THE CITIZENS ASSOCIATION OF GEORGETOWN

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February 6, 2003

Ms. Carol Mitten, Chair
Zoning Commission
441 Fourth Street, N.W.
Washington, D. C. 20001

Madam Chair:

Re: Case 02-32 - Georgetown University

Several documents were filed by the deadline of January 23 in connection with this application, including Arnold & Porter's January 13 letter. The Citizens Association of Georgetown offers this response to compliance issues.

The questions we believe the Commission needs to address to determine whether GU is complying with the conditions under which it was granted permission to operate are as follows:

Condition 2 – Does enrolling students above the specified cap of 5,627 "undergraduate students who require housing" violate this condition?

The plain intent of the BZA language was to establish a cap, a ceiling, a number not to be exceeded. We have seen nothing to indicate GU ever presented the "averaging" concept to the BZA. While GU asserts it has used this formulation for a dozen years, CAG was not aware of the practice until last year. Clearly, all 5,754 fall students needed housing, and GU was 127 students above its enrollment cap.

Condition 3 – Does GU's policy of moving disciplinary problems from its dormitories into the community constitute compliance with the BZA directive that "off-campus housing is a privilege that can be revoked due to student misconduct, whether a violation occurs on or off-campus?

GU officials have made clear that they do not intend to change their policy to comply with the BZA condition (see ALL minutes provided by the Burleith Citizens Association).

Condition 9 – Does the university provide information that meets the BZA requirement for reports of "student misconduct, and the outcome of each complaint ..."? Are aggregate numbers adequate to meet the BZA's directive? Did the BZA intend to include freshmen and sophomore undergraduates in such reports?

We assert that all undergraduates were to be included in this reporting, not just upperclassmen living off campus. The unqualified language the BZA used in other conditions[1] indicates all students were to be covered. The university's legalistic distinction between "off-campus-student affairs" and "off-campus student affairs" is too cute by half and evades the clear intent to require reports on all students.

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[1] *Condition 5: "... once a complaint is received concerning a student's off-campus conduct ..." or Condition 6: "The Applicant shall maintain a telephone hotline to receive complaints regarding student misconduct. ..."*

ZONING COMMISSION
District of Columbia
CASE NO.02-32
EXHIBIT NO.48

CAG's comments on the letters submitted by Justin Wagner, Kaydee Bridges, and Lt. Brian Bray, are included as an attachment to this letter, inasmuch as they do not directly relate to compliance with BZA conditions, but rather discuss their subjective assessments of outcomes.

Two procedural matters remain. Arnold & Porter comments about the timeliness of CAG's November 25 letter. That letter was submitted to the Zoning Commission Secretary in time for inclusion in commissioners' Thanksgiving packets, in anticipation of the December 6 hearing. The reference line inaccurately continued the campus plan case number, which may have resulted in the letter being misfiled.

Second, it is not clear who is certifying this application's accuracy. Arnold & Porter's November 21 letter certifies only that the project will not exceed allowable FAR.

We again ask that you postpone approval of this application until Georgetown brings itself into compliance with the BZA conditions. As we said in the statement we submitted on January 16, this can be done without substantial delay.

We thank you for your consideration, and stand prepared to respond to any questions.

Sincerely,

Barbara Zartman

Barbara Zartman, Chair
Historic Preservation, Planning, and Zoning Committee

ATTACHMENT

To the extent that the Commission wishes to evaluate the impact of GU's efforts, as well as its compliance with the conditions, we would offer the following:

• With regard to student behavior and whether any meaningful changes have occurred, the BZA established the baseline for objectionable conditions when it issued its decision on March 29, 2001. At that time it deemed GU's impact to have become objectionable. Apparently Lt. Brian Bray and Justin Wagner believe that at that time, progress had been made. It is possible that in 1999 or 2000, conditions were still worse. It changes no facts about conditions in 2001.

The recently filed brief by Corporation Counsel in GU's appeal of the campus plan order argues that GU acknowledged the degree of impact it had on the community; GU's counsel said she "felt the pain" of GU neighbors, and agreed to have the university develop a "comprehensive plan ... to address the issues that we've heard" and to put in place conditions and restrictions and sanctions" (Case No. 01-AA-1182, page 15). This is a settled issue.

• To address Lt. Bray's observations, he reasonably puts a favorable light on the hard work he and his officers have brought to the effort (although his Police Service Area does not include the Georgetown neighborhoods from which you have received complaints). The fact that in this tight budget year, MPD provided two officers to patrol certain West Georgetown streets from 10:30 p.m. to 3:30 a.m. on Thursday, Friday, and Saturday nights tells what conditions are. These officers were not assigned because things are going <u>well</u>, but because there is so much trouble. In fact, on this past two weekends alone, the officers issued eleven "61-D" tickets ($300 noise violation citations, issued only when violators don't respond to warnings).

• Justin Wagner is an effective advocate for his position, but it is not the ANC's role to evaluate compliance, and "great weight" is not involved in the compliance decision. The ANC's support for the performing arts facility is shared by the broad community. Interestingly, the ANC's narrow vote of support for the campus plan itself was conditioned on several things, including "urging that measures be taken to strengthen the off campus affairs program, including such measures as suspension of ... students who are cited for repeated and continued residential neighborhood disturbances, that such ... students be required to move from off-campus housing back onto campus."

Wagner has utilized his ANC Commissioner role to create a lengthy record of his assessments of town-gown relations, and his role in their development. His subjective assessment of "vast" improvements needs to be measured against the specific testimony of neighbors.

• Kaydee Bridges' letter for the GU Student Association provides a predictable assessment of GU's compliance, but also evidence of students' belief that DMV regulations are unfair to them (page 2, first paragraph). She gives testimony about motion, not progress – the difference between sending out forms and actually getting cars registered.

• Both Lt. Bray and attorneys for the university misrepresent the argument made by CAG in President Kukulski's letter to GU President DeGioia. No assertion was made that "incidents of disorderly conduct involving Georgetown University students are at a four (4) year high." The observation in CAG's November 13 letter referred to *town-gown* relations: "From noise and vandalism to garbage and parking - we believe relations are at a four-year low." The letters and emails provided to the Commission support that conclusion.

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As to the reports GU provides: First, they reflect only undergraduate students living off-campus, some 1,100 of the 5,700 undergraduate student body. This is unacceptably incomplete. Second, the use of only gross numbers make it impossible to assess the adequacy of their disciplinary efforts. (The very categories in which aggregate numbers are listed change from report to report.) Without case-specific information, neighbors never know what has become of their complaints.

Both GU and Metropolitan Police Department (MPD) reports underrepresent the amount of offensive behavior. Some calls are never answered. More often, calls to either office often are not responded to before the offenders move to another area or finally get to their beds; these are never considered valid complaints. Neighbors who know that calls to 311 are given the lowest priority by MPD – often not even reaching patrol officers for hours – quickly learn such calls are pointless. Most importantly, some neighbors are genuinely threatened and fear retaliation by groups of drunken young people, and they do not call at all.

Condition 13 – Do the quarterly oral aggregate numbers provided by GU meet the BZA's requirement for "monthly reports regarding use of the helipad, including credible evidence of medical necessity associated with its use ..."?

The intent of this condition was to allow neighbors to monitor changes in hospital and helipad practices, especially at times of realignment of hospital emergency services. These broad categories offer no "credible evidence of medical necessity". We have seen no response from GU that justifies its noncompliance with this requirement.

Condition 14 – Does the distribution of printed materials meet the BZA's condition that required GU to "direct the students to register their vehicles" in the District? In light of the BZA's mistaken directive to withhold GU parking privileges from students who do not comply – surely intended as a stern punishment – wasn't the BZA's desire for a more robust enforcement than GU has provided?

The evidence presented by the Burleith Citizens Association of 123 out-of-state vehicles parked behind student homes within a three-block area is proof of the inadequacy of GU's registration efforts. Neighbors cannot fix this problem. MPD officers cannot enter private property to ticket vehicles. The minutes from ALL meetings provided by the Burleith Citizens Association offer proof of GU's unwillingness to inconvenience their students. Dean Lord has said that GU does not intend to be an enforcer. It must be required of them.

Approved campus plan – Does the removal of a major athletic facility from the campus constitute a change that requires amendment to the campus plan or any other Zoning Commission review?

GU's arguments in favor of the performing arts center include the important priority for campus-based student activities; we agree. At the same time, however, GU has removed from its campus the facility that hosts the entire successful track-and-field program. This highly popular activity has been relocated into the community, onto the Ellington High School field. There was community benefit in the GU decision, to be sure: the university will pay a significant six-figure sum to replace the track surface at Ellington. However, this does not change the impact of moving a major athletic facility from campus to the neighborhood. The community needs the protection of Commission review, which can enforce a GU "promise" that the use would be for five years only.

GU's argument that the track is not mentioned in the plan ignores the maps approved by the BZA as part of the campus plan and provided by CAG earlier, which clearly show the track (facility 42) on both the existing and the future plans.

CAG's comments on the letters submitted by Justin Wagner, Kaydee Bridges, and Lt. Brian Bray, are included as an attachment to this letter, inasmuch as they do not directly relate to compliance with BZA conditions, but rather discuss their subjective assessments of outcomes.

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Sincerely,

Barbara Zartman

Barbara Zartman, Chair
Historic Preservation, Planning, and Zoning Committee

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true copy of the foregoing Letter and Attachment to be mailed first-class, postage, prepaid, on this 6th day of February, 2003, to:

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Elizabeth H. Miller