GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: D.C. Zoning Commission

FROM: Andrew Altman
Director

ZONING COMMISSION
District of Columbia
CASE NO. 04-23
EXHIBIT NO. 21

DATE: November 23, 2004

SUBJECT: Zoning Commission Case No. 04-23 (Application of George Washington University, Pursuant to 11 DCMR §§ 3104.1 and 210, for approval of a modification to Condition 10 of the Campus Plan for its Foggy Bottom campus to permit the University to use the Hall on Virginia Avenue to house freshman)

APPLICATION

The Hall on Virginia Avenue, sometimes referred to as HOVA, is a former Howard Johnson Motor Lodge that The George Washington University (GWU) purchased in 1998 and renovated to serve as a dormitory. It is located two blocks west (approximately 1,200 feet) of the western boundary (24th Street, N.W.) of the George Washington University Foggy Bottom Campus boundary. This dormitory is located at 2601 Virginia Avenue, N.W. (Square 6, Lot 825) on the north side of Virginia Avenue. The Hall on Virginia Avenue has 453 student beds in a 10-story building.

The George Washington University Foggy Bottom Campus Plan: 2000-2009, was initially approved in BZA Order No. 16553. The order has had a number of revisions (nine in all) due to legal challenges of the order by GWU, court remands and corrections. The background of the plan and the orders is summarized in a later section of this report.

The George Washington University Foggy Bottom Campus Plan is now governed by BZA Order No. 16553-I, dated April 26, 2004. That order includes 20 conditions, including Condition 10 that is the subject of this application. Condition No. 10 now reads as follows:

10. Commencing in the Fall 2001 semester, the University shall require all full-time freshman and sophomore students to reside in University housing located within the campus boundary established by the Board, to the extent that such housing is available. The University may exempt students who commute, are married or have children, or have disabilities or religious beliefs inconsistent with residence hall life. Prior to the Fall 2003 semester, housing commitments made to current University students may be taken into account when determining the amount of housing available.

ZONING COMMISSION
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The BZA took its latest (and last) action on The George Washington University Foggy Bottom Campus Plan on February 24, 2004, which resulted in BZA Order No. 16553-I (issued on April 26, 2004). That order completes the participation of the BZA in the George Washington University Foggy Bottom Campus Plan. Effective December 8, 2000, the authority to hear and decide new campus plan applications, and non-minor modifications to approved campus plans, became exclusively vested in the Zoning Commission, in accordance with 11 DCMR §§ 3035. The Zoning Commission is now hearing this application of the George Washington University to revise Condition No. 10 of the University's Foggy Bottom Campus Plan.

Requested Revision of Condition 10

The requested amendment by The George Washington University would change the language of Condition 10 to read as shown below. The University's proposed revised and added wording is shown in **bold** and the language proposed to be deleted is shown in *italics*.

10. Commencing in the Fall *2003* **2005** semester, the University shall require all full-time freshman and sophomore students to reside in University housing located within the campus boundary established by the Board, **or within the Hall on Virginia Avenue ("HOVA"),** to the extent that such housing is available. The University may exempt students who commute, are married or have children, or have disabilities or religious beliefs inconsistent with residence hall life. *Prior to the Fall 2003 semester, housing commitments made to current University students may be taken into account when determining the amount of housing available.*

In summary, three changes in the language of Condition 10 are proposed by the University. First, the University proposes to change the effective date of Condition 10 from Fall 2003 to Fall 2005. Second, the University proposes to add language that would allow freshman and sophomores to live in the Hall on Virginia Avenue ("HOVA"). Third, the last sentence of the current order is proposed to be deleted, presumably because it refers to housing commitments made prior to the Fall 2003 semester and that time is now past.

The University's Preliminary Statement indicates (page 4-5) that "The University is **not** seeking by this application to count freshmen beds in other off-campus properties, or to amend the 70% on-campus housing requirement of Condition 9(a). The request **at this time is only** to amend Condition 10 to permit the freshman beds in HOVA to count toward its compliance with Condition 10" (emphasis added).

The University's Preliminary Statement also indicates (page 1) that "At a future date, the University plans to file an application to request further change to its campus plan conditions, including Condition 9(a). The exact nature of that amendment application will be determined after the University's ongoing discussions with the Office of Planning to address campus density and its 2006 housing commitment have been concluded and these issues are discussed with community representatives."

SUMMARY RECOMMENDATION

The Office of Planning recommends that the Zoning Commission:

1) **Revise** the Fall 2003 date in Condition 10 to Fall 2005, as requested by the University. This is essentially an editorial change, reflecting where the process is at the present time and that the fall 2003 date is out-of-date.

2) **Not add** the phrase requested by the University, "or within the Hall on Virginia Avenue ("HOVA"). The effect of **not adding this phrase** is to retain the main concept of Condition 10 that all full-time freshman and sophomore students reside within the Campus boundary established by the Board.

3) **Delete the last sentence** of Condition 10, as requested by the University. This last sentence deals with housing commitments made "Prior to the Fall 2003 semester" and, since that time is past, that sentence is now outdated. This is essentially an editorial change, reflecting where the process is at the present time and that the reference to the Fall 2003 date is out-of-date.

The effect of this recommendation by the Office of Planning is **to support** retaining essentially the present effect of Condition 10, which is **to require that all full-time freshman and sophomore students reside within the campus boundaries established by the Board.** HOVA could be used to house upperclassmen.

OVERVIEW

Information on HOVA

For purposes of understanding where the Hall on Virginia Avenue (HOVA) is located, and its relationship to the campus boundary, the attached maps and aerial photographs show HOVA in relationship to the GWU Foggy Bottom Campus and the adjacent Foggy Bottom neighborhood. Some background information is provided about HOVA. However, it is important to note that no change to the building is requested in this application nor is the continued use of HOVA as a University residence hall in question in this case. The George Washington University is asking only that the language of Condition No. 10 of the Campus Plan be revised to allow full-time freshman and sophomore students to continue to reside in HOVA.

HOVA is a 10-story slab building originally built in 1963 as a Howard Johnson Motor Lodge that included hotel rooms and a restaurant. George Washington University purchased the building in 1998 and converted it to a residence hall for freshman and sophomores. The residence hall function began in 1999 and has continued since that time. The building has a lobby and former food area on the first floor, a parking deck on the second level and eight floors of student residential units above. There are 453 undergraduate student beds in 195 units (most units with two beds and some with three beds), plus additional beds for the residence hall administrator and floor assistants (upperclassmen).

HOVA is located on a narrow lot (20,407 square feet in area) on the north side of Virginia Avenue and is bounded on the northeast by the freeway (I-66) and on the north by a ramp to the freeway partly on

the alignment of the former I Street. The only other property in Square 6 is Lot 810, west of HOVA, which is occupied by a small Chevron gas station.

In their September 17, 2004 submittal, GWU says that due to its former motel (hotel) design, HOVA is designed more as a dormitory style residence, with no kitchen or cooking facilities provided in the units. GWU claims that "upper classmen look for residences with a kitchen and more living space that HOVA provides" (page 3).

Adjacent Area

The five attached maps and photos provide a visual overview of the location of the HOVA and its relation to the George Washington University Foggy Bottom Campus and the adjacent Foggy Bottom neighborhood (the portion outside the campus boundary). The Foggy Bottom neighborhood outside the campus is primarily residential with some office, retail and other uses. Attachment 5, the aerial oblique photo (2003), provides a relatively current view of the adjacent area and the western part of the GWU Foggy Bottom Campus. Major changes since the photograph was taken include the completion of GWU's new Ivory Tower Residence Hall (728 undergraduate beds) on Square 43 at Virginia Avenue and 23rd Street, N.W. that was occupied for the Fall 2004 Semester. Another major change from the photograph is the demolition of the old GWU Hospital on Square 54, facing Washington Circle.

The aerial view illustrates that Virginia Avenue extends diagonally through the area. Several major large scale buildings and building complexes are located south of Virginia Avenue, including the Watergate complex (residential, office, hotel, retail), the former insurance building on New Hampshire Avenue that is now the Embassy of Saudi Arabia, the Kennedy Center (major cultural facility) and Columbia Plaza (residential, office and retail). North of Virginia Avenue and west of 24th Street there are a number of residential apartment buildings (rental and condominium), some institutional buildings and the smaller scale row houses in the Foggy Bottom Historic District.

The GWU Foggy Bottom Campus begins on the east side of 24th Street and has a mixture of larger University buildings (residence halls and academic buildings) and the new GWU Hospital facing Washington Circle. There are also some smaller non-university institutional buildings and some non-university residential buildings (such as St. Mary's Court on Square 42 and the Remington Condominium on Square 43).

FRAMEWORK FOR ANALYSIS

It is important to recognize that this case involves the process of adoption of *The George Washington University Foggy Bottom Campus Plan: 2000-2009* and this application of the University to have one condition (Condition 10) of the Campus Plan revised soon after the final action on the Campus Plan by the Board of Zoning Adjustment.

Work on the current GWU Campus Plan began in early 1999 and the University filed the proposed Campus Plan on December 28, 1999. Hearings on the Plan were held on April 26, September 13 and September 26, 2000 and the order approving the Plan was issued on March 29, 2001 (Application No. 16553). Thereafter, due to several legal challenges by The George Washington University, resulting

court remands, and corrections, the Board of Zoning Adjustment has issued nine further orders on the Plan (Orders identified as Application No. 16553-A through 16553-I).

The Board's final order, No. 16553-I was based on Board decisions made February 24, 2004 and the order was issued on April 26, 2004. The George Washington University filed this application for revision of Condition 10 of Order No. 16553-I on September 17, 2004.

BZA Order No. 16553-I includes a summary chronology of the series of legal challenges, court decisions and remands, and resulting BZA actions to address these matters. That order is in the record in this case in the application of The George Washington University (Exhibit A). OP does not believe it is necessary to repeat that background entirely in this report. The most pertinent part of that summary chronology in Order No. 16553-I reads as follows:

> " On September 11, 2003, the District of Columbia Court of Appeals issued its decision in *George Washington University v. District of Columbia,* 831 A. 2d 921 (D.C. 2003), which affirmed the Board Order in major part but invalidated Condition No. 9(f) and Condition 9(a). The Court upheld Condition No. 9(b) to the extent it imposed on-campus housing obligations to be met after August 2006 and Condition No. 10, under which the University must require freshman and sophomores to reside in university housing within the campus plan boundary established by the Board. The court maintained in place its stay of condition 9(b) to the extent it related to the pre-August 2006 housing requirements. The Court also deemed part of Condition No. 15(E) moot in light of intervening actions by the Department of Motor Vehicles.
>
> The Court of Appeals sustained Condition No. 8 (Capping the total number of students, faculty and staff) and Condition No. 10 (requiring the University to house freshmen and sophomores on campus) but invited the Board to give further consideration to both Conditions. The Court stated:
>
> > If Condition 10 imposes serious hardship on the University, the University is, of course, free to request the BZA, following this remand, to amend its order.... Indeed...a negotiated resolution of the issue may be possible and would undoubtedly be in the interests of justice."

Order No. 16553-I goes on to note that the Zoning Commission, under its campus plan authority, has granted five further processing requests under this Campus Plan (The George Washington University Campus Plan, 2000-2009), approved a PUD modification with respect to the Elliot School of International Studies (which resulted in that facility being included within the campus boundaries) and notes that currently (at the time the order was written), the Commission is considering the University's request to modify a further processing granted under the previous campus plan (Zoning Case No. 02-26 which involved modifications of the conditions of approval of the Lerner Health & Wellness Center) and the University's request for a planned unit development for a new dormitory (Zoning Case No. 03-29 for a new residence hall at 2025 F Street, N.W.). Clearly, the Zoning Commission has been involved with a number of projects of The George Washington University Foggy Bottom Campus over the past four years.

Order No. 16553-I notes that the Board of Zoning Adjustment's last consideration of the merits of a campus plan request was its earlier remand proceeding in the Campus Plan case, which concluded with

the issuance of the January 23, 2002 Order on Remand. The Order also notes that there has been a substantial change in Board membership since approval of the March 29, 2001 order adopting Conditions 8 and 10 and that only one Member who participated in that decision remains on the Board, and that person is the Chair of the Zoning Commission. Order No. 16553-I goes on to note:

> "Under these circumstances, the Board has unanimously concluded that the Zoning Commission's familiarity with recent campus plan applications and its review of the specific further processing and PUD requests made by GW place it in a better position to determine whether and how to address any request by the University to amend Conditions 8 and 10. The Board therefore will no take no action with respect to sustained Conditions 8 and 10."

The George Washington University therefore has come to the Zoning Commission with this application (Zoning Commission Case 04-23) to revise Condition 10 of the adopted Campus Plan. As noted previously, the University's filing indicates that it plans to seek other modifications in the future.

ANALYSIS

On September 11, 2003, the District of Columbia Court of Appeals issued its decision in *George Washington University v. BZA*, 831 A. 2d 921 (D.C. 2003). Part of the decision affirmed the Board Order in major part, including upholding Condition No. 10 which indicates that the George Washington University must require freshmen and sophomores to reside in university housing within the campus plan boundary that the Board established. The court discusses these statements on pages 49-50 of its decision. In sustaining Condition 10, the District of Columbia Court of Appeals was apparently influenced by previous George Washington University submittals that freshman and sophomores would be required to live on campus. In fact, this is what the BZA ordered in Condition 10. In another submittal, the University agreed to require freshman and sophomores to live in University owned and controlled housing and noted that "Freshman and sophomores, with carve outs for nontraditional students, were selected because their youth and relative immaturity render them most in need of the guidance University housing provides. Our data show that these students account for most of the infractions under GW's Student Code of Conduct." (Exhibit 151 in the record). In other words, the University acknowledged the potential for behavior problems from freshman and sophomore students.

Throughout the past five years, in the campus plan case and in individual special exception applications for various projects, the Office of Planning has been concerned with the impact of University activities on the adjacent Foggy Bottom/West End communities. OP expressed concerns about the impact of the University on the Foggy Bottom-West End neighborhood in its first report (April 21, 2000) on the GWU Campus Plan and this concern has continued in other reports on the Campus Plan and in further processing cases.

In that original campus plan report (April 21, 2000), OP noted the value to the city in preserving and enhancing the ring of residential and mixed-use neighborhoods that almost completely surround the Central Employment Area, including the Foggy Bottom and West End neighborhoods. Having freshman and sophomores concentrated out beyond the campus boundary, even in University controlled housing, has the potential for adverse impacts on the community due to "youth and relative immaturity" that the University has acknowledged. In that same report, OP indicated concern about University actions pushing adjacent areas of Foggy Bottom to a "tipping point" and noted the small size of the portion of

Foggy Bottom outside of the GWU Foggy Bottom Campus. The report noted that Foggy Bottom (outside the campus) is small and geographically constrained, essentially five squares south of the campus and a constrained area west of 24th Street to the freeway, plus the Columbia Plaza and Watergate complexes. The Board of Zoning Adjustment adopted Condition 10, requiring freshman and sophomores to live on campus, in order to limit their impact on the adjacent Foggy Bottom neighborhood.

It should be noted that OP has generally supported the six University further processing projects, and the Elliot School PUD project, that the University has applied for since 2000, though often with conditions intended to help protect the adjacent neighborhood. OP will continue to seek to carry out the campus plan, but will remain concerned about proposals that could adversely affect the adjacent Foggy Bottom neighborhood.

OP recommends that the previous Condition 10 be maintained and that the revision requested by the University not be granted.

SPECIAL EXCEPTION REQUIREMENTS

Section 210 of the Zoning Regulations (11 DCMR) outlines the requirements for a special exception for Colleges and Universities. As indicated, some of these requirements do not apply to this case.

Section 210.1 of the Zoning Regulations provide for use as a college or university, including a dormitory, on a campus of a college or university, as a special exception in an R-1 District if approved by the Zoning Commission under Section 3104, subject to the provisions outlined in that section. Section 352.2 allows for such uses to be permitted as a special exception in an R-5 District. **George Washington University is an established university with an approved campus plan.**

Section 210.2 indicates that "Use as a college or University shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions". **This is the whole purpose of the campus plan regulations and process. In it's filing, George Washington University indicates that the change requested will not be objectionable. OP disagrees and supports retaining the wording of Condition 10 that requires freshman and sophomores to be housed on campus.**

Section 210.3 provides that the bulk requirements normally applicable in the residential district may be increased, provided that the total bulk of all buildings and structures on campus shall not exceed the gross floor area prescribed for the R-5-D District (3.5 FAR).

This is not an issue in this case since no change in FAR for the campus is being requested and the change requested for Condition 10 will not affect FAR.

Section 210.4 requires the applicant to prepare a campus plan. A campus plan was submitted by George Washington University on April 12, 2000 (BZA Application No. 16553). After long hearings and discussions, the campus plan for the Foggy Bottom Campus of George Washington University was approved for the period through June 30, 2009. (BZA Order No. 16553) and issues have been addressed through BZA Order No. 16553-I.

As part of the application statement, George Washington University has submitted a statement of Status of Compliance with BZA Campus Plan Conditions 1-19. The University is requesting a revision of Condition 10 in this application.

Section 210.5 deals with interim use of land or improved property within a reasonable distance or a university campus. **This provision does not apply to this application.**

Section 210.6 deals with a major new building moving off a campus and **is not applicable to this application.**

Section 210.7 requires the Commission to consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan. The Office of Planning has stressed the importance of Comprehensive Plan policies in its reports to the Board of Zoning Adjustment on the George Washington University Campus Plan. The Office of Planning's summary of relevant Comprehensive Plan policies from OP's April 21, 2000 report to the BZA is repeated below.

The Comprehensive Plan, especially the Ward 2 Plan, contains a number of references directly or indirectly to George Washington University and the Foggy Bottom and West End neighborhoods. Sec. 102 in Chapter 1 includes general references to improving neighborhoods, and also mentions the role of institutions in neighborhoods. Chapter 2, Economic Development, includes a number of sections relating to economic development actions, including interaction between universities and the business community (Sec. 203.2(d).

Sec. 1303.7 of the Ward 2 Plan is descriptive, noting that institutional growth and other factors have lessened the amount of housing available in the Foggy Bottom and West End neighborhoods. Sec. 1305.1(j) calls for adjustments to the zoning regulations and to campus plans to address the problems of loss of housing from different factors, including university dormitories. Sec. 1309.11 cites parking problems resulting from student parking. Sec. 1342.1(b) calls for the George Washington University campus plan to plan for future dormitories. Sec. 1358 of the Ward 2 Plan on George Washington University is the most specific:

1358.1 The George Washington University constitutes a major institutional presence in a zone between the Central Employment Area and residential Foggy Bottom. The expansion of the University has resulted in the diminishment of housing and the construction of buildings for the University purposes. This and other commercial usage is of grave concern to the Foggy Bottom residential community. Intense student pressure on Foggy Bottom's housing stock outside the campus, combined with the impact of university generated traffic has had a negative effect on residential Foggy Bottom. The University must continue to construct student dormitories to alleviate the pressure on the housing stock outside the boundaries of the campus plan. The University must be sensitive to the surrounding residential neighborhood.

The question of impacts on the existing residential neighborhood from the requested change of Condition 10 is the key issue in this case.

Section 210.8 requires that as an integral part of an application requesting approval of new building construction, the university shall certify and document that the proposed building is within the floor area ratio (FAR) limit for the campus as a whole. **This is not pertinent in this case since no new building is being requested.**

Section 210.9 provides that before taking final action on an application, the Commission shall submit the application to the D.C. Office of Planning and the D.C. Department of Public Works (now the D.C. Department of Transportation, or DDOT) for review and written report. **That has been done and this is the report of the Office of Planning.**

Section 3104.1 provides that the Board (of Zoning Adjustment) is authorized to grant special exceptions, where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property. In accord with section 3104.4, the authorization to grant special exceptions for a campus development plan, and the further processing of an approved campus development plan to permit the construction and use of a specific building or structure, has been assumed by the Zoning Commission.

For the reasons previously outlined, the Office of Planning believes that a special exception to revise Condition 10 of the Campus Plan as requested by George Washington University should **not** be approved (except for editorial changes).

ANC AND COMMUNITY GROUPS

Advisory Neighborhood Commission 2A

ANC-2A considered the GWU request for a modification to Condition 10 of the GWU Foggy Bottom Campus Plan (ZC Case No. 04-23) at a special meeting on November 10, 2004 and voted to recommend to the Zoning Commission that Condition 10 not be changed.

Foggy Bottom Association (FBA)

The Foggy Bottom Association (FBA) Board of Directors at a meeting on October 12, 2004 voted to oppose modification of Condition 10 of the George Washington University Foggy Bottom Campus Plan.

Watergate East, Inc.

Watergate East, Inc. is a residential cooperative of 240 units located at 2500 and 2510 Virginia Avenue, N.W. (south side of Virginia Avenue), slightly east and across Virginia Avenue from the Hall on Virginia Avenue (HOVA). At a meeting on October 20, 2004, the Board of Directors of Watergate East, Inc. voted to oppose modification of Condition 10.

Watergate West, Inc.

Watergate West, Inc. is a residential cooperative of 143 units located at 2700 Virginia Avenue, N.W., across Virginia Avenue from the Hall on Virginia Avenue (HOVA). The Board of Directors of Watergate West, Inc. voted to oppose modification of Condition 10.

As indicated in the attached aerial photographs, Watergate East and Watergate West are the residential buildings closest to the Hall on Virginia Avenue.

OTHER AGENCY COMMENTS

No other agency comments have been submitted on this application.

RECOMMENDATION

The Office of Planning recommends that the Zoning Commission:

1) **Revise** the Fall 2003 date in Condition 10 to Fall 2005, as requested by the University. This is essentially an editorial change, reflecting where the process is at the present time and that the fall 2003 date is out-of-date.

2) **Not add** the phrase requested by the University, "or within the Hall on Virginia Avenue ("HOVA"). The effect of **not adding this phrase** is to retain the main concept of Condition 10 that all full-time freshman and sophomore students reside within the Campus boundary established by the Board.

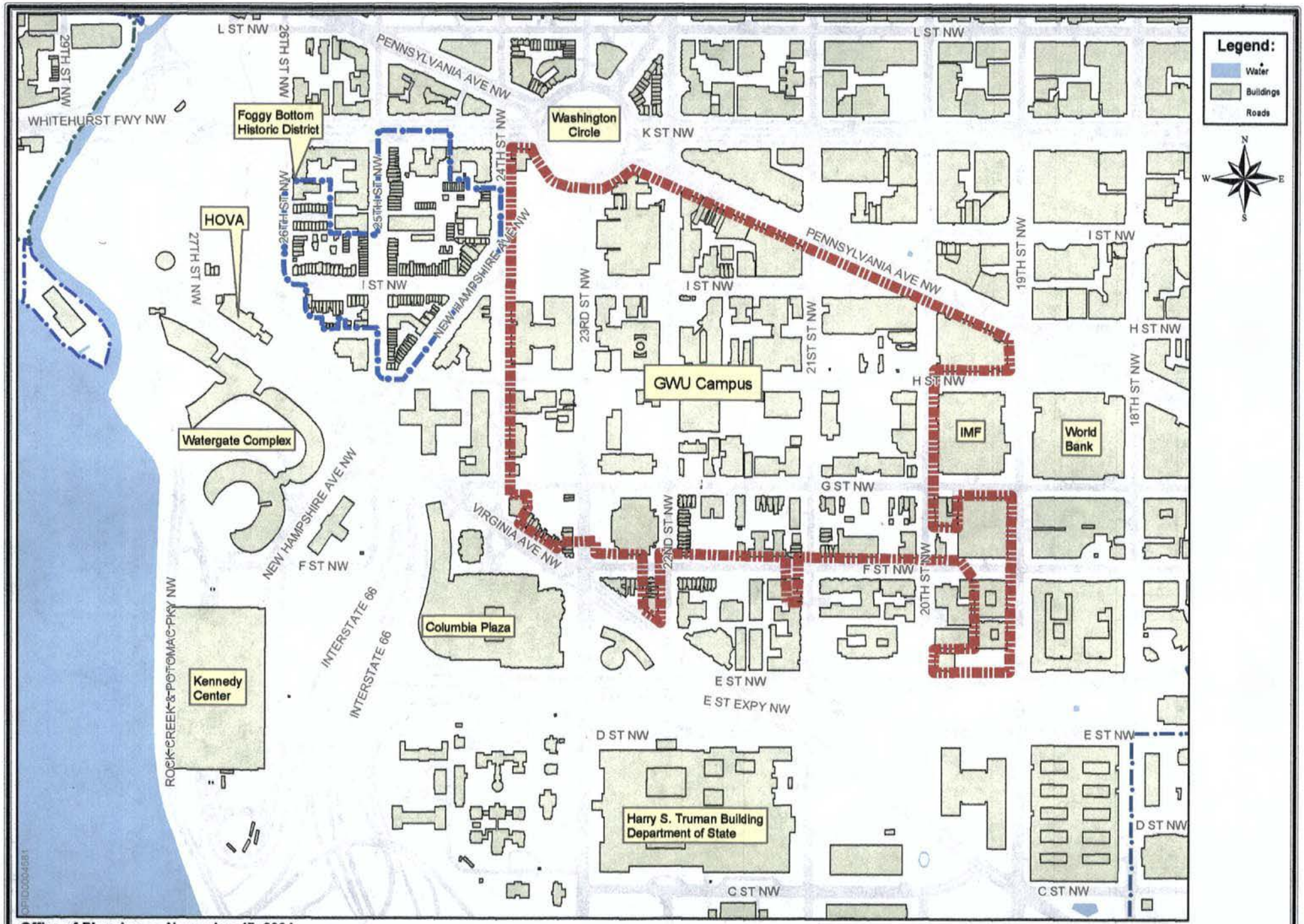
3) **Delete the last sentence** of Condition 10, as requested by the University. This last sentence deals with housing commitments made "Prior to the Fall 2003 semester" and, since that time is past, that sentence is now outdated. This is essentially an editorial change, reflecting where the process is at the present time and that the reference to the Fall 2003 date is out-of-date.

The effect of this recommendation by the Office of Planning is **to support** retaining essentially the present primary effect of Condition 10, which is **to require that all full-time freshman and sophomore students reside within the campus boundaries established by the Board.** HOVA could be used to house upperclassmen.

Attachments

1. General Location Map
2. Zoning Map
3. Comprehensive Plan Map
4. Aerial Photo
5. Aerial Oblique Photo

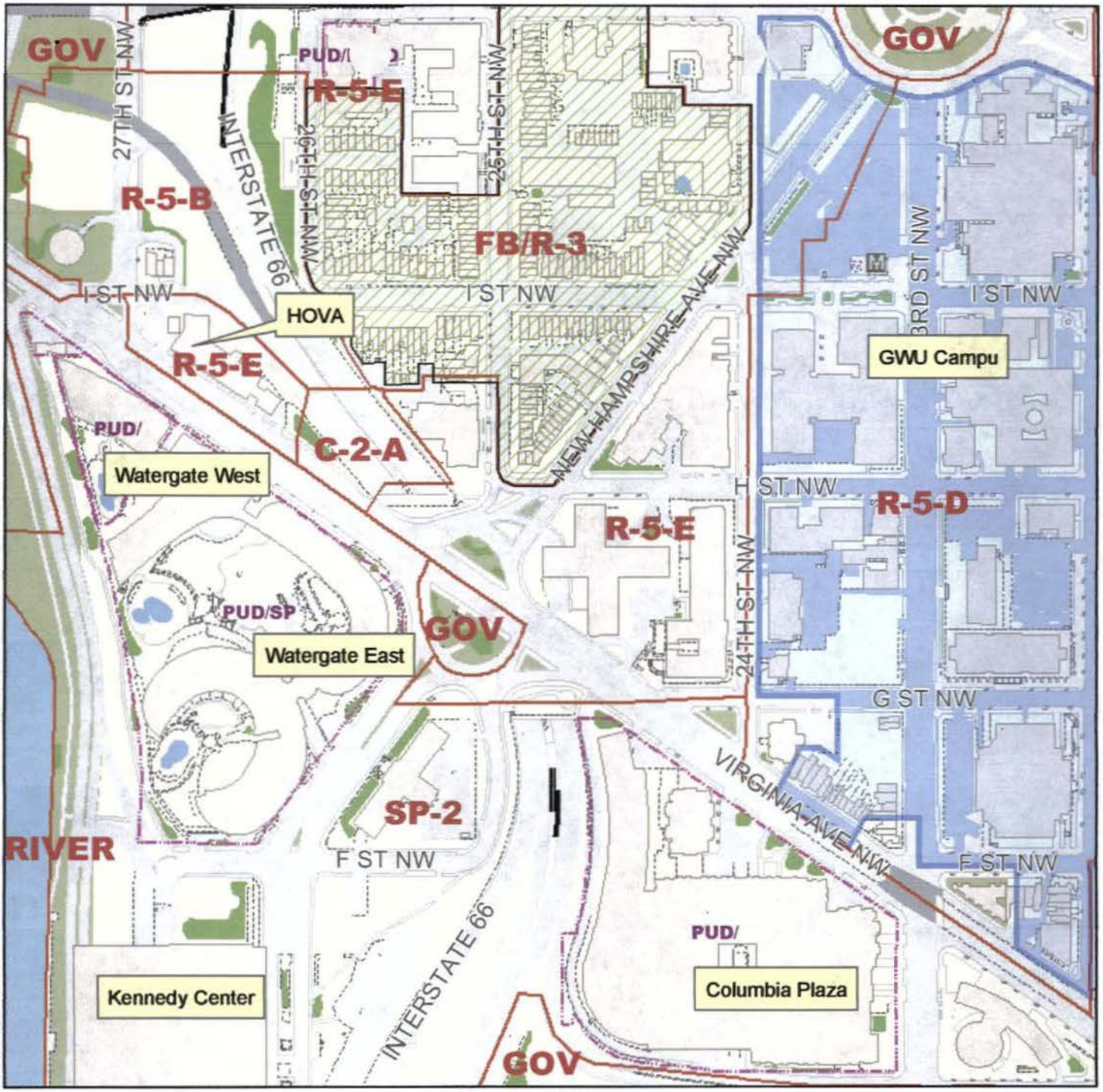
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Office of Planning ~ November 17, 2004

HOVA in Relation to GWU Campus and Foggy Bottom Neighborhood

Attachment 1



Zoning Map
Zoning Commission Case 04-23
Application to Modify Condition 10
of GWU Foggy Bottom Campus Plan

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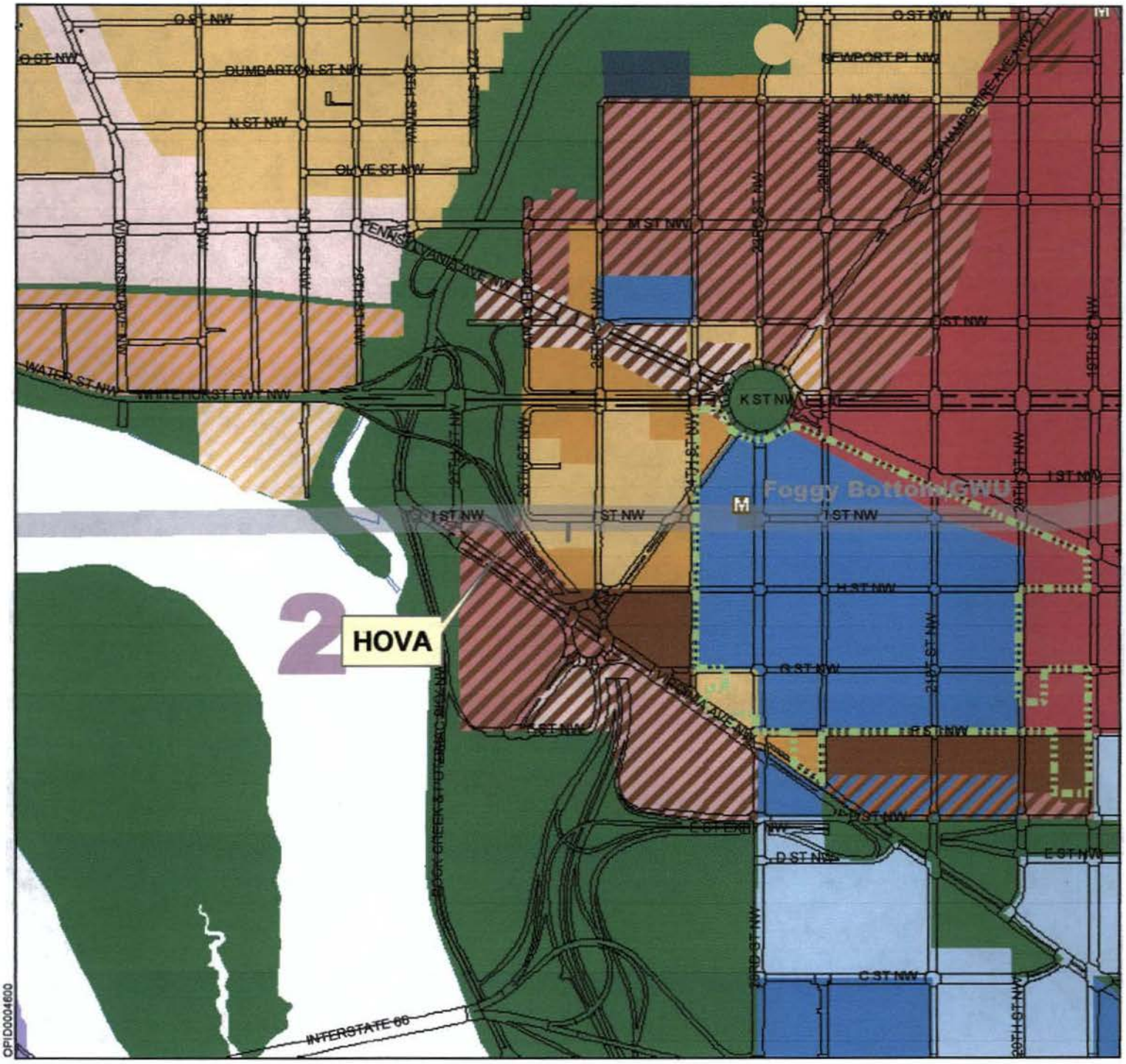
- Foggy Bottom Historic District
- GWU Campus



Office of Planning ~ November 16, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

Attachment 2



Comprehensive Plan Map
Zoning Commission Case 04-23
Application to Modify Condition 10 of GWU Foggy Bottom Campus Plan

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Office of Planning ~ November 18, 2004

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Generalized Land Use Key

- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Water
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial Med.-high Density
- Commercial High Density
- Federal
- Institutional
- Local Public
- Parks, Recreation and Open Space
- Production and Technical Employment

Attachment 3



Ortho Photo
Zoning Commission Case 04-23
Application to Modify Condition 10 of GWU Foggy Bottom Campus Plan

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Attachment 4



Aerial Oblique Photos
Zoning Commission Case 04-23
Application to Modify Condition 10
of GWU Foggy Bottom Campus Plan

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Oblique imagery ©2003 Pictometry International

Attachment 5