ORIGINAL

District of Columbia Zoning Commission Hearing

February 19, 2004, 6:30 p.m.

RE: A Proposed PUD by The George Washington University for a New Residence Hall at 2025 F Street, NW, in Square 103, Lot 817 (Zoning Commission Case No. 03-29)

MOTION TO REJECT PUD APPLICATION FOR AND FOR REFILING OF MATTER AS A SPECIAL EXCEPTION/MATTER OF RIGHT DEVELOPMENT

The ANC-2A, by and through its attorneys present this evening hereby moves that the District of Columbia Zoning Commission 1) reject the PUD application as an improper Zoning approval under the Zoning Regulations and Campus Plan, and 2) reschedule hearing scheduled for tonight, February 19, 2004 at 6:30 p.m. concerning GWU's PUD application for Proposed New Dormitory at 2025 F Street (Square 103/Lot 17) and 3) require GW to refile its application as a Special Exception/Matter of Right application.

A. GW's Application for a PUD on at 2025 F. Street is improper as the Zoning laws of the District of Columbia do not permit the use of PUDs within the Campus Plan.

1. Neither the Zoning Regulations for Campus Plans, nor PUDs permit filing a PUD under a Campus Plan.
2. Zoning Regulations were carefully and specifically drafted to require a University to explicitly set forth a Campus Plan reflecting future development, and delineate when and where

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a special exception my be granted that would amend or alter the Campus Plan. The Zoning Commission, in considering the conditions under which a Campus Plan may be deviated from, did not denote the PUD as a measure for such deviation. As such, the absence of a provision forbidding University use of a PUD within the Campus Plan does not imply that such is permitted, but rather the opposite – that such use of a PUD is prohibited. See Mason v. Rock Creek Plaza, Ind., 164 F. Supp. 269 (D.D.C. 1958), affirmed Rock Creek Plaza, Inc. v. Zimmerman, 266 F.2d 695, 105 U.S. App. D.C. 291, cert. denied 361 U.S. 833 (ambiguous sections of zoning ordinances should be interpreted according to intent of the enacting body).

3. Under the Campus Plan regulations, GW is already provided with the "significant flexibility" in its development for which it seeks approval of a PUD. PUDs allow for increased building height and density, similar to the flexibility the University is allowed in being able to aggregate its FAR under the Campus Plan. See 11 D.C.M.R. 2400.2; 11 D.C.M.R. 210.8.

4. Campus Plan regulations were designed to ensure that University development in the District "is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions." 11 D.C.M.R. 210.2 (2003).

5. Indeed, in its own Campus Plan 2000-2009, GW recognizes that the purpose of a campus plan is that is to express in writing a plan for physical development that reflects the long process of "consistent, continuous opportunities for input from the community" and "careful consideration of views from all stakeholders." Ad hoc application for Zoning designations that are not contemplated or permitted in the Campus Plan does not meet this purpose.

6. The Zoning Regulations were designed to encourage "stability of districts and of land values in those districts."

7. Similarly, the regulations regarding PUDs reflect that its use is improper here. The goal of the Planned Unit Development is to provide flexibility of development provided "the project offers a commendable number or quality of public

benefits and advances the public health, safety, welfare, and convenience." 11 D.C.M.R. § 2400.2.

8. The PUD process, however, "shall not be used to circumvent the intent and purposes of the Zoning Regulations, nor to result in action that is inconsistent with the Comprehensive Plan." 11 D.C.M.R. § 2400.4.

9. GW seeks here to use the PUD process to circumvent its Campus Plan requirements, which provides that all "present and proposed developments" must be approved in its plan for developing the campus as a whole. 11 D.C.M.R. § 210.4.

10. Approving a PUD within a Campus Plan, or even considering an application for such, is inconsistent with the intent of zoning regulations and zoning policy in general because it promotes unpredictability and ad hoc determinations of campus construction. Promoting such instability and unpredictability runs completely afoul of the purpose of requiring Universities to file and abide by a Campus Plan, namely stabilization and protection of residential neighborhoods.

11. This project was never disclosed in the 2000-2009 Campus Plan, and this application is a clear attempt to circumvent the D.C. Zoning regulations concerning Campus Plans. The University already receives benefits of flexibility in its development under the Campus Plan.

12. Granting a PUD in GW's Campus Plan is contrary to the intent of the Zoning Commission in requiring universities to submit, and adhere to, a campus plan under the Zoning Regulations. Therefore the ANC-2A respectfully request that the PUD application be rejected and rescheduled pending an application under the special exception/matter of right provisions.

Respectfully Submitted,

THOMPSON, O'DONNELL, MARKHAM NORTON & HANNON

Randell Hunt Norton
Sarah Elizabeth Roland
1212 New York Ave., NW
Suite 1000
Washington, D.C. 20005
(202) 289-1133

Attorneys for party ANC-2A