VENABLE, BAETJER, HOWARD & CIVILETTI, LLP
Including professional corporations

1201 New York Avenue, N.W., Suite 1000
Washington, D.C. 20005-3917
(202) 962-4800, Fax (202) 962-8300
www.venable.com

OFFICES IN

WASHINGTON, D.C.
MARYLAND
VIRGINIA

VENABLE
ATTORNEYS AT LAW

Jerry A. Moore III
(202) 513-4763
jamoore@venable.com

September 4, 2003

Carol J. Mitten, Chair
Zoning Commission of the
District of Columbia
441 – 4th Street, N.W.
Suite 220 South
Washington, D.C. 20001

D.C. OFFICE OF ZONING RECEIVED
2003 SEP -5 PM 3:26

Re: Zoning Commission Case No. 02-26; The George Washington University Lerner Health and Wellness Center ("the Health and Wellness Center")

Dear Ms. Mitten and Members of the Commission:

By and through counsel, the George Washington University ("the University") requests the Commission to exercise its authority at 11 D.C.M.R. Section 3124.2 to reopen the record to receive further evidence in support of the above-referenced application.[1] This request is occasioned by the recent order of the D.C. Court of Appeals establishing a stay of provisions of Condition 9 of BZA order No. 16553 and by the decision of the University to modify the scope of the special exception at issue in this application. The reasons and circumstances that establish the merits of this request are as follows:

ZONING COMMISSION
District of Columbia
Case 02-26
Exhibit 62

STATEMENT OF THE CASE

The University first filed an application seeking special exception authority to build and use the Health and Wellness Center in 1997. By order dated March 31, 1998, the Board of Zoning Adjustment unanimously approved the University's application noting in its order that the purpose of the Health and Wellness Center is to serve the recreational and fitness needs of the University population including special membership to the immediate neighbors of the University community and a summer memberships program to others. The Board stated in its findings of fact that the

[1] The D.C. Court of Appeals has clearly endorsed the authority of the Commission to reopen the record when a final decision has not been issued in a zoning case. Daro Realty Inc. v DC Zoning Commission, 581 A2d 295 (1990)

ZONING COMMISSION
District of Columbia
CASE NO.02-26
EXHIBIT NO.62

University presented sufficient evidence to support its contention that the approval of that application will not have an adverse impact on neighboring property because of traffic, especially since most of the users will come from the campus population. The D.C. Office of Planning also offered evidence and testimony supporting its recommendation that the application be granted, stating that such approval will be consistent with the approved campus plan, not result in an increase in the number of students, faculty or staff and would not impair the intent, purpose and integrity of the Zoning Regulations. The Office of Planning report did not recommend the imposition of any conditions.

Crediting this evidence of record, the Board granted the application. However, in so doing, the Board found that the purpose of the facility is not to provide athletic uses for neighbors, alumni or anyone else who is not a student, faculty or staff person on the Foggy Bottom Campus. Inexplicably, the Board reached that conclusion in direct contradiction to the noted evidence of record that the purpose of the Center was to offer fitness to the entire University community, including to its neighbors. Nonetheless, the Board's final order imposed restrictions on the persons, defined solely by class, who would be permitted to participate in the programs offered by the Health and Wellness Center. The Health and Wellness Center opened in August of 2001 and since, the University has been carefully studying who uses the facility, at what times, how many there are and the means by which they arrive.

With the benefit of this experience, in 2002 the University filed an application to amend the March 31, 1998 order to permit a broader class of users and to extend the Saturday closing hour of the Health and Wellness Center. In support of that application, the University presented evidence that:

- The BZA erred in its conclusion that offering the use of the Health and Wellness Center to anyone who is not a student, faculty or staff member of the Foggy Bottom campus, such as neighboring residents, friends and supporters of the University and University students from other campuses would create an adverse traffic impact;

- The Health and Wellness Center is substantially under utilized by those who are presently authorized by the BZA order;

- Adding additional classes of users will not result in a significant number of additional vehicle trips to the campus (the additional users are likely to be already on the campus);

- That the granting of a revised user profile will have no adverse traffic impact;

- That the granting of a revised user profile will have no adverse pedestrian impact;

- That the granting of a revised user profile will have no adverse parking impact;

- That the granting of a revised user profile will be consistent with the University campus plan; and

- That the granting of a revised user profile will not effect adversely the use and enjoyment of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

Further, on December 12, 2002, the University responded to a Zoning Commission request by submitting for approval a list of users, prioritized by class, together with numerical usage projections of each class. A copy of that list is attached hereto.

This application was also supported by the Office of Planning (in part), the D.C. Department of Transportation and by at least ten (10) individuals in the community, some of whom were representing their community organizations.[2] The

[2] St. Mary's Court, Remington Condominium, School without Walls.

applications was opposed by ANC 2A, the Foggy Bottom Association and by the General Manager of Sports Club/LA.

After the record had closed in this application, the United States Court of Appeals for the District of Columbia Circuit issued a decision and Order reinstating[3] certain provisions of the Board of Zoning Adjustment's Final Order ("BZA") No. 16553 in which the BZA approved the University's current Campus Plan with conditions. Of relevance to this case was Condition 9 which, in pertinent part, stated that, "...no special exception shall be granted and no permit to construct or occupy buildings for non-residential use on campus may be issued, ... whenever a semi-annual report reveals that the University is not in compliance with the provisions of this condition..." (that imposes specific student housing requirements on the University).

At its public meeting of March 10, 2003, the Zoning Commission discussed this case in that context and subsequently voted to disapprove this application because it found that the University was not then in compliance with Condition 9. In its discussion the Commission made clear that its vote should be construed as a procedural necessity in the circumstances and not a judgment on the substantive merits of the case. A transcript of the relevant portions of that discussion is attached.

THE ORDER OF THE D.C. COURT OF APPEALS

By Order dated July 3, 2003, the D.C. Court of Appeals stayed the provisions of Conditions 9 and 10 pending further order of the Court. Subsequently, the District of Columbia moved that Court to reconsider its order, but the Court refused to do so. Copies of both orders are attached. The effect of the D.C. Court of Appeals action is to remove the procedural obstacle to the Zoning Commission moving forward to consider the Health and Wellness Center application on its merits. No final order has been issued in this case; thus the Zoning Commission is still free to consider and take another vote on the record that is before it.

[3] The conditions at issue here had been voided previously by an order of the U.S. District Court for the District of Columbia.

THE UNIVERSITY SEEKS TO REVISE AND UPDATE THE USER PROFILE OF THE HEALTH AND WELLNESS CENTER

The University has used these protracted circumstances to further reflect on the most appropriate uses for the Health and Wellness Center. It has reconsidered the concerns of the Commission and of its opponents and has decided to recalibrate the balance between those in the University and neighboring residential communities who wish to use the Health and Wellness Center and those who would prefer the existing use restrictions to continue. Hence, the University hereby requests the Commission to consider the following revisions to the Application No. 02-26:

A. Permitted Users

The University revises its request to enlarge the group of persons permitted to use the Heath and Wellness Center to the following three additional categories:

1. Students on the Mount Vernon campus. Travel between the Foggy Bottom and Mount Vernon Campus is greatly facilitated by University shuttles, which run no less frequently than every 20 minutes during the school year. The closest shuttle stop on the Foggy Bottom campus is one block away from the Center. Given this shuttle service, usage of the Center by Mount Vernon campus students would have no adverse impact on the surrounding community.

2. Friends and supporters of the University who are members of the President's Club. The President's Club at the Center is designed to accommodate a capacity of 270 persons. Under the current BZA order only 23 club members are eligible to use the Center, leaving 247 lockers unused. Many of the additional users will come from the 105 President's Club members who now use the nearby Smith Center. Others may come from the campus and/or the neighboring community. A few may be "friends" of the

University (i.e. trustees, contributors, V.I.P.'s etc.) In any event, the transfer of these users to the Health and Wellness Center will have little or no vehicular or pedestrian impact on the surrounding community.

3. Residents and members of immediately adjacent neighborhood establishments.. Four neighborhood establishments border the Center: St. Mary's Court at 725 24th Street; St. Mary's Church at 726 23rd Street; the Odd Fellows Club at 701 24th Street; and the Remington Condominium at 601 24th Street. Residents and members of these establishments were most impacted by the construction of the Center and GW had previously negotiated agreements with each permitting them access of the facility once it opened. GW would like to make good on these agreements. The close proximity of these neighbors would mean that none would have to drive to the Center and thus there would be no adverse impact on the surrounding community from their usage.

The University has tried to balance its desire for greater usage of the Center, both in time and in the category of permitted users, against any possible adverse impact on the surrounding community. GW has dropped several other, broader categories of proposed additional users, both those who have legitimate relationships with the University and others in the community who live farther from the Center. This restrained approach would accommodate the University's legitimate needs in a balanced manner.

B. Closing Time

The current Health and Wellness Center order requires the facility to close at 10:00 pm on every day except Sunday, and 8:00 pm on Sunday. **The University requests that the Center be allowed to stay open until 1:00 am on every day except Saturday, and 11:00 pm on Saturday.** The University believes that the later hours will respond to the study and work schedule of students which often require that exercise be postponed until the evening hours. The later hours will

have no adverse impact on the surrounding community because all activities will be well contained within the Center. Based upon the University's experience in operating the Center for the past two years, no adverse impact has been presented with a closing time of 10:00 pm and there is no reason to expect that to change with a later closing time.

THIS AMENDMENT WILL NOT HAVE AN ADVERSE IMPACT ON TRAFFIC AND PARKING

The report and findings of Gorove/Slade Associates, a transportation planning firm that has been recognized by the Commission as experts in this case, is attached hereto.

FURTHER PUBLIC HEARING IS NOT REQUIRED

The Commission has followed all applicable procedures in this case. It has duly issued a notice of public hearing and mailed that notice to the ANC and all individuals as required by statute and its regulations. A public hearing has been held and parties and persons have been accorded an opportunity to participate. This request raises no new issues to those that have been noticed and publicly heard. To the contrary, this request actually narrows the breadth of the case. According the parties a reasonable time to respond to this request is sufficient to satisfy all procedural requirements and appropriate in these circumstances.

SUMMARY

The Commission is now free to decide this application on its merits. Its regulations accord it the authority to reopen the record to do so. It may also choose to consider these proposed modifications to the classes of individuals who will be authorized to participate in the many benefits of the Health and Wellness Center. After according the parties a period to respond, the University urges the Commission to move promptly to grant the special exception as requested herein.

Sincerely,

Jerry A. Moore III

JAM/ydl

Enclosures

cc: ANC 2A
Foggy Bottom Association
D.C. Office of Planning
D.C. Department of Transportation

GOROVE/SLADE ASSOCIATES, Inc.
Suite 700 / 1140 Connecticut Ave., NW / Washington, DC 20036
Phone: (202) 296-8625
Fax: (202) 785-1276
Toll Free: (888) 212-4242

September 2, 2003

Mr. Jerry A. Moore III
Venable, LLP
1201 New York Avenue, NW
Suite 1000
Washington, DC 20005-3917

Subject: Reconsideration of Health and Wellness Center Decision
Zoning Commission Case No. 02-26

Dear Mr. Moore,

This letter summarizes our transportation assessment for the proposed operation modifications to The George Washington University (GW) Health and Wellness Center (HWC). The current Health and Wellness Center Order limits: (1) operating hours to 10:00 pm everyday except Sunday and 8:00 pm on Sunday; and (2) the type of users to Foggy Bottom campus students, faculty and staff only. The University is seeking to expand the operating hours to 1:00 am on every day except Saturday, and 11:00 pm on Saturday. The University is also seeking to expand the class of persons permitted to use the Center to the following three additional categories: (1) Students of the Mount Vernon Campus; (2) Friends and supporters of the University who are members of the President's Club; and (3) Residents and members of immediately adjacent neighborhood establishments. Our assessment examines the impacts associated with the closing time change and the additional permitted users. (NOTE: A detailed analysis of transportation impacts due to the original requested modifications can be found in '*Health and Wellness Center, Special Exception Transportation Impact Summary*' prepared by Gorove/Slade Associates, Inc., and dated November 15, 2002.)

Closing Time

Extending HWC operating hours to 1:00 am would not adversely affect traffic or parking conditions. The University projects that most of the demand for late night use of the Health and Wellness Center consists of intramural student games and competitions. The vast majority of users during this time would likely be on-campus residents that walk to the HWC. The small percentage of users that may drive to the HWC during the late evening hours would use the University Parking Garage (located at 22nd and H Streets) or use available on-street parking spaces.

Permitted Users

1. *Students from the Mount Vernon Campus*
   Most students will take the intra-campus shuttle bus. During the school year, the shuttle bus runs seven days a week, from 7 am to 2 am (3 am on Fridays and Saturdays). Shuttle bus headways range from 10 to 30 minutes, with 10-minute service provided between 8 am and 7 pm Monday

through Friday, coinciding with the peak periods of use of the HWC. Service every 20 minutes is scheduled the remainder of the week, except for after midnight service, which operates at 30 minute headways. The closest shuttle bus stop is approximately one block away from the Health & Wellness Center. Parking policy discourages students from driving from the Mount Vernon campus to the Foggy Bottom campus. Parking permits are specific to the MVC campus, limiting students parking options to paying to use a general parking facility, such as the University Parking Garage, or parking on street. The November 2002 Transportation Impact Summary concluded that 15% of new members of the Health & Wellness Center would arrive via private automobile. This percentage also applies to Mount Vernon students, although most likely less than 15% would drive to the Foggy Bottom campus. The impact on the transportation system from these drivers would be negligible.

2. *Friends and supporters of the University that are part of the President's Club*
   The President's Club is limited to 270 members, with 23 memberships already in service. Survey results detailed in the November 2002 Transportation Impact Summary show that only 15% of existing members drive to the President's Club. Thus, if the remaining 247 memberships were sold, the transportation impact would be negligible.
3. *Residents and member of immediately adjacent neighborhood establishments.*
   The adjacent neighborhood establishments include: St. Mary's Court (725 24th St), St. Mary's Church (726 23rd St), the Odd Fellows Club (701 24th St) and the Remington Condominium (601 24th St). Due to the close proximity of these establishments to the Health and Wellness Center, patrons will almost exclusively walk to the facility, and thus will have no impact on traffic or parking.

Conclusions

Based on our analysis and professional judgment, the Health and Wellness Center proposed closing time and permitted user modifications will not adversely impact traffic or parking conditions.

Sincerely,

Nicole A. White

Nicole A. White, P.E.
Senior Associate

P:\1634\016.HWC\2002docs\Letter - August 03\Letter-JerryMoore-082903.doc

A Prioritized List of Potential Classes of Users

The Commission has requested the University to prioritize the groups of people to whom it seeks to offer up to 3,000 new memberships. The University has considered this request and complies below. However, in so doing, the University restates its position that the outcome of this zoning case should depend on the numbers of users, how those users will travel to and from the Center and the resulting traffic, parking and neighborhood impact. Regulating uses by classes of individuals is an inexact regulatory tool that unnecessarily complicates management and enforcement.

Nonetheless, the University proposes to offer memberships to the following additional classes[1] of individuals in rank order of priority:

---

[1] An alternate method of categorizing users is as follows:

A. Additional memberships

- Board of Trustees
- Students, faculty and staff of the Mt. Vernon Campus
- Community residents
- President's Club
- Those who work in the community

1. George Washington University students who reside on its Mt. Vernon Campus. The current enrollment at that campus is 445. Because of distance and convenience factors, the University only expects 75 additional users, at intermittent times, during the week.

2. Community residents from the delineated area (N Street on the North, 19th Street on the East, Constitution Avenue on the South, and Rock Creek Park on the West) including the School Without Walls and St. Mary's Church: up to 1,000 memberships.

3. Friends and supporters of the University to be accounted for by memberships in the President's Club. There are currently 107 members of the President's Club: 86 at the Smith Center and 21 at the Lerner Health & Wellness Center. There are 135 lockers, respectively, in the men and women's locker rooms at the Lerner Health & Wellness Center. The new memberships in this category will increase by 249 to the number of available lockers: 270.

4. University alumni, whose membership would be restricted to usage on weekends and during the summer months. The University expects 500, or less than 1% of the number of its alumni who live in the D.C. area, to purchase a membership.

- Students of the Virginia Campus

B. Existing Memberships Add-ons

- Spouses, parents, siblings of existing members
- Guests of members

C. Special Use Privileges

- Community Partnerships (School Without Walls, St. Mary's Court, St. Mary's Church, etc.)
- Alumni (weekends and summer months only)

This alternative is not offered to replace the priorities stated in the main text but, rather, to assist the Commission in its analysis of that list.

5. The immediate family of members: the University expects an average of 50 per week to use the facility on daily passes during intermittent times of the day.

6. Summer residents of University housing, only during the summer months. The University houses non-student interns in its student housing facilities during the summer months. These interns - many of whom are summer employees in governmental offices - rent the dormitory space that is largely vacated by George Washington students during June, July and August.

7. Non-family guests at an average of 25 daily passes per week.

8. People who work in the area delineated above: 100.

9. Students at George Washington University's Virginia Campus: 500.

The total of "regular" new members is 2,322, with 75 intermittent users (family and guests) and 800 restricted users (Alumni and summer intern residents). The participation of each of those classes of members in the activities of the Center is entirely consistent with, and complementary to, the University's mission. That mission is stated in the approved Campus Plan and included herewith as "Exhibit F." The mode of access and the parking and transportation impact of these additional users are discussed in the Gorove/Slade reports.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION

* * * * *

Z.C. CASE NO.: 02-26
REGULAR MEETING
1145th MEETING SESSION (3rd of 2003)

* * * * *

EXCERPT OF Z.C. CASE NO. 02-26

Monday

March 10, 2003

* * * * *

The Regular Meeting of the District of Columbia Zoning Commission convened at 1:30 p.m. in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
JAMES H. HANNAHAM	Commissioner
PETER G. MAY	Commissioner
JOHN G. PARSONS	Commissioner

ZONING COMMISSION STAFF PRESENT:

ALBERTO BASTIDA	Secretary
SHARON SANCHEZ	Office of Zoning

OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY	Deputy Director
STEVEN COCHRAN	Office of Planning
STEPHEN MORDFIN	Office of Planning
JENNIFER STEINGASSER	Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:
ALAN BERGSTEIN, ESQ.
COREY BUFFO, ESQ.

P-R-O-C-E-E-D-I-N-G-S

2:40 p.m.

CHAIRPERSON MITTEN: The next case is the George Washington University Health and Wellness Center. Oh, Mr. May, why don't you just put that on the record?

COMMISSIONER MAY: Yes, for the record, I have recused myself from this case, and I'll rejoin the Commission when we move on to the next lined up.

CHAIRPERSON MITTEN: Thank you, Mr. May.

We have a letter from the applicant's counsel, and we also have the February 28, 2003 report regarding the degree of compliance with Condition 9. But first, I would like to turn to Mr. Bergstein, so that he can address the legal matter of the status of Condition 9 relative to Judge Oberdorfer's ruling.

MR. BERGSTEIN: Thank you. The letter from applicant's counsel focuses on the fact that the mandate has not yet been issued by the United States Court of Appeals for the District of Columbia Circuit with respect to the written decision finding that Condition 9 was not unconstitutional as it had been found by Judge Oberdorfer, and, in fact, it's my understanding that the university has filed a

petition with the United States Court of Appeals requesting that the entire Court rehear the matter en banc, which would have the effect of delaying the issuance of the mandate.

The fact that the mandate has not been issued would be relevant if an injunction had been issued by Judge Oberdorfer, but no injunction was issued by Judge Oberdorfer. Judge Oberdorfer denied the request of the university for an injunction and denied it without prejudice. Therefore, I sought the advice of our appellate division, and they informed me that there is, at present, no legal impediment to the Zoning Commission giving full effect to Condition 9.

Prior to the issuance of the Court of Appeal's decision, in view of the declaratory nature of Judge Oberdorfer's order, the Zoning Commission had not given effect to the order, even though there was no injunction in place. But now that there has been a decision issued, which found the condition to be constitutional, there is no, at least, legal impediment to you giving effect to Condition 9.

The other issue that's raised has to do with whether or not substantial compliance is the standard with respect to Condition 9. 9-E, which is

the relevant provision, says "No special exceptions shall be granted whenever a semi-annual report reveals the university is not in compliance with the provisions of Condition 9, except for certain residential special exceptions." It doesn't use a substantial compliance standard, although the overall order does with respect to noncompliance.

So the university is suggesting the substantial compliance is the standard to be used, and you should think about whether or not, in fact, that does govern Condition 9. In other words, the requirement is 5,600 beds provided within the relevant area, and if it's 5,599, would that mean that you could not give a special exception?

Lastly, the other issue I would like to talk about is the contention that this is not a special exception request that's covered by Condition 9. I'll leave that to your interpretation, but I'm not aware of any further processing not being considered a special exception request.

CHAIRPERSON MITTEN: Thank you, Mr. Bergstein.

I guess I'll start with the last issue first, since I agree with you. I can't imagine what it is if it's not a -- just pardon me a second.

Mr. Hannaham?

COMMISSIONER HANNAHAM: I just want to recuse myself. I was not a participant in the review of this case.

CHAIRPERSON MITTEN: Okay. If you're not a participant, you don't need to leave us.

COMMISSIONER HANNAHAM: Okay, thank you.

CHAIRPERSON MITTEN: But that's fine.

COMMISSIONER HANNAHAM: I'll be close by.

CHAIRPERSON MITTEN: Okay. Okay. Thank you. So I agree with Mr. Bergstein on the issue of this being a special exception. To speak to the issue of substantial compliance, I don't even think we need to decide whether or not that's the standard in this particular case. I mean, we don't need to decide whether or not 5,599 counts versus 5,600.

The counts that are included in the February 28, 2003 status report, the requirement is for, and Mr. Bergstein, please, correct me if I misspeak at any point, 5,600 beds to be available either on campus or outside the Foggy Bottom/West End area. The count for the number of beds available on campus is 4,534 and the number of university supplied beds outside the Foggy Bottom/ West End area is zero. So the degree to which the university is not in

compliance with Condition 9 is the difference between 4,534 and 5,600, and I don't think that approaches substantial compliance if, in fact, that is even the standard.

So I would recommend to my colleagues that we deny the request in Zoning Commission Case 02-26, based on lack of compliance with the campus plan order.

VICE CHAIR HOOD: Madam Chairman, let me just make sure I understand that as 5,600 is?

CHAIRPERSON MITTEN: The requirement.

VICE CHAIR HOOD: The requirement, and they are at 4,534?

CHAIRPERSON MITTEN: Yes.

VICE CHAIR HOOD: I'm just really trying to see how much, the amount of compliance.

COMMISSIONER PARSONS: Madam Chairman, I'm trying to figure out how we can do this procedurally. Does this mean then that we're denying it with prejudice or are we denying it in such a way that they would have to come back and apply for a whole new case? Are we tabling this, in effect, until compliance is evidenced that we could make a decision on this?

CHAIRPERSON MITTEN: Let me ask Mr.

Bergstein what our options are.

MR. BERGSTEIN: Well, no special exceptions shall be granted means that you need to take a vote making that finding. You can then, I guess, hold the application in abeyance, but then that doesn't allow for an appeal of that determination. So I think what you would really need to do since you're, in essence, denying the application -- I believe you're denying the application in a way they can always come back at such time as they are in compliance. But I think ultimately you want to end up with an order finding that you're not granting this, because of noncompliance as opposed to simply keeping it in abeyance.

I can consult the appellate division and give you further guidance on that, because I, frankly, haven't got to that level of analysis, but I would assume that there would be a denial and an order. But I think that you're not finding the application is without merit. Once they are in compliance, they could file a new application.

VICE CHAIR HOOD: Madam Chairman, with that I will second your motion, that explanation.

CHAIRPERSON MITTEN: Thank you. Is there

any further discussion? Well, let's see where this is going. Then I will call for the vote. All those in favor of denying Zoning Commission Case 02-26, please, say aye.

VICE CHAIR HOOD: Aye.

CHAIRPERSON MITTEN: Aye. Those opposed, please, say no.

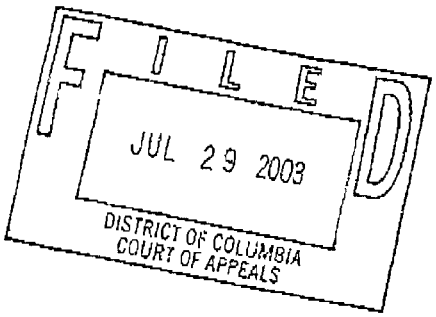
Ms. Sanchez?

MS. SANCHEZ: Yes, staff would record the vote 3 to 0. Excuse me. Yes, 3 to 0 to deny Zoning Commission Case 02-26 for lack of compliance. Commissioner Mitten moving, Commissioner Hood seconding, Commissioner Parsons in favor, Commissioner Hannaham not voting, having not participated in the case, and Commissioner May not voting, having recused himself.

CHAIRPERSON MITTEN: Thank you.

(Whereupon, at 2:49 p.m. the excerpt of meeting was concluded.)

District of Columbia Court of Appeals



No. 02-AA-172

GEORGE WASHNGTON UNIVERSITY,
Petitioner,

BZA16553

v.

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT
Respondent.

Before: Schwelb and Farrell, Associate Judges; Nebeker, Senior Judge.

O R D E R

On consideration of respondent's motion for reconsideration of stay and the opposition thereto, it is

ORDERED that the motion is denied.

PER CURIAM.

Copies to:

Edward E. Schwab
Acting Deputy Corporation Counsel

Rebecca L. Taylor, Esquire
1401 New York Avenue, NW - #600
Washington, DC 20005

Vincent Mark J. Policy, Esquire
1620 L Street, NW -0 #900
Washington, DC 20036

Scott B. Schreiber, Esquire
555 12th Street, NW - #600
Washington, DC 20004

Cornish F. Hitchcock, Esquire
1100 17th Street, NW - 10th Floor
Washington, DC 20036

Alexander E. Dreier, Esquire
Hogan & Hartson
555 13th Street, NW
Washington, DC 20004

Joseph M. Hannon, Esquire
James F. Bromley
1212 New York Avenue, NW - #1000
Washington, DC 20005

Deborah Baum, Esquire
Shaw Pittman Potts
2300 N Street, NW
Washington, DC 20037

cal

District of Columbia Court of Appeals

JUL 3 2003
DISTRICT OF COLUMBIA
COURT OF APPEALS

No. 02-AA-172

GEORGE WASHINGTON UNIVERSITY,

Petitioner,

v.

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT,

Respondent.

BEFORE: Schwelb and Farrell, Associate Judges, and Nebeker, Senior Judge.

ORDER

George Washington University (the University) has applied to this court for a stay of the "Corrected Final Order After Remand" issued by the Board of Zoning Adjustment (BZA) on January 23, 2002. On behalf of the BZA, the Office of Corporation Counsel has opposed the motion for a stay. The court has considered the materials submitted in favor of and in opposition to the University's application, and hereby stays the following provisions of the BZA's order pending further order of this court:

1. Condition 9a
2. Condition 9b
3. Condition 9f
4. Condition 10

It is so ordered this 3rd day of July 2003.

PER CURIAM.

No. 02-AA-172

Copies to:

Deborah Baum, Esquire
Shaw, Pittman & Potts
2300 N Street, NW
Washington, DC 20037

Charles L. Reischel, Esquire
Deputy Corporation Counsel

Rebecca L. Taylor, Esquire
1401 New York Avenue, NW
Suite 600
Washington, DC 20005

Vincent Mark J. Policy, Esquire
1620 L Street, NW
Suite 900
Washington, DC 20036

Scott B. Schreiber, Esquire
555 12th Street, NW
Suite 600
Washington, DC 20004

Alexander E. Dreier, Esquire
555 13th Street, NW
Washington, DC 20004

Joseph M. Hannon, Esquire
1212 New York Avenue, NW
Suite 1000
Washington, DC 20005

Cornish F. Hitchcock, Esquire
1100 17th Street, NW
10th Floor
Washington, DC 20036