GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15808 of The George Washington University, pursuant to 11 DCMR 3108.1, for a special exception under Section 210 for further processing of an approved campus plan to convert an inn to faculty offices, basement through the fourth floor, in an R-5-D District at premises 2134 G Street, N.W. (Square 80, Lot 828).

HEARING DATE: April 21, 1993
DECISION DATE: May 5, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject property is located on the south side of G Street between 21st and 22nd Streets, N.W. and is known as premises 2134 G Street, N.W. The site is zoned R-5-D.

2. The site is rectangular in shape with approximately 50.5 feet of frontage along G Street and contains a land area of approximately 6,499 square feet. A ten foot wide public alley abuts the site along its eastern side. The site is improved with a four story vacant brick structure with basement containing approximately 24,810 square feet of gross floor area. The building was built in the 1920's and was previously used as a 121 unit rooming house that operated as an inn. The building occupies approximately 90 percent of the site and abuts or nearly abuts its north, east and south property lines. On the west, the building is set back 10 feet from the west property line. No parking is provided on-site.

3. North of the subject site across G Street is D.C. Fire Engine Company No. 23, James Monroe Hall, School of Business and Public Management, Multicultural Student Services/Black People's Union, International Services Society and Campus Ministries. East of the site across the 10 foot wide public alley there are the University's Personnel services building, Anthropology Department building, American Studies Building, and a residence hall. Immediately south of the subject building are the rear yards of a three-unit apartment house, and a row dwelling, both fronting on F Street. West of the site is the Grant Public School (also known as the School Without Walls High School) and parking lot.

4. The George Washington University campus consists of approximately 45 acres of land in the Foggy Bottom neighborhood. The campus contains a diverse mix of building heights, uses and designs. A characteristic of the campus is the interspersion of privately-owned residential structures and University owned buildings. The subject square reflects the same interspersion of university and non-university uses.

5. The University is requesting special exception relief, pursuant to Sections 210 and 3108.1 of the Zoning Regulations for further processing of an approved campus plan to convert an inn to faculty/administrative offices.

6. Representatives of the applicant, or "University" testified that the subject building is in need of substantial interior renovation to bring it into code compliance. The building's heating system (originally a coal-fired furnace) is antiquated, and not energy efficient. The building utilizes window air conditioning units for cooling. The proposed renovation will include code compliance, mechanical and electrical systems upgrades, exterior rehabilitation, landscaping and interior renovations necessary for administrative/faculty offices.

7. The applicant testified that the proposed facility will consist of approximately 85 offices. The University employees that are expected to work in the building will consist of administrative/faculty members from the School of Education and Human Development. The special exception will allow the consolidation of the School of Education and Human Development which are presently located elsewhere on the campus. The School of Education and Human Development will be moving from Funger Hall and the Academic Center, which are both located within a short walk of the subject site. It is anticipated that approximately 93 administrative/faculty members and 20 support personnel will occupy the building. The building's renovation to administrative/faculty offices will include accessory spaces such as seminar rooms, conference rooms, copy centers, coffee centers, a kitchenette and rest rooms.

8. The proposed administrative/faculty offices will be located on all floors of the subject premises. The subject building is constructed of masonry with wood framing. The applicant stated that these materials have inherent sound insulating qualities and no objectionable noises are expected to result from the proposed use. It is expected that noise levels associated with the use will not exceed normal conversation levels. The renovation of the building will include the installation of a new heating and cooling system. As such the existing window air conditioning units will be removed, and the old windows will be replaced with double-pane insulated windows. There will be blinds installed at the windows. This will improve the appearance of the building, and act to buffer any noises and interior lighting generated by the proposed use.

9. The University's Transportation expert for the project testified that proposed administrative/faculty office use of the premises will not be objectionable to neighboring properties from a traffic standpoint. G Street between 21st and 22nd Streets, is

a one-way westbound local street. Restricted curbside parking is permitted on both sides of the street. The Foggy Bottom Metrorail Station, at 23rd and I Streets (Orange and Blue Lines) is 1,200 feet from the subject site. There is a 5 minute walk from the station to the subject site. A University survey of the administrative/faculty members and support staff expected to occupy the premises found that no parking will be displaced as a result of the modifications to the building. There are currently 2,840 parking spaces within the campus boundaries. No new personnel will be arriving on the campus as a result of this application. No additional visitor traffic to the campus will occur as a result of the proposed use.

10. The proposed administrative/faculty offices will operate six days a week (Monday through Saturday) between the hours of 8:00 a.m. and 10:00 p.m. Student visitors to the facility will walk to the site. There will be no decrease in available parking. It is expected that most of the student visits to the site will occur in the early morning, mid-day, and late in the afternoon.

11. The site is located in an area shown on the approved Land Use Map from The George Washington University Campus Plan for the Year 1985 through the Year 2000 dated February 1, 1989 designated for "Educational Mixed Use." Educational Mixed Use is defined as classrooms, laboratories, libraries, student activities facilities, faculty offices, parking, parks, open space and related support functions. This Land Use category does not permit residential uses.

12. Pursuant to the previous orders relating to the George Washington University Campus Plan in BZA Application No. 14455, this Board has set forth requirements which are in addition to the normal special exception requirements of the Zoning Regulations for new structures or additions within the University campus plan area. Specifically, the University must comply with the following requirements of BZA Order No. 14455 relative to this application:

> The University shall submit a special exception to the Board for each structure or addition to an existing structure which the University proposes to construct over the life of the Plan. In addition to a demonstration of compliance with applicable provisions of the Zoning Regulations and the contents of the approved 1985 Campus Plan, each application shall include the following:
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> a. A showing that the use, height, bulk and design (including the location of any means of approach and egress) of the proposed structure are sensitive to and compatible with

adjacent and nearby non-University owned structures and uses; and

b. Recomputation of the University's total floor area ratio (FAR), copies of which shall be submitted to the Zoning Administrator. Such information shall be broken down by zone District and include the following; existing and occupied FAR; FAR under construction pursuant to Board approval; and FAR upon completion of the proposed structure.

The University shall notify the Office of Planning and ANC-2A of its development plans for a specific site following approval of the proposal by appropriate University committees and the University's Board of Trustees and prior to completion of final, detailed plans and specifications.

The University shall designate at least one University owned site within the campus boundary as a preferred development site for University residential use. The University shall also designate at least one University owned site within the campus boundary as an alternative development site for residential use.

The University shall provide between 2,700 and 3,000 off-street parking spaces within the campus boundary.

13. In response to the above, the University noted that since there is no new proposed structure or addition these provisions are not applicable. However, the University testified that, the height, bulk and design of the subject premises will not be changed except for renovation and restoration. The exterior renovation work will include the installation of a new handicap ramping system, and the installation of new double-paned insulated windows. The public space will be landscaped in accordance with open space requirements as defined by the D.C. Department of Public Works, and the on-site yards and walkways will also be attractively landscaped in accordance with the landscape plan filed for the record.

14. The University testified that the proposed administrative/faculty office building was acquired in December 1992, and no University activities will be displaced during the renovation of the building; as such there is no need for the use of interim leased space. Were it not for the fact that the building was not owned by the University at the time of the Campus Plan approval, the uses would be permitted as a matter-of-right.

15. The applicant recomputed the University's total F.A.R., broken down by zone district, including existing and occupied F.A.R., F.A.R. under construction pursuant to Board approval, and F.A.R. factoring in the proposed use. The Zoning Regulations permit the University to develop its residentially zoned property to a campus-wide aggregate F.A.R., of 3.5. Upon acquisition of the subject premises, the University's overall campus F.A.R. increases from 2.246 to 2.254.

16. The Office of Planning (OP) by memorandum dated April 13, 1993 and testimony at the public hearing, recommended that the application be approved. The OP stated that the George Washington University meets the requirements of Section 210 of the Zoning Regulations, and all the previous conditions established by the Board in BZA Order No. 14455. The proposed use of the site would be compatible with the other land uses in Square 80. The proposed use of the site for administrative/faculty offices would provide more stability in the area and to nearby property than did the previous rooming house (transient) use. The OP report further found that the proposed special exception is in harmony with the general purpose and intent of the Zoning Regulations and Map, and would not affect adversely the use of neighboring properties.

17. The Board waived its rules to accept the late filing of the report of the D.C. Department of Public Works (DPW) Policy and Planning Administration in a memorandum dated April 20, 1993, indicating that the proposed project will have no measurable adverse impact on the street system and adjacent residential neighborhood; concluding that it has no objection to the special exception application.

18. Advisory Neighborhood Commission (ANC) 2A by letter dated April 14, 1993, submitted a resolution and "Report of Advisory Neighborhood Commission 2A to the Board of Zoning Adjustment on Application Nos. 15793 and 15808 for Further Processing Under a Campus Plan". By testimony at the public hearing, the Advisory Neighborhood Commission raised three issues and concerns. The testimony presented in the hearing on BZA Application No. 15793 was incorporated by reference and with agreement of the parties into the record of the instant application. The ANC presented three reasons that the application should be denied:

a. GWU does not have an approved campus plan;

b. GWU's 1985 Campus Plan is not consistent with the District of Columbia Comprehensive Plan, including amendments enacted after the Board's original decision on the 1985 Campus Plan; and

c. Further campus development should not continue until GWU alleviates adverse conditions created by off-campus student housing. As part of the August 3 argument, the ANC asserted that GW has not complied with conditions of the campus plan approval relating to housing.

At the public hearing, the ANC representative raised additional issues not presented in the ANC written report. The issues raised by the ANC representative include the following:

d. Lighting levels of the building on the inside will be greater that the previous inn use. The proposed office use would be expected to have brighter lighting. The brighter lighting and office hours that are expected to be until 10:00 p.m., present a potential problem for the private residences along 22nd and F Streets in the evening. It is proposed that tinted glass be considered as a possible solution.

e. Painting the structure will provide a more integrated appearance with buildings directly across G Street.

19. Several persons testified on what they perceived as being problems in the surrounding neighborhood from student residents, but did not offer specific objections to the subject application.

20. The University through Counsel objected to the statement of the ANC on the grounds of relevancy and further identified through representation the paragraphs of conditions referenced by the Board, namely paragraphs 6 and 7 of the Conditions of the BZA approval of the Campus Plan of June 29, 1988. Counsel indicated that while the University has complied with both paragraphs, these concerns and issues could be addressed outside the instant application.

21. The Board at the end of the public hearing left the record open to receive a response from the University to the ANC's issues raised at the hearing. By post hearing submission submitted on April 28, 1993, the applicant responded to the concerns of the ANC Commissioner relating to the brick color of the building, and interior lighting treatment. The University submitted the rationale for selecting the color of the building, which was based on the original color and a study of the buildings found throughout the campus. The University pointed out that the windows to be installed with the subject building's renovation will include the installation of blinds to effectively reduce the impact of interior lighting on surrounding property. Deep-Cell parabolic light

fixtures will direct light downward to work areas so as not to allow direct rays through the windows.

FINDINGS OF FACT:

1. Subsequent to the resolution of the ANC, the Board issued its Campus Plan Order on Remand on April 13, 1993 and no further issue at the public hearing was raised relating to the lack of approval of the Campus Plan.

2. Regarding the issue of compliance with the Comprehensive Plan, this Board has determined that it has no power or authority to implement the Comprehensive Plan.

3. Regarding the ANC's position that the Board should not approve further processing of any application for approval of any use under the Campus Plan until certain conditions are met or remedied, the Board finds that the ANC comments on this application are restricted by the Regulations and the Board may only consider legally relevant issues and concerns.

4. If there is an alleged failure to comply with a condition of the Board's order, this matter can be brought to the attention of the Zoning Administrator who is in charge of enforcement of the Zoning Regulations and orders of this Board. Additionally, the Board notes that Condition 7 deals with the "designation" of preferred and alternative development sites for residential use.

5. The ANC's written report and the testimony of other parties did not address the substance of the proposed use of 2134 G Street, N.W. or its relationship to the provisions of Section 210 of the Zoning Regulations.

6. The Board finds relevant the issues raised by the ANC representative at the public hearing that were not a part of the official ANC report.

7. The applicant's response to the ANC's issues of interior lighting and building color is reasonable and acceptable.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking special exception relief, the granting of which requires compliance with the requirements of Sections 210 and 3108.1 of the Zoning Regulations, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and that it will not tend to affect adversely the use of neighboring property. The Board concludes that as to the special exception relief, the University has met its burden of

proof and that the use is located so as to not likely become objectionable because of noise, traffic, number of students or other objectionable conditions. The Board's approved Campus Plan for GW designates the site in the "Educational mixed-use" category. The Board concludes that the use and design of the proposed administrative/faculty office would not impair the intent, purpose and integrity of the R-5-D District regulations. The Board further concludes, that the project is not likely to adversely impact adjacent or nearby properties. In order to minimize any adverse impact, the Board concludes that it is necessary to condition this order.

The Board concludes that the Zoning Commission is the appropriate zoning body to address issues of the Comprehensive Plan and its regulations. The Board of Zoning Adjustment implements and applies the special exception provisions of the Zoning Regulations and has no power to implement the Comprehensive Plan as found in the decision of the D.C. Court of Appeals in Tenley and Cleveland Park Emergency Committee v. District of Columbia Board of Zoning Adjustment, 550 A.2d 321, 341 n. 22 (DC App. 1988).

The Board concludes that the ANC's and other opposition contention that the Board should not approve any application for further processing under the Campus Plan until certain conditions are met is without basis and is irrelevant to the subject application. See, Wheeler v. District of Columbia Board of Zoning Adjustment, 395 A.2d 85, 91 n. 10 (1978).

The Board further concludes that the ANC 2A's assertion that the Board cannot process this application until the University begins construction on campus dormitories, there is no basis in law on which to support this assertion in either the approved Campus Plan or previous orders or on any other basis. If there is an alleged violation of the Campus Plan, such a violation allegation should be referred to the Zoning Administrator who is responsible for enforcing the Zoning Regulations and orders of this Board. In any event, its allegations relating to housing are not relevant to the request in this specific case. The Campus Plan Land Use Designation of the site prohibits its use for residential purposes.

Accordingly, it is hereby **ORDERED** that the application is **GRANTED** subject to the **CONDITION** that the interior lighting and the exterior color of the building shall be as shown on Exhibit No. 29-B of the record.

VOTE: 4-0 (Sheri M. Pruitt, Carrie L. Thornhill, Paula L. Jewell and Angel F. Clarens to grant; Tersh Boasberg not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Reginald C. Lyons for
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: JUL 30 1993

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15808

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 30 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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DATE: JUL 30 1993