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April 21, 2005

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D.C. OFFICE OF ZONING
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By Hand Delivery

Members of the Commission
District of Columbia Zoning Commission
441 4th Street, N.W.
Suite 210
Washington, DC 20001

Re: Zoning Commission Application No. 05-06
Application of President and Directors of Georgetown College and Georgetown University Hospital

Dear Members of the Commission:

Enclosed please find the pre-hearing submission of the President and Directors of Georgetown College and Georgetown University Hospital, the applicant in the above-mentioned Zoning Commission application. The applicant looks forward to presenting its case to the Commission at the public hearing on May 5, 2005.

Sincerely,

Ashleigh D. Horne

Enclosures

cc: Office of Planning
ANC 2E

Document #. 1475048 v 1

ZONING COMMISSION
District of Columbia
CASE NO. 05-06
EXHIBIT NO. 17

ZONING COMMISSION
District of Columbia
CASE NO.05-06
EXHIBIT NO.17

BEFORE THE ZONING COMMISSION
OF THE DISTRICT OF COLUMBIA

Application of the Georgetown University Hospital and the President and Directors of Georgetown College Campus Plan Further Processing	**Z.C. Case No. 05-06** **ANC 2E**

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STATEMENT OF THE APPLICANT

I.

NATURE OF RELIEF SOUGHT

Pursuant to 11 DCMR § 3104 and in accordance with § 210 of the Zoning Regulations, the Georgetown University Hospital (hereinafter the "**Hospital**") and the President and Directors of Georgetown College (hereinafter "**GU**" or "**Georgetown**") request special exception approval for the further processing of an approved campus development plan to permit the construction of an addition to the first floor of the Bles Building of the Hospital. Georgetown plans to use the proposed addition for a revolutionary type of radiation treatment known as a CyberKnife. Because this application involves the Hospital's ability to provide potentially life-saving treatment for patients, the Hospital and GU respectfully request that the Commission expedite its consideration of the application.

No variances are requested in this application, and the requested special exception relief fully meets the requirements of the Zoning Regulations. Georgetown has discussed the proposed addition with representatives of the community, and they have expressed enthusiastic support for the project. The Commission of Fine Arts found no objection to the concept design.

ZONING COMMISSION
District of Columbia
CASE NO. 05-06
EXHIBIT NO.

II.

INTRODUCTORY STATEMENT

History and Status of the Campus Plan

Georgetown submitted its proposed Campus Plan for the period 2000 through 2010 (the "**Campus Plan**") to the Board of Zoning Adjustment ("**BZA**") on January 31, 2000. Georgetown submitted a revised Campus Plan on November 14, 2001. The Campus Plan was approved subject to conditions and was subsequently appealed by Georgetown to the D.C. Court of Appeals. The Court of Appeals determined that certain conditions relating to a freeze in student enrollment and student behavior off-campus were not supported by substantial evidence in the record. Accordingly, the Court vacated the order and remanded it to the BZA for further proceedings.

The remand now is being considered by the Board as BZA Case No. 16566. The Board determined not to hold a public hearing on the remand, but asked the parties for submissions. The parties submitted materials on August 2, 2004 and submitted proposed findings of fact and conclusions of law in December of 2004.

During a public meeting on April 5, 2005, the BZA approved the Campus Plan and changed and eliminated some of the conditions in accordance with the directives of the Court of Appeals. Generally, the affected conditions relate to student enrollment numbers, the method of calculating student enrollment, and off-campus behavior by students. The Board also eliminated Condition 13, which requires Georgetown to include certain information in all applications for further processing, and Condition 15, which provides that no special exception application for further processing may be granted unless Georgetown demonstrates that it has consistently remained in compliance with Conditions 1 – 14 of BZA Order No. 16566-E.

None of the changes made by the BZA on remand affects the approval of the Bles Building for medical use. Relevant portions of the Campus Plan showing the use of the Bles Building are attached as Exhibit A. Georgetown expects that the Order on Remand will be issued shortly, prior to the public hearing on this case, which is scheduled for May 5, 2005. The Project will comply with the conditions of the Campus Plan as approved by the BZA in the Order on Remand.

III.

REQUESTED SPECIAL EXCEPTION

Construction of Accuray Cyberknife Vault Addition

Georgetown plans to construct a modest, two-story addition to the existing Bles Building (the "**Project**"). The Bles Building currently houses the Departments of Neurology and Radiation medicine and more than 110 inpatient beds. The location of the Project as it relates to the Georgetown Campus and the Bles Building is shown on the Plans attached as Exhibit B. The Project involves the renovation of approximately 2,400 square feet of the interior of the building and the addition of approximately 1,200 square feet.

The purpose of the Project is to provide a facility for radiosurgery equipment known as CyberKnife, manufactured by Accuray. Brochures describing the CyberKnife equipment and the treatment it can provide are attached as Exhibit C. The CyberKnife provides painless, non-invasive treatment for tumors anywhere in the body and can be used to treat lesions and tumors that otherwise would be untreatable. It provides a new approach to sterotactic radiosurgery, which has been used for more than thirty years for the non-invasive treatment of benign and malignant tumors, vascular malformation, and other disorders of the brain. Radiosurgery involves delivering high doses of focused radiation to a specific area of the body. The target

location is determined stereotactically – through the use of a reference system in 3D space.

This equipment provides a revolutionary new way of performing stereotactic radiosurgery by combining two advanced technologies. It employs a lightweight radiation delivery system mounted on a multi-jointed robotic arm. This provides unparalleled access to tumors, reaching areas of the body that are untreatable with other radiosurgery systems, such as certain areas in the head and near the spine. The CyberKnife also employs an image guidance system, which allows the equipment to locate the tumor throughout treatment and correct for small patient movements, such as breathing. The CyberKnife recently has been used to treat lung tumors by targeting the tumor with pinpoint accuracy while allowing the patient to maintain normal breathing during the surgery. As stated above, this treatment is painless, extremely accurate, and completely non-invasive. There is no recovery period following treatment.

At this time, Georgetown possesses one CyberKnife facility, which is the only such facility in the Washington Metro Area. There is great demand for its use, and patients must endure increasing waiting periods for treatment. The Hospital is requesting this special exception so that it may add a second CyberKnife facility, which will reduce the waiting period for patients who are in urgent need of this treatment.

The Project will house the CyberKnife equipment and a CyberKnife vault, in which the treatment will take place. The additional CyberKife facility requires the addition to and renovation of the Bles Building for two reasons. The equipment is too heavy to be supported by the existing structure of the building, and the building does not provide sufficient interior space for the equipment. As shown on the Plans attached as Exhibit B, the walls of the structure are extremely thick in order insulate adjacent areas from the radiation generated by the equipment.

IV.

JURISDICTION OF THE COMMISSION

Effective December 8, 2000, the authority to hear and decide new campus plan and further processing applications became exclusively vested in the Zoning Commission pursuant to 11 DCMR § 3035. Each case is processed and heard under the special exception provisions of § 210 of 11 DCMR.

Uses that are permitted by special exception are presumed to be appropriate for the applicable zoning district as long as certain conditions are satisfied. In considering special exception applications, the Commission must consider only whether the relevant conditions and special exception criteria have been met. If the applicant meets its burden, the Commission ordinarily must grant the application . *See First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment,* 432 A.2d 965 (1981); *Stewart v. District of Columbia Board of Zoning Adjustment,* 305 A.2d 516, 518 (1978).

In recent decisions, the D. C. Court of Appeals has reaffirmed the Commission's jurisdiction and scope of review in campus plan cases and has made clear that in reaching its decision the Commission may take into consideration such factors as institutional necessity. *See, e.g., Draude v. District of Columbia Board of Zoning Adjustment,* 582 A.2d 949, 955 (1990). Further, the Court has distinguished the broader public good referenced in the Zoning Regulations from the more narrow interests of neighboring property owners.

V.

COMPLIANCE WITH THE REQUIREMENTS OF §210

This additional CyberKnife facility is an institutional necessity for Georgetown and the Hospital because it allows them to provide the most current medical treatment to their patients in

a timely manner consistent with their medical necessity. It also will have a significant positive impact on the public good, because the Hospital currently provides the only CyberKnife treatment facility in the Washington Metro Area.

In all respects, the requested special exception fully complies with § 210 of 11 DCMR. The requested further processing approval will allow the Hospital to provide the highest level of medical care to its patients with little impact on the community. The approval of this application will allow GU to continue as a vital educational institution and community resource serving both the mission of Georgetown and the larger public good. The specific zoning requirements are addressed in detail below.

A. College or University Which is an Academic Institution of Higher Learning (Subsection 210.1)

Georgetown University was founded as an educational institution of higher learning in 1789 and received its federal charter in 1815.

B. The Use is Located so that it is Not Likely to Become Objectionable to Neighboring Property (Subsection 210.2)

The Project is a minor addition that will have little affect on neighboring properties and will not cause objectionable noise, traffic, number of students, or other objectionable conditions. It will add only approximately 1,200 square feet to the Bles Building. Furthermore, it will be used by existing patients of the Hospital, and will not generate a significant amount of traffic. It will generate no noise. No other changes to existing campus uses or facilities or to the campus boundaries are proposed, nor is Georgetown proposing any changes to its enrollment or staff members.

C. Compliance with the Maximum Bulk Requirements (Subsection 210.3)

Georgetown's overall FAR is 1.13, which is well below the 1.8 FAR permitted under the

zoning regulations. The Project will add approximately 1,200 square feet to the Georgetown campus. The additional 1,200 square feet will have a negligible effect on the overall FAR for the campus.

D. Submission of a Plan for Developing the Campus as a Whole (Subsection 210.4)

Georgetown first filed its 2000 Campus Plan in 1999. The Campus Plan was approved by the BZA, subject conditions, and was appealed to the D. C. Court of Appeals. The Court vacated the order and remanded it for further proceedings. The Board of Zoning Adjustment made a decision on the remand of the Campus Plan during its public meeting of April 5, 2005. Georgetown expects the Order on Remand to be issued shortly, prior to the public hearing on this case. Although the Board modified and eliminated some conditions, the modified conditions have no bearing on the relief proposed in this application. As shown in Exhibit A, the Bles Building has been approved for medical use, and the Project is consistent with that use. No changes to the Campus Plan are proposed as part of this amendment application.

E. No Interim Use of Land is Proposed (Subsection 210.5)

No interim use of land is requested as part of this campus plan.

F. No New Use Sought for Approved Site of Buildings Moved Off Campus (Subsection 210.6)

Georgetown does not seek approval for any use of a previously approved building site and thus complies with this section.

G. Compliance with the Policies of the District Elements of the Comprehensive Plan (Subsection 210.7)

The Project is not inconsistent with the policies of the District Elements of the Comprehensive Plan. The Project will further the goals and objectives of the Ward 2 element of the Comprehensive Plan by enhancing educational facilities in the ward without adversely

impacting adjacent residential areas.

H. The Proposed Buildings Are within the Floor Area Limit for the Campus as a Whole (Subsection 210.8)

The existing Campus Plan FAR of 1.13 is within the permitted 1.8 FAR prescribed for the residentially zoned portions of the campus. The Project will add approximately 1,200 square feet to the campus, which will not affect the existing FAR.

I. Referral to the District of Columbia Office of Planning and the District of Columbia Department of Public Works (Subsection 210.9)

This application was referred to the Office of Planning and DDOT for their review and report.

VI.

COMMUNITY OUTREACH

Georgetown and the Hospital have made efforts to seek input on the application from members of the community. On March 1, 2005, Regina Knox Woods, a representative of the Hospital, presented the Project to ANC 2E during its regularly scheduled, duly noticed public meeting. All seven commissioners were present, and they voted unanimously to enthusiastically support the proposed addition. They drafted a letter in support of the Project, which is attached as Exhibit D.

VII.

COMMISSION OF FINE ARTS

The Project also has received concept approval from the Commission of Fine Arts, which has jurisdiction over the subject property pursuant to The Old Georgetown Act. A copy of the letter indicating the Commission's lack of objection to the Project is attached as Exhibit E.

VIII.

CONCLUSION

For the reasons stated above, the requested amendment to the campus plan conditions meets the special exception requirements and carries out the city's and the community's objectives for Georgetown's campus. Accordingly, it is respectfully requested that the Commission approve the application. Because this application involves the Hospital's ability to provide potentially life-saving treatment for patients, the Hospital and GU respectfully request that the Commission expedite its consideration of this application.

IX.

WITNESSES

1. Representative of the Applicant
2. Representative of Architection, the Architect for the Project

X.

EXHIBITS IN SUPPORT OF APPLICATION

Exhibit A: Relevant Portions of the Georgetown University Campus Plan

Exhibit B: Plans for the Project and Photographs of the Property

Exhibit C: Brochures Describing the Cyberknife Equipment

Exhibit D: Letter from ANC 2E

Exhibit E: Letter from Commission of Fine Arts

Exhibit F: Outlines of Witness Testimony

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN, LLP*

By 
Maureen E. Dwyer

By 
Ashleigh D. Horne

Land Use Counsel for Georgetown University Hospital and
The President and Directors of Georgetown College

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* On April 1, 2005 Shaw Pittman LLP merged with Pillsbury Winthrop LLP, creating the new firm.