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16553

November 6, 2000

Mr. Anthony J. Hood, Chairman
DC Zoning Commission
441 4th Street, NW
Washington, DC 20001

Dear Mr. Hood:

I am enclosing the latest salvo in GWU's controversial Ten Year Foggy Bottom Campus Plan. I hope, mercifully, it is the last. I have been sending you these exchanges (dated September 24th, October 9th, and the latest of November 4th) because they go beyond mere zoning matters and address long-range planning issues that are in the Commission's province. I thought you might wish to share it with Commission Members for discussion purposes.

With best regards,

Sol S. Shalit
Emeritus Professor of Economics & Finance

Cc: Mayor Tony A. Williams

Enclosure: 1

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Word/Doc/8766

BZA
Case No. 16553
Exhibit No. 255

ZONING COMMISSION
CASE NO. 99-10
EXHIBIT NO. 58

ZONING COMMISSION
District of Columbia
CASE NO.99-10
EXHIBIT NO.58

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

November 6, 2000

Ms. Sheila Cross Reid, Chair
Board of Zoning Adjustment
440 - 4th Street, NW - Room 210
Washington, DC 20001

Re: George Washington University's Foggy Bottom Campus Plan
BZA Application No. 16553

Dear Ms. Reid and Members of the Board:

In response to the material submitted on behalf of the Applicant by ShawPittman on October 30, 2000 (Dr. Craig Linebaugh's letter of October 26 to Andrew Altman), we hereby submit, under the provisions of Section 3121.6 of the Zoning Regulations, Professor Sol Shalit's response thereto (addressed to Andrew Altman under date of November 4, 2000).

I would appreciate your making the enclosed material available to the Members of the Board and appreciate your understanding and patience in dealing with this case.

Respectfully submitted,

Barbara Spillinger

Barbara Spillinger, Chair
Advisory Neighborhood Commission 2A

enclosure

Copies to All Parties

Certificate of Service

I hereby certify that on November 6, 2000, a copy of the foregoing letter addressed to Sheila Cross Reid was hand-delivered or mailed, first class postage prepaid, to the following:

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November 4, 2000

Mr. Andrew Altman, Director
Office of Planning
District of Columbia
801 North Capitol Street, NW
Fourth Floor
Washington, DC 20002

RE: GWU's Ten-Year Foggy Bottom Campus Plan
BZA Application No. 16553

Dear Mr. Altman:

This is not an attempt to prolong an already long exchange by responding to a response of a response, but the latest from GWU (Mr. Linebaugh's October 26th letter, in response to mine of October 9th) requires a retort for the record, although neither his letter, nor my response is likely to affect the outcome as the decision date is already upon us.

Mr. Linebaugh's letter generates considerable heat, but sheds little light; it is long on rhetoric, but short on rebuttal. In lieu of a response to the substance of my arguments, it makes sweeping, inappropriate and false personal remarks about my scholastic integrity and gratuitous comments against the university I had retired from. Since both the University of Wisconsin and I have records that need no defense, I shall sidestep the bout and proceed with a point-by-point response:

A. Limits on the University's Growth.

GWU argues: "Mr. Shalit claims 'strong evidence' to support his opinions, yet he provides none". (GWU, page 1).

Response: These are not opinions, but facts. The full context is:

> "The central issue is the University's optimum size. Again, optimal not for the University, but for the District. There is strong evidence that the University has surpassed its optimal size some time ago, and that the damage of its

> unrestrained, and largely unregulated, expansion far from generating economic development, has actually contributed to the decline of specific city neighborhoods. Thus far, economic development and prosperity have been confined to the University itself." (Shalit, pages 2-3).

It would have been redundant on my part to recite the evidence since the BZA hearings themselves provide ample evidence of "objectionable impact" and damage to the community caused by GWU's unrestrained expansion. This was clearly and repeatedly demonstrated in numerous testimonies by the ANC and individual residents, and was well-documented in the Office of Planning reports. If these testimonies mean anything at all, at the very least they constitute strong evidence that the University has indeed surpassed its optimal size.

As BZA Vice-Chair Sockwell pointed out: "there appears to be no interest [on the GWU's part] in being in moderation in the development concept to the absolute limits of matter of right development". (BZA Hearing of 9-13-00, p. 190, line 24). Indeed, GWU's real estate acquisitions as 'matter of right', not subject to BZA review, permeated the entire hearings and played a central role in the University's defense of its expansion. However, this is not a legal issue, but a behavioral one:

Although lacking authority to prevent 'matter of right' acquisitions, the BZA has the statutory authority and the legal obligation to consider the impact of the University's <u>total</u> operations, inside and outside the boundaries. And if it finds that these acquisitions inflict damage on the community, it has the authority and obligation to take this into account in approving or disapproving the Plan. Just because it is a 'matter of right', does not mean it <u>is</u> right, or wise, for GWU to do. Although GWU has a <u>right</u> to purchase these properties, it does not have an <u>obligation</u> to do so; it's a choice. If the BZA does its job, GWU may well choose <u>not</u> to do so. The BZA is not as helpless as the University would like to portray.

Consider the case of a young man during a job interview, saying some very foolish things because it is his 'matter of right' to free speech. Although he has this right, its imprudent exercise does not protect him from the consequences of not being hired. Trouble only arises when a confused employer feels compelled to hire him because of fear of infringing on the right to free speech. Likewise, if the BZA accepts this business of 'matter of

right' and shows GWU that there are no consequences for abusing this right, it gives the University a license to misbehave.

GWU argues that the cap of 20,000 headcount, unchanged from the 1985 Plan, is "strong evidence" that my "core assertion was incorrect" when I argued for imposing controls on the university's growth. Therefore, GWU asserts, "no additional external constraint is required" (GWU, page 1).

Response: Without realizing it, what we are really talking about here is the University size. GWU defines its size by a single number, the self-serving 20,000 cap on total student headcount. It conveniently ignores (i) the various components (e.g. full-time undergraduates), (ii) its own failure to provide student housing, and (iii) the deleterious effects of its real estate acquisitions -- all of which are precisely the very essence of the "objectionable impact". This 20,000 magic number, which may never be reached, is only an upper-boundary abstraction, not a real workable constraint. It is an incorrect measure of the University's size.

What is the correct measure of the University's size? Enrollment? Full-time undergraduate enrollment? Total square footage of real estate owned in and out of campus boundaries? The number, frequency, and severity of residents' complaints about adverse effects? This is not the time or place to discuss all this, but merely to point out that the University's size measure is crucial to the solution.

It is by now an established doctrine in economics, and one that I'm proud to have contributed to, that the answer depends on the purpose at hand and that no single measure of size fits all circumstances. I'm enclosing an article (guaranteed to put to sleep even the most incurable insomniac) whose message can, nevertheless, be simply stated as: "size is what size does". So if the BZA is charged with the responsibility of guarding against "objectionable impact", then an appropriate measure of size is one that captures this "objectionable impact" well before the upper-boundary limit of 20,000 is reached, if ever. Failure to do so, by clinging to a number everyone agrees affords no control, is tantamount to an admission that the regulatory authorities are unable or unwilling to do their job, and that they prefer to continually deal with consequent "behavior", rather than address "structure". They will forever

continue to hear about the University "endeavors" and "commitments" to regulate student conduct and ameliorate the adverse impact on the community, thereby substituting the rhetoric of university "effort" for the efficacy of "results".

So much for my alleged "litany of unsubstantiated opinions wholly unworthy of a member of the academy" (GWU, page 1). Now that the central issue is behind us, we can quickly dispose of the remaining minor ones.

B. Enrollment increase as a financing vehicle.

There is nothing in GWU's first paragraph on page 2 to contradict my conclusion that the University's relentless drive for enrollment increase is used as a financing vehicle, rather than as part of an overall academic plan. The allusion to the "University's determination to provide today's students - tomorrow's leaders - with an education that prepares them to manage the influence of globalization and technological advancement", etc., etc., is too general and intractable to translate to specific courses and programmatic objectives. It sounds like a baker insisting that he bakes bread not to make money, but to feed the hungry. The other, more specific, examples cited are similarly rather pale.

C. University fund raising.

My point was not that the University does not raise money at all, but that it relies too heavily on increased revenue from student tuition, which requires enrollment increases, which in turn impose costs on the community. Under the circumstances, it is difficult to understand the University's reluctance to accept foundation's and corporate funding just because they are "restricted" to specific programmatic and research goals (what's wrong with that?), and do not allow much leeway in pursuing, say, real estate acquisitions.

D. University aspiration to first-tier status.

Notwithstanding the gratuitous and wholly inappropriate comparison with University of Wisconsin-Milwaukee -- an urban, state-financed institution -- it is still true that first-tier status cannot be obtained by increased enrollment, larger class size and student/faculty ratios. Just ask Harvard and Princeton,

or check with the accreditation agencies. The statistics cited merely reflect recent national trends.

E. University's contribution to the District.

My point was not to debate, let alone settle, the issue of whether the District has done more for GWU than GUW has done for the District. Rather, it was to elucidate that:

> "While the University's contribution to Washington's economy has been widely publicized, the city's benevolence -- at considerable opportunity cost to itself -- and its pivotal impact on the University's economic well-being have not been similarly recognized or acknowledged... the University has shown little gratitude, or sensitivity, when it relentlessly pursued a systematic acquisitive and expansionist drive, both inside and outside the prescribed Campus Plan." (Shalit, page 5).

Even in its wildest dreams, The University of Wisconsin-Milwaukee could never imagine the city of Milwaukee allowing it the free reign the District gave GWU. I know of no other city, this side of Kazakhstan, that would.

F. What GWU chose to remain silent on.

So much for what the University has tried to challenge. Of far greater significance, however, is what the University has chosen not to contest: (a) the nature of its commitments, and (b) its professed economic impact.

(a) The Nature of GWU's Commitments:

The University did not challenge my evaluation of its so-called "commitments", so often proclaimed with dramatic gesture during the hearings, reiterated and restated later, and finally culminating in Mr. Barber's crucial letter of September 29th, in response to which I wrote:

> "Furthermore, these are no commitments, just toothless conditional goals and hypothetical conjectures. It is the kind of phraseology that helped turn GWU's previous Plan into a fifteen-year term "hunting license" for virtually unregulated expansion, and is responsible for the present predicament.

> It is evident that GWU is not giving anything; it is asking for help and cooperation to secure the necessary permits and approvals for further construction. There are no provisions for non-performance; indeed, there is no conceivable set of circumstances under which GWU can be found in default of these amorphous goals. In short, the University commits itself to nothing beyond that which it would do in any event." (Shalit, page 1).

The University has not contested any of that.

(b) GWU's Economic Impact:

The University has also chosen not to challenge my evaluation of its economic impact, or economic development:

> "[T]he only document submitted for the record in support of GWU's presumed economic development is the Fuller Report. This report has been entirely debunked in a document entitled GWU's Ten-Year Foggy Bottom Campus Plan -- Comment submitted for the record during my Sept. 26th testimony (Pages 1-4). --- The University itself carries the burden of showing that its growth is economic development, but so far, it has failed to make its case." (Shalit, page 2).

> "Therefore, GWU's Ten Year Campus Plan is very unlike the traditional zoning case, where an indignant neighborhood is stubbornly fighting against the forces of change and progress. This is no shopping center, or a condo development -- just a displacement of permanent residents who pay taxes, by new transitory ones who pay little or none. On the one hand there is clear and demonstrable evidence of damage, and on the other hand there is no economic development to balance against. This is the fundamental rationale for rejecting, not just amending, the Plan. One can only hope that GWU's attempt, during the last hearing, to manipulate OP's grounds for rejection into conditions for acceptance -- are not successful." (Shalit, page 3).

The University has not contested any of that.

These are the two core issues, and the upshot is clear: The University in effect admits that its "commitments" -- the only

buffer against the Plan's rejection -- are not intended to commit. It also in effect acknowledges that its Plan has failed to show any (positive) economic impact on the District. These are serious admissions which, in and of themselves, constitute compelling grounds for the Board's rejection of the University Plan.

Having said all that, I would like to end on a hopeful note. The Foggy Bottom-West End community does not scorn the University, only its behavior. The relationship between the two sides is at an all-time low, but is not hopelessly irretrievable. I believe that a workable relationship can develop, and trust restored, if only the University would changes its attitude, not merely as a public relations campaign and token gestures, but real ones. Many of us would gladly take off our adversarial mantles and work hard towards a reasonable and amicable solution. It is now up to the University to decide. I can only hope that the University is equal to the task.

Sincerely yours,

Sol S. Shalit
Emeritus Professor of Economics & Finance

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Cc: Mayor Anthony A. Williams
Sheila Cross Reid, Chair, Board of Zoning Adjustment
Anthony J. Hood, Chair, Zoning Commission
Barbara Spillinger, Chair, ANC 2A
Michael Thomas, President, Foggy Bottom Association

Enclosure: 1

THE MEASUREMENT OF FIRM SIZE

S. S. Shalit and U. Sankar

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