LAW OFFICES
THOMPSON, O'DONNELL, MARKHAM, NORTON & HANNON
1212 NEW YORK AVENUE, N.W.
SUITE 1000
WASHINGTON, D.C. 20005

(202) 289-1133
FACSIMILE (202) 289-0275
www.thompson-odonnell.com

JOHN JUDE O'DONNELL *
JULIAN E. MARKHAM, JR. + * †
RANDELL HUNT NORTON + *
J. MICHAEL HANNON *
KENNETH G. STALLARD + ★
BROOKE A. PINKERTON *
MATTHEW W. CARLSON * +

TAMIKA L. TAYLOR *
SARAH ELIZABETH ROLAND *

* ALSO ADMITTED IN MARYLAND
+ ALSO ADMITTED IN VIRGINIA
† ALSO ADMITTED IN FLORIDA
★ ALSO ADMITTED IN WEST VIRGINIA
• ALSO ADMITTED IN MASSACHUSETTS

27 WOOD LANE
ROCKVILLE, MARYLAND 20850
(301) 424-6060

4113 LEE HIGHWAY
ARLINGTON, VIRGINIA 22207
(703) 522-2255

OF COUNSEL
JAMES F. BROMLEY

RETIRED
J. ROY THOMPSON, JR.
HENRY F. HARDING
JAMES W. GREENE

THOMAS H. MCGRAIL
(1920 - 1996)
JOHN E. LARSON
(1896 - 1995)

December 15, 2004

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VIA HAND DELIVERY
Ms. Carol Mitten
Chairperson
D.C. Zoning Commission
441 4th Street, N.W.
Room 210 South
Washington, DC 20001

RE: ZC Case No. 04-23

Dear Chairperson Mitten and members of the Commission:

Enclosed please find an original and 20 copies of the ANC-2A's response to the Applicant's December 8, 2004 submission of additional materials. We will also be filing a proposed Findings of Fact and Conclusions of Law on behalf of the ANC-2A by 3p.m. on December 30, 2004. Thank you for your consideration.

With Best Regards,

Sarah Elizabeth Roland

Encl.

cc: Maureen Dwyer, Esq.
Ellen McCarthy & John Fondersmith

ZONING COMMISSION
District of Columbia
CASE NO. 04-23
EXHIBIT NO. 35

ZONING COMMISSION
District of Columbia
CASE NO.04-23
EXHIBIT NO.35

Foggy Bottom and West End
Advisory Neighborhood Commission (ANC-2A)

c/o St. Mary's Court 725 24th Street, NW Washington, DC 20037 · (202) 736-1775

December 14, 2004

Ms. Carol Mitten, Chair
District of Columbia Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

Re: ANC-2A's Response to GWU's Filing of December 8, 2004 of Conditions to Permit Continued Use of HOVA under the Campus Plan, Case No. 04-23

Dear Ms. Mitten:

This is to inform the Zoning Commission that ANC-2A has hired the law firm of Thompson, O'Donnell, Markham, Norton & Hannon to represent the Commission and respond to the above filing as well as file on behalf of the Commission the Finding of Facts and Conclusions of Law that are due by December 30, 2004. If this response is not filed in timely fashion, please keep the record open to receive our response. Thank you.

Respectfully submitted,

Dorothy Miller

Dorothy Miller, Chair
Advisory Neighborhood Commission 2A

Attachment

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ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

Application of The George Washington University Campus Plan Amendment — **Case No. 04-23**

PARTY ANC-2A'S 11 DCMR 3121.6 RESPONSE TO APPLICANT'S SUBMITTAL OF ADDITIONAL INFORMATION SUBSEQUENT TO DECEMBER 2, 2004 HEARING.

Pursuant to notice, the District of Columbia Zoning Commission held a public hearing on December 2, 2004 to consider The George Washington University's application for modification of Campus Plan Condition 10 pursuant to 11 DCMR Section 3104, and 11 DCMR Section 210. The hearing was conducted in accordance with Chapter 31 of the same title. At the close of the December 2, 2004 hearing, the Commission directed the Applicant to submit additional materials by December 8, 2004. (12/2/04 Transcript at ___).[1] ANC-2A, a party to the case, submits this response pursuant to 11 DCMR 3121.6, which states:

> The Board shall allow all parties to a case an opportunity to file written responses to any exhibits, information, or briefs submitted after the close of the hearing.

11 DCMR 3121.6 (emphasis added).

On December 8, 2004, the Applicant proposed the following conditions for the use HOVA:

---

[1] The transcript of the December 2, 2004 proceedings is not yet available.

> For so long as GW is permitted to house freshmen in the Hall on Virginia Avenue, the University will continue to operate this residential hall on the same general basis as it has in the past. Specifically, GW will:
>
> 1. Give early decision students priority in the selection of HOVA in order to facilitate the continuation of early admit students as the majority of the HOVA population;
> 2. Provide a variety of Living and Learning Communities designed to attract socially and politically conscientious students to live and study at HOVA;
> 3. Provide one full time professional staff member for the residence hall, as well as a live-in community facilitator for each of the eight floors;
> 4. Provide professional security personnel on the ground floor on a 24 hour basis; and
> 5. Provide additional security to routinely patrol the building and grounds.

(GW Letter to Zoning Commission dated December 8, 2004, Exhibit A).

The additional conditions do not change the ANC-2A's recommendation that the Zoning Commission reject the Applicant's request to modify Condition 10 for the reasons contained in the ANC's report and which will be set forth in the ANC's Proposed Findings of Fact and Conclusions of Law, as well in the Report by the Office of Planning.

However, even if modification of the Campus Plan in the manner proposed was appropriate, the "conditions" upon use of HOVA proposed by the Applicant fall far short of meeting the goals of the Campus Plan. Condition 1 proposes that early decision students be given "priority" in the

selection of HOVA to "facilitate the continuation" of early admit students as the majority of the HOVA population. At best, this condition suggests that the University will permit early admit students to reside in HOVA should they so desire, and hope that at least 50% or a "majority" of early admit students continue to reside in HOVA. There is no measurable goal by which the Commission or the ANC can determine if GW has complied with this purported condition.

GW's commitment to attract "socially and politically conscientious students" to live in HOVA is equally vague and is lacking in any criteria to measure compliance. GW proposes no means or methods of attracting "socially and politically conscientious" students and offers no evidence that such conscientiousness will outweigh the behavioral issues inherent in freshmen students as noted in the Office of Planning's report.

Moreover, conditions 1 and 2 provide no enforcement mechanism, no reporting requirements, and no tangible commitment to guarantee what types of students will be living in HOVA. What GW will attempt to facilitate is not a commitment to the Foggy Bottom community or to the District of Columbia that warrants amendment of a campus plan that has been negotiated and litigated for the past 5 years.

As to the vague conditions involving security (conditions 4 and 5) and professional staff in the hall (condition 3), GW provides no information concerning the current security status at its other residential halls. The ANC would expect that security is provided at all residential halls. The ANC also has no idea what a "community facilitator" is and can only assume it is equivalent to a Residential Assistant found on each floor in most dormitories nationwide. Moreover, the Applicant does nothing to describe what duties or responsibilities "additional security" or "community facilitators" have with regard to the Foggy Bottom community. Providing a professional security service does nothing to prevent the types of behaviors cited by Foggy Bottom neighbors of the University. As the Applicant does nothing to describe what "security" is, we can only assume that it is similar to any other building security designed to protect the residents and property within the building from outside threats, rather than protecting the neighborhood from abuses by students residing in the dormitory.

The applicant bears the burden of convincing the Commission that modifying Condition 10 will "not be objectionable to neighboring property due to noise, traffic, number of students, or other objectionable conditions" and will "further the goals and objectives of

the Ward 2 elements of the Comprehensive Plan." (GW Application at 7, p. B, and at p. G). All of the conditions are ill-defined, contain no enforcement mechanisms, and fail to express any promise that the HOVA will be inhabited in any particular manner -- only that it will "facilitate" such habitation. Thus the Applicant's submitted conditions, similar to its application for modification of Condition 10 fall far short of meeting its burden or even its own stated goal of "serving both the mission of the University and the larger public good." (GW Application at 6 (emphasis added)).

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

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of December, 2004, the foregoing was served by hand delivery on the following:

Maureen Dwyer, Esq.
Shaw Pittman LLP
2300 N Street N.W.
Washington, DC 20037-1128

Ms. Ellen McCarthy
Mr. John Fondersmith
District of Columbia Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, DC 20002



Sarah Elizabeth Roland