ZONING COMMISSION ORDER NO. 02-32
Case No. 02-32
(Georgetown University Campus Plan – Further Processing of Performing Arts Center)
February 24, 2003

Accepting GU's draft up until page 5, Item 13, Line 4, where our changes begin:

The University submitted as part of its Pre-Hearing Submission a detailed, 10-page document asserting that the University is in full compliance with Conditions 1 through 18. The University submitted additional information in support of this assertion in response to written submissions by the Citizens Association of Georgetown and the Burleith Citizens Association.

Report of the Office of Planning

1. Add: The Office of Planning did not address compliance with the campus plan order.

Advisory Neighborhood Commission 2E

1. Add: The ANC did not address compliance with the campus plan order.

Reports of Other Government Agencies

1. Add: Neither the Old Georgetown Board nor the Commission of Fine Arts considered compliance with the campus plan order.

Testimony In Support

No change.

Testimony in Opposition

1. The parties in opposition, the Citizens Association of Georgetown (CAG) and the Burleith Citizens Association (BCA) requested postponement of approval until the applicant achieved compliance with all campus plan conditions, asserting that GU had enrolled students above the authorized cap, that GU had failed to enforce the requirement for re-registration of out-of-state vehicles, that GU failed to provide required information about the outcome of each complaint received about student behavior, that GU had provided inadequate information about the operation of the helipad, and that GU had removed a major athletic facility from the campus and relocated it in the community.

2. CAG and BCA expressed general support for the Performing Arts Center itself, but questioned whether the conditions of the BZA order that were intended to keep it from becoming objectionable might not also be ignored by GU.

Compliance with Campus Plan Conditions

1. The Zoning Commission requested that all testimony on the subject of the applicant's compliance with its campus plan be submitted in writing.

2. CAG and BCA submitted pre-hearing and post-hearing written statements documenting

ZONING COMMISSION
District of Columbia
Case 02-32
Exhibit 49

ZONING COMMISSION
District of Columbia
CASE NO.02-32
EXHIBIT NO.49

where the University is not in compliance with certain conditions of the campus plan as required by Condition 19 of the order and by 11 DCMR §3205. They recommended postponement of approval until full compliance is achieved. The complaints documented by CAG and BCA are summarized below:

a. Condition 2 provides that "[t]he Applicant shall not increase undergraduate enrollment above the cap of 5,627. This cap shall apply to traditional full-time undergraduate students, that is, students who require housing." The University reaches this number by averaging spring and fall semester registrations and admits that in the fall semester, it enrolls above the cap; this year, that overenrollment was 127 students. GU argues that it has used this practice for years; CAG and BCA assert they were unaware of the practice until last year; hence, they did not and could not have argued against the practice during the campus-plan hearings.

b. Condition 14 sets forth a multi-part process under which the University is to collect and maintain information regarding out-of-state vehicles owned or operated by students; direct students to register their vehicles in the District of Columbia; and hold students in violation of the Code of Student Conduct for failure to do so. CAG and BZA assert that GU has limited its activity to producing and distributing information and that there has been no enforcement of the Code of Student Conduct, despite the University being provided with a list of 123 out-of-state vehicles parked at houses occupied by students. CAG and BZA assert that such failure to enforce makes the condition hollow.

c. Condition 9 requires the University to "make publicly available data indicating the number and types of complaints received concerning student misconduct, and the outcome of each complaint, including whether sanctions were imposed and whether any fines paid." CAG and BCA assert that the plain language of this condition requires case-specific information about how "each" case – affecting on-campus or off-campus student residents – is resolved must be provided to the community and the specified agencies. They cite the straightforward language of Conditions 5, 6, and 8 as well, with language that refers to student (not "off-campus residents") behavior. [Only Condition 7 refers specifically to off-campus residences, inasmuch as it concerns health and safety concerns regarding the residences themselves.] The University provides only aggregate information, and only information about those students who live off-campus.

d. Condition 13 requires monthly reports of helicopter usage and "credible evidence of medical necessity associated with its use ..." CAG asserts that the quarterly generalized oral reports do not meet this requirement. GU claims the information it (or MedStar) provides is good enough; it does not assert that it meets the BZA standard.

e. Condition 3 requires GU to treat off-campus living as a privilege that can be revoked. BCA and CAG assert that, to the contrary, on-campus problem students have been forced to find housing in the community and provided meeting minutes as documentation. GU claims it has in fact required some students to move back on campus, but provides no documentation.

f. The maps adopted as part of the campus plan include facilities plans that show the running track being retained at the Yates Field House. It has been removed, and CAG asserts that the introduction of a major, previously on-campus athletic facility into the community requires a further-processing case, as it surely represents a change in campus facilities.

FINDINGS OF FACT

1. The Commission agrees with the applicant's submission and testimony setting forth the design and function of the proposed Performing Arts Center, its academic role, and the planning rationale for consolidation in one new facility of performing arts functions from scattered locations on campus. The Commission also notes the conceptual design approval granted by the Old Georgetown Board and the U.S. Commission of Fine Arts.

2. The Commission finds that there was testimony in support by the Office of Planning,, Advisory Neighborhood Commission 2E, and two individual students. The parties in opposition – the Citizens Association of Georgetown and the Burleith Citizens Association – recommended postponement of approval until the University achieved compliance with all campus plan conditions.

3. The Commission finds that the University is not in substantial compliance with certain conditions of the BZA order, to wit:

   a. Condition 2, putting an absolute cap of 5,627 traditional full-time undergraduate students.

   b. Condition 9, requiring information about the disposition of each case of a complaint about student behavior

   c. Condition 13, requiring evidence of medical necessity for helipad use,

   d. Condition 14, requiring GU to direct its students to register their vehicles in the District of Columbia,

   e. Condition 3, requiring GU to revoke the privilege of off-campus housing for disciplinary problems.

   f. Approved campus plan, removing a major athletic facility which was indicated to remain on campus for the life of the plan.

4. The Commission finds that the reported behavior of students in West Georgetown is objectionable in the extreme, and the University has not demonstrated a capacity to educate, control, or discipline students guilty of such behavior.

CONCLUSIONS OF LAW

1. Based on the Findings of Fact and the evidence of record, the Commission cannot approve the processing of a special exception for the Performing Arts Center under this application.

2. The University must limit its enrollment at all times to the 5,627 full-time traditional undergraduates specified in BZA Order 16566C.

3. The University must from this time forward provide information about all complaints of student misbehavior, with case-specific outcomes described, in a manner that – through the use of case numbers rather than names, perhaps – complies with any provisions of FERPA that the courts may find applicable to matters of student misbehavior. This information must cover on-

campus as well as off-campus student residents, and must document cases in which students' off-campus living privileges are revoked or where students are removed from campus.

4. The University must from this time forward provide information that fully satisfies Condition 13, with monthly written reports providing the specified evidence of medical necessity.

5. The University must enforce its Code of Student Conduct with regard to registration by students of their out-of-state vehicles; the condition is intended to secure the re-registration of the vehicles and drivers, not merely the distribution of information.

6. The University must submit an application for the removal of its athletic track from campus, as a further-processing case.

7. Upon completion of these steps and commitment to the student cap, GU may again request processing of this application.

8. The Commission has accorded ANC 2E the "great weight" to which it is entitled. Accordingly, it is ordered that this application is DENIED.

VOTE: