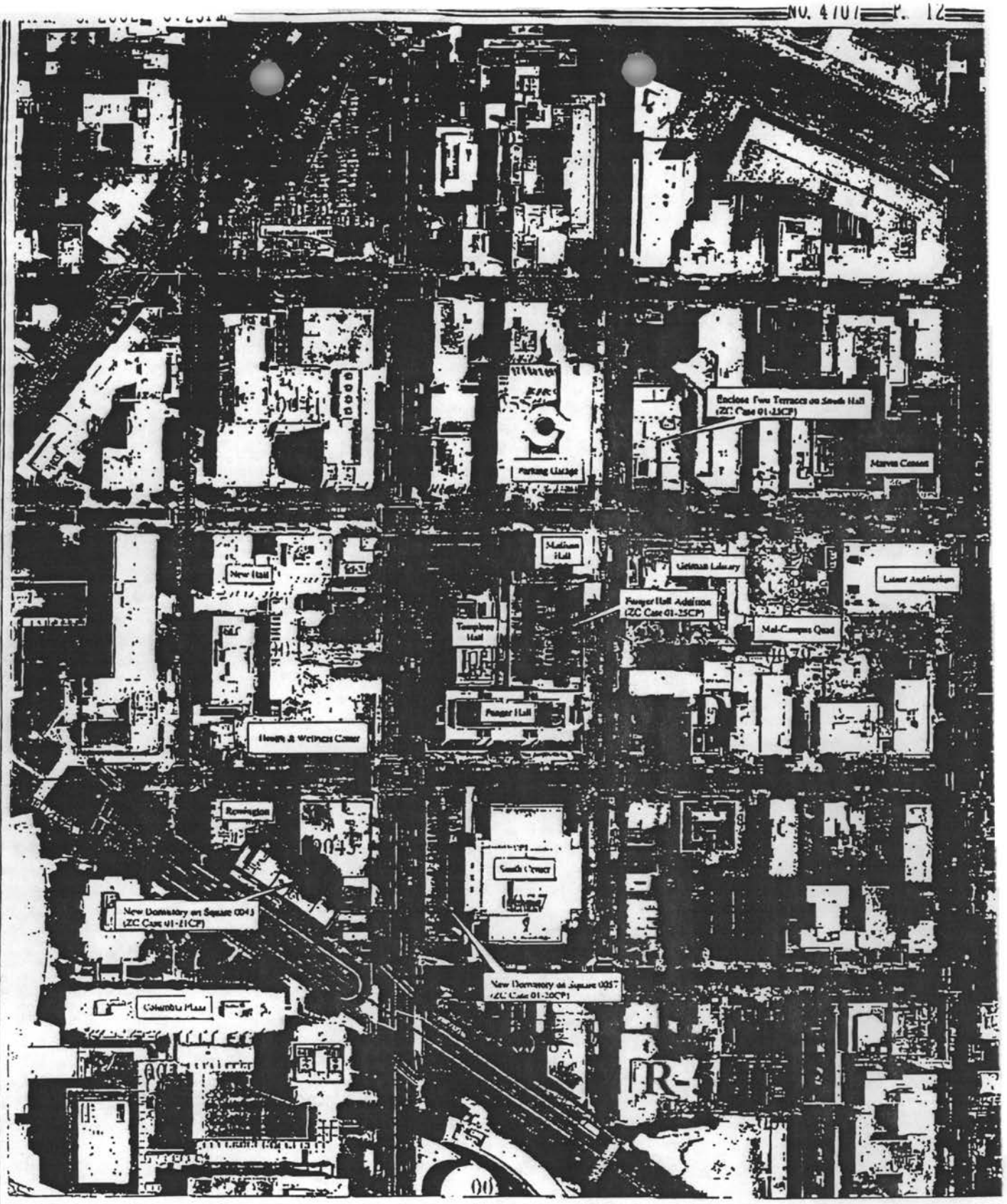
Feature Key

- George Washington University Campus
- Zoning Case Boundaries

GWU Dormitory Variance
ZC Case 02-03CP

DC Office of Planning
April 2002

Scale 1:1500
25 0 25 50 Feet
10 0 10 Meters



GWU Further Processing Cases
ZC Cases 01-20CP, 01-21CP, 01-23CP, 01-25CP

Feature Key

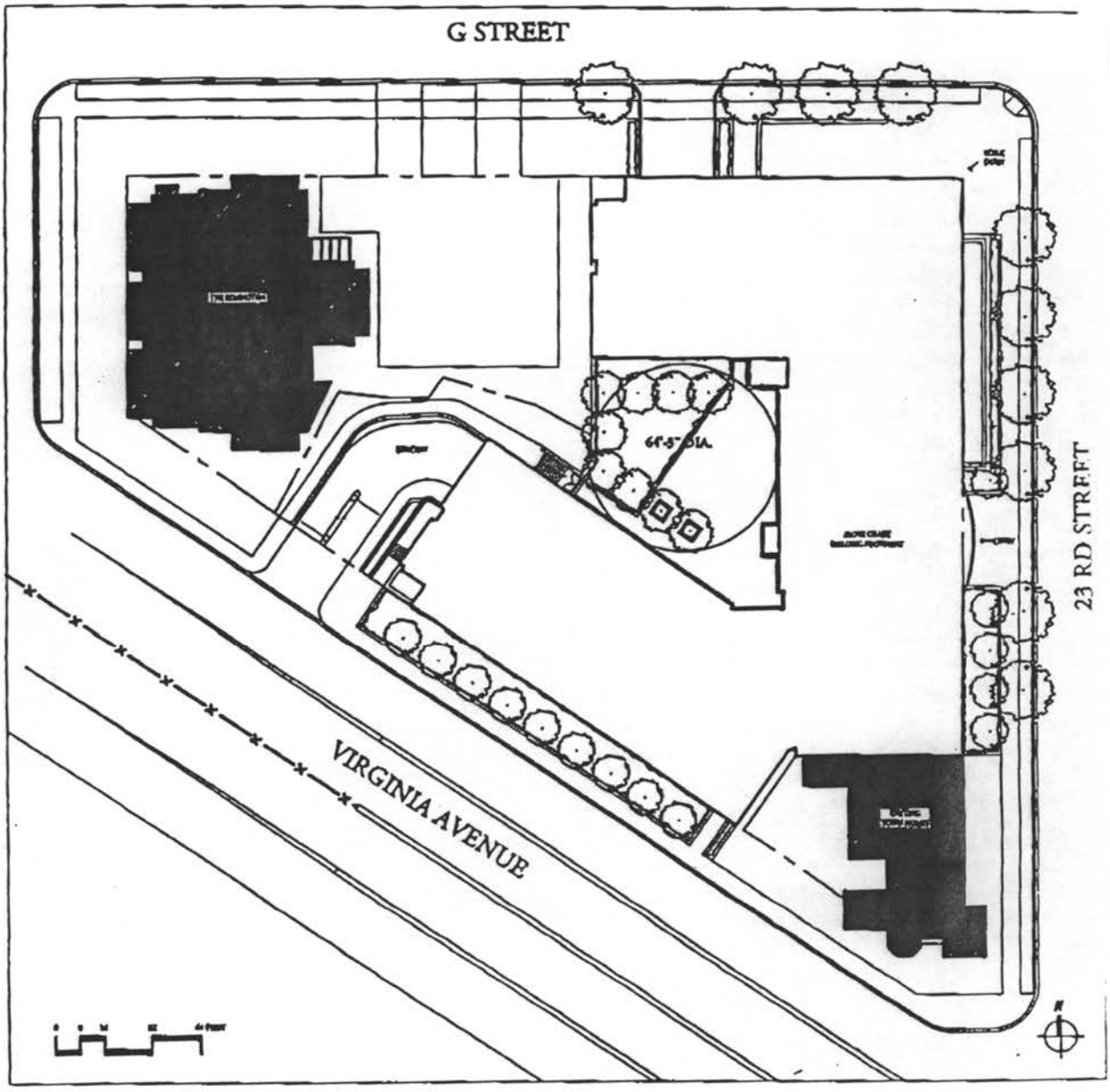
- George Washington University Campus
- Zoning Case Boundaries

DC Office of Planning
December 2001

Scale 1:2800
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10 0 10 20 30 Meters

The George Washington University
WASHINGTON DC

SQUARE 43 STUDENT RESIDENCE HALL



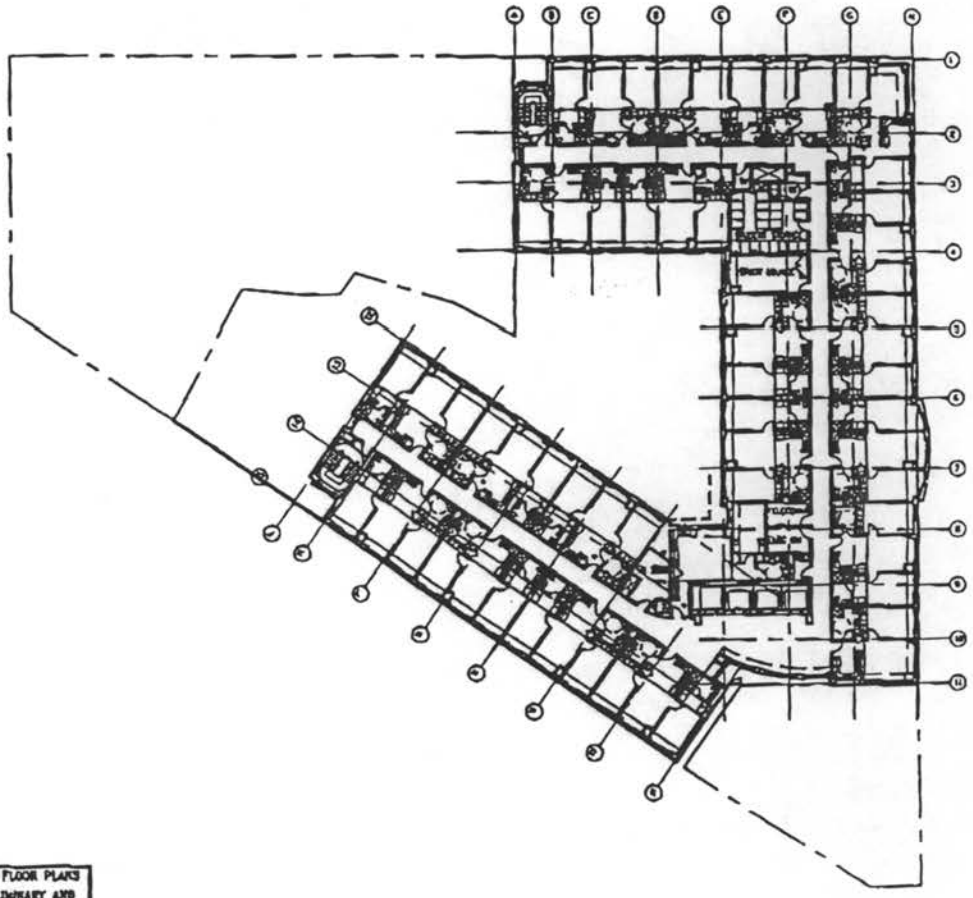
ZS-2 • SITE PLAN

AYERS SAINT GROSS

NOVEMBER 16, 2001

The George Washington University
WASHINGTON DC

SQUARE 43 STUDENT RESIDENCE HALL



INTERIOR FLOOR PLANS ARE PRELIMINARY AND SUBJECT TO CHANGE UPON FINAL DESIGN

ZS-8 • TYPICAL FLOOR PLAN

AYERS SAINT GROSS

NOVEMBER 16, 2001