Dorothy Miller
Commissioner ANC 2A05

2440 Virginia Avenue NW Washington, D.C. 20037 Tel. (202) 331-0191

November 10, 2003

Ms. Carol J. Mitten, Chair
District of Columbia Zoning Commission
441-4th Street, NW, Suite 210
Washington, DC 20003

Re: Z.C. Case No. 03-29 (Consolidated PUD & Related Map Amendment – 2025 F Street, NW)

Dear Ms. Mitten and fellow Commissioners:

On October 15, 2003, at its regularly scheduled Monthly Public Meeting, ANC 2-A voted 4-0-1 to allow the Chair to represent the ANC at the Commission on Fine Arts (CFA) hearing on the above case. George Washington University (GWU) has asked to appear before ANC-2A to make a presentation on this proposal, but because CFA has not given its approval to this project and as the Office of Planning (OP) had not issued a report that would enable the Zoning Commission (ZC) to select a date for a hearing of this request, the ANC felt it would be premature for GWU to appear.

The proposed PUD seeks relief from development standards, and requests amendments to the zoning map, and a change in the current campus because Square 103 is designated "Academic/Administrative." This project appears clearly inappropriate for this location. It goes against the intent of the Zoning regulations and the District's Comprehensive Plan and is the proposed use is not in conformance with the current Campus Plan, (Note attached map).

GWU first presented this case to the CFA in July and failed to receive approval. CFA followed up with a letter dated 24 July 2003, which states, "...the design in general appears overwhelming on the block", and infers that the building is too tall and not in character with the surrounding buildings near the edge of the Foggy Bottom Campus. GWU returned again in September for another presentation and received some further unfavorable criticism. When GWU returned to CFA in October with only minor changes, one of which would be a setback of the top four floors, the CFA gave "conceptional approval," because a number of Commission members felt that the university's changes were moving in the right direction. However, since in the past GWU has used CFA a "conceptional approval" to mean something other than it does, a copy of these minutes was filed in this ZC case.

The report filed by OP in this matter fails to support its own intent as expressed "in its reluctance to recommend approval of the current campus plan." In its report, OP expresses a litany of concerns that cover virtually every aspect of the proposed requests (e.g., height increase, underlying zoning change, traffic on the streets, amenity package). While OP clearly has severe concerns about the critical issues related to zoning that are the core responsibility of the Zoning Commission, it appears to suggest that the issue of

ZONING COMMISSION
District of Columbia
Case 03-29 17
Exhibit

ZONING COMMISSION
District of Columbia
CASE NO.03-29
EXHIBIT NO.17

new student housing is more important. The OP obviously knows that this site is not the only campus site available for development of student housing. Moreover, the Campus Plan calls for "Academic/Administrative" use for two-thirds of the site. By using the term" of some size," the OP also appears to suggest that, even if the Zoning Commission permits a student residence hall to be built on this site, it need not be on such a huge scale.

For your information, attached is a copy of the October 30, 2003, Order of the Superior Court of the District of Columbia, Civil Division to reinstate the charge of "blockbusting" by GWU in the case of Donald Kreuzer v. George Washington University. This new project is "blockbusting" in anther section of the Foggy Bottom/West End area, in addition to being in violation of the current Campus Plan.

I am also attaching a map of the Foggy Bottom Area showing the location of this proposed project. It is three blocks south of Pennsylvania Avenue where 120 foot heights are allowed; they should not be allowed on a very narrow one-way street in a residential section where there is no other such height or commercial use.

The remark, " you want the students on campus" is GWU's response to the community. What the community wants is an enrollment cap and some relief from GWU's uncontrolled enrollment and the incursion into our residential community of students seeking housing.

Review this project, but a hearing should not be set down until GWU has given a response as to what the University plans are for the old hospital site, which, as the BZA pointed out in its final order is capable of housing many numbers of students.

Respectively submitted,

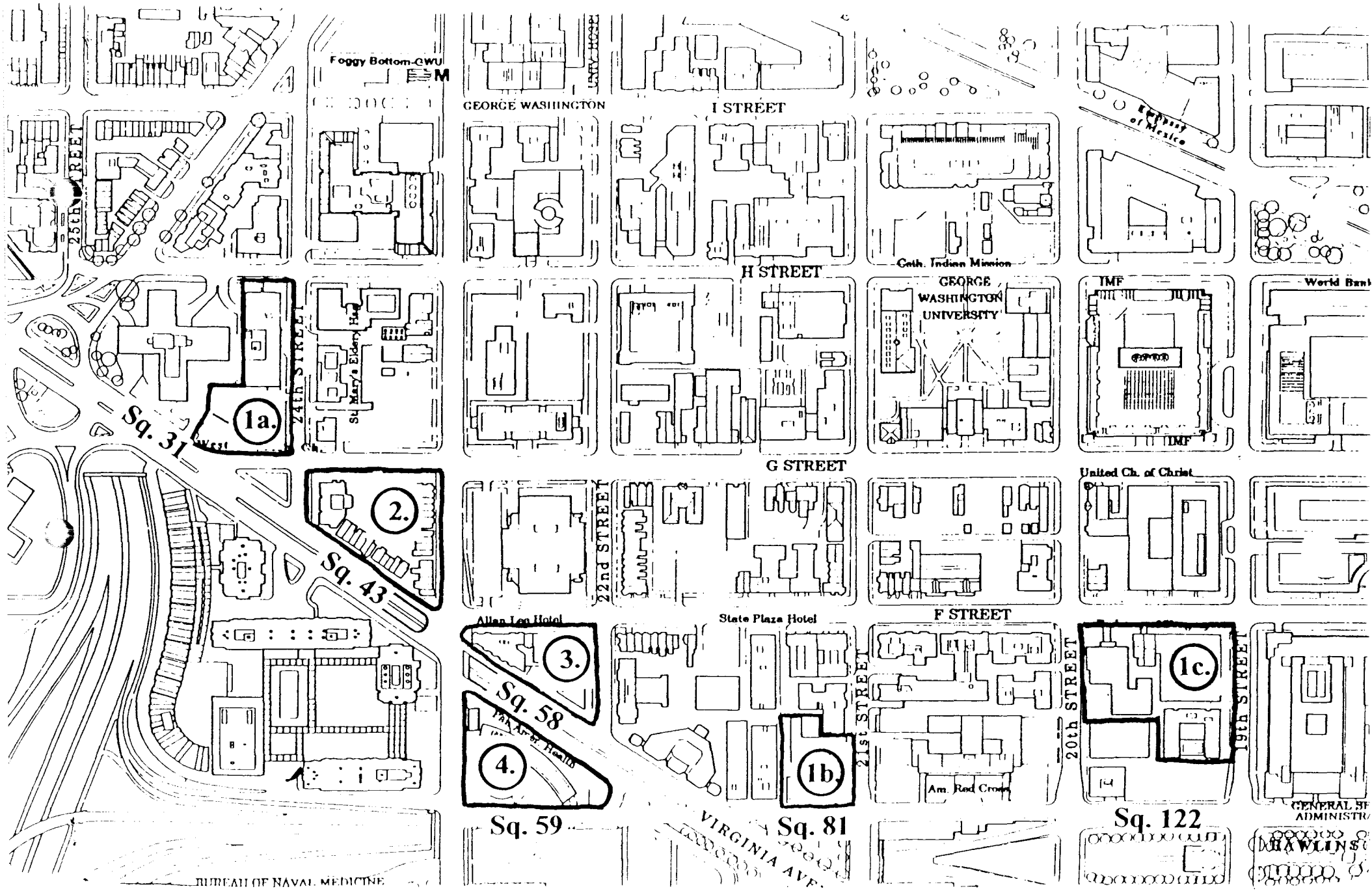
Dorothy Miller

Dorothy Miller, Commissioner, ANC-2A05
and Chair of ANC-2A

Attachments: (4)

1. Foggy Bottom Area map showing location of this project
2. David Childs CFA letter dated 24 July 2003,
3. Superior Court of the District of Columbia ruling in Donald Kreuzer v. GWU, dated September 15, 2003
4. GW Hatchet reprint of August 25, 2003

FOGGY BOTTOM AREA



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DONALD KREUZER,	:	
	:	
Plaintiff,	:	Civil Action No.: 03-3645
	:	Judge Boasberg
v.	:	Calendar 10
	:	
GEORGE WASHINGTON UNIV.,	:	
	:	
Defendant.	:	

ORDER GRANTING PLAINTIFF'S MOTION TO RECONSIDER THE ORDER DATED SEPTEMBER 15, 2003

The Court has reviewed Plaintiff's Motion to Reconsider the Order Dated September 15, 2003, or, in the Alternative, for Certification, Defendant's Opposition, and Plaintiff's Reply.

In its Order of September 15, 2003, the Court, *inter alia*, dismissed pursuant to Rule 12(b)(6) Plaintiff's cause of action under the D.C. Human Rights Act ("DCHRA") for "blockbusting." See Order at 6-7. Plaintiff here asks the Court to reconsider its decision, claiming that he has made out a sufficient case to survive a motion to dismiss and that the recent case of George Washington University v. D.C. Board of Zoning Adjustment, 831 A.2d 921 (D.C. 2003), supports his argument.

Defendant correctly responds that motions for reconsideration are not the vehicle for raising arguments that could and should have been raised in the initial pleadings. Yet, while the Court agrees that the focus of Plaintiff's earlier pleadings was discrimination based upon place of residence, see Opp. to Motion to Dismiss at 19, the points discussed in the instant Motion were briefly mentioned in the earlier pleading. Id. at 22. The Court, therefore, believes it appropriate to address them on the merits.

the public and help the agency to fulfill its statutory duties more effectively with respect to each of its administrative programs.

Section 581 of title 5 of the U.S. Code, as added by the Act, defines an agency's "administrative program" broadly to include all activities involving "protection of the public interest and the determination of rights...." Agency review is directed to all manner of agency actions. Apart from formal and informal adjudication, these could include (among others) actions involving entitlement programs, grants, contracts, insurance, loans, guarantees, licensing, inspections, taxes, fees, enforcement, services, economic regulation, management, claims, or private party complaints. The Act specifically includes litigation brought by or against the agency, as well as agency adjudication, within the scope of the agency's review of its program as it formulates its ADR policy. Section 582(b) lists factors an agency should use to determine whether particular kinds of disputes lend themselves to any of the ADR techniques.

Section 3 assigns responsibility to implement the provisions of the Act. Each agency head is expected to designate a senior official to be the dispute resolution specialist of the agency. This official generally works at a departmental or comparable level to oversee the implementation of ADR activities and development of the agency policy on ADR. The specialist or a designee would also seek to interact with counsel and program officers, to help these colleagues learn about and make effective use of the range of available dispute resolution options, and to keep them apprised of relevant developments in the public and private sectors. Each agency is expected to make training available to its specialist and other employees involved in implementing the Act. The agency specialist is expected to recommend to the agency head a list of other agency employees for similar or related training. Congress has also designated the Administrative Conference to offer policy and technical assistance to agencies and to report on agency progress.

Section 3(d)(1) provides that each agency having significant grant or contract functions is to review its standard contract or assistance agreements to determine if a need exists for amendments to those agreements to authorize or encourage ADR use. Section 3(d)(2) provides that the Federal

Human Rights Act is a broad remedial statute, and it is to be generously construed." GWU, 831 A.2d 921 (citations omitted; jumpcite not available). The Court of Appeals, moreover, has reiterated the DCHRA's coverage of discrimination against students. Id.

The Court, therefore, believes that it was in error when it ruled that Plaintiff's blockbusting claim should be dismissed. This is especially so under the standard governing a motion to dismiss. See Order of Sept. 15, 2003, at 2 (setting forth standard).

The Court, accordingly, ORDERS that:

1. Plaintiff's Motion is GRANTED; and

2. The blockbusting allegation contained in Count VII is REINSTATED.

IT IS SO ORDERED.

Oct. 30, 2003
Date

James E. Boasberg
Judge

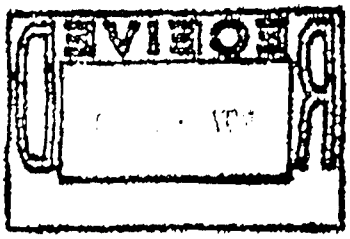
DOCKETED NOV - 3 2003

MAILED NOV - 3 2003

Copies mailed to:

Michael Hannon, Esquire
1212 New York Ave., NW
Suite 1000
Washington, DC 20005

Mark Policy, Esquire
1620 L St., NW
Suite 900
Washington, DC 20036



THE COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
401 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

24 July 2003

Dear Ms. Honey:

During its meeting of 17 July, the Commission reviewed the proposed concept for a George Washington University residence hall to be located at 2025 F Street, NW (S.L. 03-116). The members were not convinced that current design deserves to exceed the height restrictions in this primarily horizontal city. More definitive presentation materials, such as a massing model including neighboring buildings, might strengthen the argument for some additional height. However, the west elevation also requires additional investigation and should include windows where permitted by code. The bays on the lower part of the building provide a good street presence but the design in general appears overwhelming on the block.

The Commission looks forward to the further review of this project. As always, the staff is available should you require guidance.

Sincerely,



David M. Childs, FAIA
Chairman

Michelle Honey, AIA
Director, Architecture, Engineering & Construction
George Washington University
2025 F Street, NW
Washington, DC 20052

cc: Richard A. Ayers, AIA, Ayers Saint Gross Architects

City opposes proposed 14-story F Street hall

by Natalie Gontcharova
Hatchet Reporter

Federal officials are concerned about initial plans for a new on-campus residence hall, saying the proposed structure's height will upset the "aesthetic quality" of the neighborhood.

The U.S. Commission on Fine [illegible] an independent agency that [illegible]ermines how new structures will affect the District's appearance, said GW might have to go back to the drawing board if it wants to build a residence hall in the parking lot adjacent to Francis Scott Key Hall on F Street.

Kristina Alg, the commission architect who handles the Foggy Bottom area, said she has "concerns about the height" of the building, because at 120 feet tall, the proposed structure would tower over neighboring buildings such as FSK hall and the townhouses lining the 2000 block of F Street. It would also violate District zoning laws that limit construction of new buildings on F Street to 90 feet.

Alg said the District has asked [illegible] to present its plans at a public [illegible]eting in September.

University Senior Counsel Charles Barber said GW has agreed to a meeting, but has not yet set a date for it.

Barber said GW would ask the D.C. Zoning Commission in September to grant an exemption that would allow the University to build the 535-bed, 14-story structure.

"We think this deserves special merit because it provides extra beds on campus," said Barber, noting that there are other buildings in the neighborhood – such as the 130-foot International Monetary Fund building on 20th Street – that are taller than the proposed residence hall.

Barber said while the IMF building is subject to different zoning regulations that allow it to be taller, it isn't fair that the proposed residence hall is hobbled by parameters that only affect F Street.

A new residence hall would help GW cope with a burgeoning undergraduate student population that has increased by 53 percent since 1998. It would also help the University comply with a city order that requires it to house a majority of its students on campus.

Barber said the city's actions run counter to its demand that GW house more of its students on campus.

"Not only do we need to provide a residence hall, but we need to provide more beds," he said. "And the extra height is a way to maximize the number of beds."

The District's Board of Zoning Adjustment, an independent panel that sets zoning regulations for the city, issued an order requiring GW to house 70 percent of its students – including all freshman and sophomores – on campus.

While GW has failed to come into compliance with the order, a new on-campus residence halls under construction – the Ivory Towers – will bring it closer to the 70 percent mark. The University is fighting to reverse the order in local court, and has secured a temporary stay until the court makes a final decision on the issue this fall.

Some Foggy Bottom residents who have been urging GW to house more of its students on campus oppose the construction of a 120-foot residence hall.

"We agree with the city that the building is inappropriately tall," said Barbara Spillinger, vice president of Foggy Bottom Association.

She said the building should be "scaled down" from 14 to 10 floors.

Barber said if the city enforced the 90-foot limit, GW would adjust its plans accordingly.

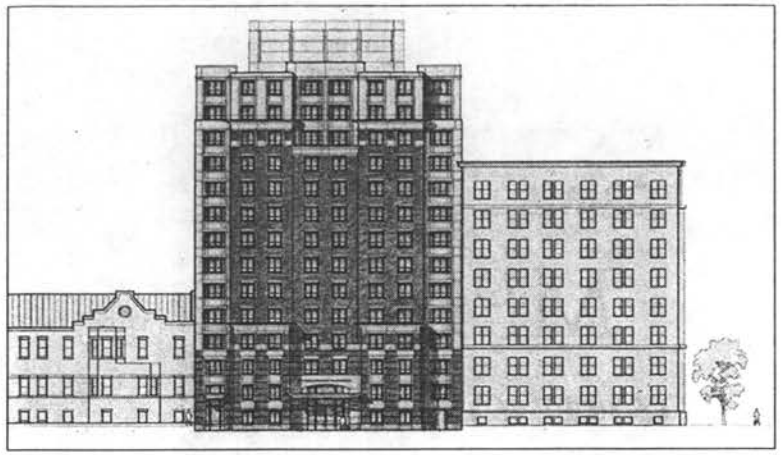
"If we end up with a 90-foot building, that's what we'll do," said Barber, noting that a smaller residence hall would house fewer students.

Construction on the residence hall is scheduled to begin in the fall of 2004, with a finishing date set tentatively for the summer of 2006, according to a zoning application GW has filed with the District.

Ronald Cocome, FBA president, said the underlying problem is University's increasing student population, which forces it to construct new facilities that destroy Foggy Bottom's residential character.

"The problem with the University is one of too many students in a small area," he said. "Additional campus housing is important but only part of the picture."

While neighbors are appreciative of the University's efforts to make more housing on campus, Spillinger said they feel other measures should be taken to provide students with more beds.



Courtesy University General Counsel

The 14-story residence hall on F Street would tower over FSK Hall.

She said GW should convert the old hospital on 23rd street into a residence hall.

GW officials have talked about making the hospital a commercial and academic facility, but no specific plans have been determined.

–Michael Barnett contributed to this report.

Send comments to news@gwhatchet.com