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September 16, 2003

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

Re: Zoning Commission Case No. 02-26; The George Washington University Health & Wellness Center

Dear Ms. Mitten and Members of the Commission:

This letter supplements our September 4, 2003 letter on behalf of our client, The George Washington University ("the University"), asking the Commission to reopen and finally resolve the above-referenced case.

The District of Columbia Court of Appeals has made final its decision to invalidate Revised Condition 9(a) in BZA Order No. 16553.[1] In a decision and order dated September 11, 2003, the appellate court ruled that the BZA's conditional requirement that the University provide housing for 5,600 students on its campus or outside of the Foggy Bottom West End neighborhood by August 2002 is illegal and, as such, not enforceable[2]. As stated in the record, the Zoning Commission's finding that the University was not in compliance with Revised Condition 9(a) was the sole reason that it voted to deny the Health & Wellness Center application on March 10, 2003.[3] That procedural obstacle has now been finally removed. The fact now is that the University is in full compliance with the BZA order in all respects.[4]

[1] In this case the BZA conditionally approved the University's campus plan for the period 2001-2009.

[2] The appellate court order also continued the stay of conditions 10, pending further action by the BZA, and 9(b) insofar as the latter applies to Phase I (items to be completed by August 2002) of the campus plan. Neither of these stays impede the final disposition of this case.

ZONING COMMISSION
District of Columbia
Case 02-26
Exhibit 63

ZONING COMMISSION
District of Columbia
CASE NO.02-26
EXHIBIT NO.63

Thus, the procedural path is finally clear for the Commission to act on the substantive merits of this case. Accordingly, the University requests that the Commission move to consider and approve Application No. 02-26 at its first available opportunity. Thank you.

Sincerely,

Jerry A. Moore III

JAM/ydl

cc: Advisory Neighborhood Commission 2B
Foggy Bottom Association

[3] The application seeks a "further processing" special exception to revise the classes of individuals who are permitted to enjoy the health and wellness benefits of the Center and to allow for a later closing hour. The Commission has voted but not issued a Final Order in this case.

[4] As required by Final Order No. 16553F, the University timely submitted a status report on each condition in November 2002 and a biannual compliance report in August 2003.