GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15942 of The George Washington University, pursuant to 11 DCMR 3108.1, for special exceptions under Section 210 for further processing under an approved campus plan to construct a health, wellness and fitness center and Section 411 for roof structure set back requirements in an R-5-D District at premises 700 23rd Street, N.W. (Square 42, Lot 847).

HEARING DATES: **June 15 and September 28, 1994**
DECISION DATE: **November 2, 1994**

ORDER

SUMMARY OF EVIDENCE AND PROCEDURAL MATTERS:

1. The property which is the subject of this application is located at 700 23rd Street, N.W. It is located at the northwest corner of the intersection of 23rd and G Streets, N.W. (Square 42, Lot 847).

2. The site is L-shaped, with a depth of approximately 122 feet from 23rd Street and 61 feet from G Street. The subject property contains approximately 158 feet of frontage on 23rd Street and approximately 232 feet of frontage on G Street. The site abuts a 30-foot wide public alley along part of its western lot line. The alley runs in a north-south direction and connects to 23rd Street through a 15-foot wide public alley.

3. The subject property is located in the R-5-D District, which permits as a matter of right a maximum height of 90 feet and a maximum floor area ratio of 3.5.

4. The subject property is located along the western edge of The George Washington University campus. University uses in the immediate vicinity include Funger Hall, the Tompkins Engineering building located across 23rd Street from the subject site and the Smith Center (the intercollegiate sports facility for the campus) at the southeast corner of 23rd and G Streets. Also located within Square 42, at the southeast corner of 24th and H Streets, is the site of a proposed new residence facility.

5. The George Washington University proposes to construct a new health, wellness and fitness center ("Health and Wellness Center") on the subject property.

6. A college or university use is permitted in an R-5-D District if approved by the Board of Zoning Adjustment as a special exception in accordance with the requirements of Section of 210 of the Zoning Regulations.

7. The subject application was originally advertised for public hearing on April 20, 1994. As filed, the proposed building would have had a lot occupancy greater than 75 percent on the subject lot. As a preliminary matter, the Board determined that a variance from the lot occupancy requirements would be required but had not been advertised. The Board rescheduled the hearing for June 15, 1994, and gave notice to include a variance from the lot occupancy requirements.

8. As a preliminary matter at the hearing on June 15, 1994, the applicant submitted revised plans which reduced the lot occupancy of the building to 75 percent. The applicant therefore withdrew the request for the variance.

9. As originally filed and advertised for hearing, the application also requested a special exception under Section 411 because the roof structure was not set back a distance equal to its height from certain of the exterior walls of the building. In plans filed with the Board on June 1, 1994, the design of the roof structure was revised so that all of the setback requirements were met. Under those plans, relief continued to be required under Section 411 because the walls of the roof structure were not all of equal height.

10. In a post-hearing submission dated August 17, 1994, the applicant submitted further revised plans, marked as part of Exhibit No. 84 of the record. A further public hearing was held on September 28, 1994, at which time the applicant explained the revised plans, and all parties had the opportunity to respond to the revised plans. These plans, which served as the basis for the Board's consideration and decision, comply with all of the requirements of the Zoning Regulations regarding roof structures. Consequently, no relief under Section 411 was required for approval of the application.

11. As a case for further processing under the approved campus plan, the applicant must meet 11 DCMR Subsection 3108.1, authorizing special exception relief; Subsection 210 governing Colleges and Universities; and the limitations placed on the University by BZA Order No. 14455, the approved campus plan order.

12. Under 3108.1, George Washington University ("GWU", "the University" or "the applicant") must demonstrate that granting the special exception to allow the Health and Wellness Center will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and that it will not tend to affect adversely the use of neighboring property.

Subsection 210.2 states:

210.2 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.

13. In Application No. 14455, the BZA approved the campus plan for George Washington University. The approved plan designates the subject site in the "support with residential" category. This category is designated to include athletic facilities, administrative offices, physical plant facilities auxiliary services, parking and other support functions.

14. The approved campus plan provides that buildings requiring the greatest access, including the Gelman Library, the Marvin Center, classrooms and laboratories and faculty offices, will be given the most central location. Buildings requiring less accessibility, including athletic facilities and support services, will be located on the periphery of the campus.

15. In its Order No. 14455 approving the campus plan, the Board required that, in each application for a new building or addition to an existing structure, the University include the following:

a. A showing that the use, height, bulk and design of the proposed structure is sensitive to and compatible with adjacent and nearby non-university owned structures and uses;

b. An indication of any need for an amount of interim leased space necessary to accommodate activities displaced by construction and/or activities intended to be located permanently at the completed structure; and

c. Re-computation of the University's total FAR.

16. The applicant maintains that the proposal meets the requirements of the Zoning Regulations and the approved campus plan. The applicant provided information about the proposed use, the appropriateness of the location, and its compatibility with surrounding uses.

17. The subject property is presently improved with a surface parking lot accommodating 105 attendant-parked cars.

18. The applicant proposes to develop the site with a Health and Wellness Center that would house intramural recreational facilities for the campus, including squash courts, racquetball courts, weight training rooms, basketball courts, fitness and

aerobic exercise areas and a running track. The Center will also accommodate the student health clinic, a sports medicine program, a cardiac care facility and certain instructional facilities for the Exercise Science Department. Support rooms ancillary to these services, such as examination rooms, a pharmacy, offices, locker rooms, a juice bar and storage would also be provided.

19. The building footprint follows the L-shape of the lot. The dimensions of the interior facilities, particularly the required size for basketball courts and squash courts, dictated that the largest part of the building be contained within the wider leg of the L, that is, on the portion of the site which is closest to 23rd Street.

20. The building will contain a total of 90,145 square feet of gross floor area, or an FAR of 3.34 on the subject site. The Zoning Regulations allow a university to aggregate its FAR across all residentially-zoned property within the campus. However, this application requires no aggregation of FAR because the proposed density on this site is less than that which is permitted under the R-5-D District.

21. A number of uses surround the subject site. Immediately to the north, there is a two-story parking garage and eight surface parking spaces. Further north within Square 42, there is a 15-foot wide east-west public alley. Across the alley is a historic landmark, St. Mary's Church. To the west is St. Mary's Court, a nine-story building housing elderly residents; another parking lot, the site of a proposed student residence facility; and three rowhouses (two of which are owned by the University). The two-story International Order of Odd Fellows building is also to the west of the site.

22. Across G Street to the south of the site, there are several privately owned rowhouses that are principally used for residential purposes.

23. Immediately across 23rd Street to the east is Funger Hall, a seven-story classroom building. The Tompkins Engineering Building is also located across from the subject site. Diagonally across 23rd Street to the southeast of the site is the Smith Center, the intercollegiate sports facility for the campus.

24. The applicant maintains that the facility will be designed so as not to be objectionable to surrounding uses like St. Mary's Church, the lodge, and other nearby uses. The applicant provided the following information to address the issue of compatibility:

Design and Materials

25. By architectural treatment of cornice lines and materials, the facade would match the small scale rowhouses, St. Mary's Church, the larger scale residential structures of the surrounding neighborhood, as well as the concrete University buildings across 23rd Street and on the campus in general.

26. The main entrance to the building would be located at the corner of 23rd and G Streets, where the corner of the building has been recessed to create an entrance court. The entrance bay would be comprised of light colored pre-cast concrete with a large seal of the University inscribed above the doors. The primary block of the building, to the north of the entrance bay, would contain the large open gymnasium space for the building. The south elevation, along G Street, N.W., would be articulated with a band of windows on the first two levels and a solid wall of architectural pre-cast concrete panels above. The name of the University would be inscribed in large letters above the dropped cornice line at the top of this elevation.

27. The building would be set back approximately 80 feet from the adjoining lodge to the west, and about 30 feet from the historic St. Mary's Church. The north facade which faces the adjoining garage and the historic St. Mary's Church was designed to be compatible with the Church. The lower portion of the building would match the material, height and color range of the Church and the houses across G Street. Windows were included in the north wall and the wall would be of a lighter color as the building gets higher. A setback was provided at the top of the north wall at the height of 78 feet. The applicant maintains that all of these conditions combine to provide adequate light to the windows of the Church and result in a design which is compatible with adjoining non-university owned structures.

28. The Office of Planning (OP) submitted two reports to the Board on the subject application. The first report, dated April 13, 1994, recommended approval of the application. OP reported that the proposed Center would be consistent with the approved campus plan for the University. The facility would not result in an increase in the number of students, faculty or staff. With the proposed project, the bulk of buildings on the campus would not exceed that which is permitted in the approved campus plan. OP was of the opinion that the applicant had met the burden of proof for the requested special exception and that the use and operation of the proposed facility would not impair the intent, purpose and integrity of the Zoning Regulations for the R-5-D District. In a second report, dated June 3, 1994, OP recommended denial of the application as far as the lot occupancy variance was concerned. Since the lot occupancy variance was withdrawn, the Office of

Planning indicated at the public hearing that it supported the application as set forth in the original report and that the design is sensitive to the adjoining St. Mary's Church.

29. The Department of Public Works (DPW), by memorandum dated April 18, 1994, stated that it had reviewed the application and determined that the amount of traffic to and from the site will not change as the new garage will replace the existing parking lot. DPW reported that from a transportation viewpoint, this proposal can be accommodated by the existing transportation system and facilities. DPW had no objection to the proposal.

30. Advisory Neighborhood Commission 2A, by resolution dated April 16, 1994, and by testimony at the public hearing, opposed the application. The ANC did not submit a further report on the revised plans. The ANC noted the following issues and concerns:

a. The site is inappropriate for another high volume student activity center, because it is on the periphery of the campus and adjacent to primarily residential uses. The subject site is a perfect place for student housing.

b. The site is inappropriate for a high, massive building because it would be adjacent to the historically and architecturally significant St. Mary's Church. The proposed height and bulk of the building would not be sensitive to and compatible with St. Mary's Church.

c. The site is inappropriate for a building which would obscure the vista, diminish the openness and interrupt the visual connection between the lower scale residential homes to the south and the lower scale St. Mary's Church to the north. The design of the proposed Center is incompatible with the policies of the Comprehensive Plan designed to protect special streets and places. Twenty-third Street between the Lincoln Memorial and Washington Circle is designated as a special street.

d. The University cannot justify a variance from the lot occupancy requirements.

e. The University is not entitled to an exception from the setback requirements for the roof structure because it cannot, and does not, meet the standards of Section 411 of the Zoning Regulations.

f. The proposed building violates the intent of the Zoning Regulations to prevent unreasonable campus expansion into improved low density districts.

g. The Center would be one of the most highly used buildings by students. It will generate significant noise and would be a high volume activity center that is more appropriate in a core area of the campus rather than in the periphery area where support facilitates are located.

h. The proposed construction would lessen but not deaden noise generated inside the building, especially noise from bouncing balls and persons using the running track, particularly along the north side of the building adjacent to St. Mary's Church.

i. Trucks accessing the service and delivery facility through the alley would create adverse noise and traffic effects on St. Mary's Church.

j. The BZA order approving the campus plan specifically states that athletic and recreational activities are to be confined to the Smith Center, a fully enclosed building offering excellent sound containment. The order further indicates that the University would conduct all other athletic and recreational programs off-campus.

31. No owners of property in the vicinity of the site appeared at the hearing to testify in support of the application.

32. A number of parties testified in opposition to the proposal. One of the opponents is St. Mary's Episcopal Church. St. Mary's Historic Preservation expert testified about the general and architectural history of the church, and the negative impact that the proposed structure would have on the church.

33. St. Mary's was the first Episcopal church in Washington founded for African Americans. When the congregation outgrew its first small wood frame chapel, it began the process of obtaining land and an architect to design the future church. The architectural firm of James Renwick, an internationally acclaimed architect, was asked to design the new church. The budget for the project was $6,000, with some of the work, such as the stained glass and interior finishes, being donated by parishioners.

34. The first design was a collection of buildings connected by a brick wall creating a type of "close." The design included a chapel with a large chancel with an arch, an organ, robing rooms and a bell tower. Living quarters and a small office building were planned. Because of budget constraints, Renwick suggested the use of brick construction, leaving the brick exposed on the interior, and using a simple roof and cement floor. The first set of plans were not considered satisfactory and Renwick personally supervised the next design. Although the new design was beautiful, it exceeded the budget. Renwick reduced costs by lowering the walls

of the church, simplying the roof truss system and omitting much of the decorative brick work. The modified design was still greater than the $6,000 budgeted. Renwick advised against any further modifications and the committee was forced to decide whether to increase the budget to $15,000.

35. Renwick stressed form, mass and structure and, due to the limited budget, he reserved most of the architectural decoration for the most important parts of his design. The low, simple lines of the facade, typical of late Victorian architecture, were accented by the picturesque tower with its well-proportioned entrance of molded brick and freely designed terra cotta panels. Inside the church, the focal points are the clearly articulated chancel, enframed by an arch of contrasting brick and the handsome timber roof of the nave. For the stained glass window design, Renwick had specified rich, deeply colored glass, however only one of the windows, a choice example from the Tiffany studios, was commissioned according to Renwick's original design. Today St. Mary's is the only privately-owned Renwick structure in the city.

36. In 1973, St. Mary's Church was listed on the National Register of Historic places by the Congressional Joint Committee on Historic Landmarks. In the nomination, St. Mary's was listed as "contributing significantly to the cultural heritage and visual beauty of the city." With the advent of D.C. Law 2-144, the city's historic preservation ordinance, in 1978, the church was included in the District's Inventory of Historic Sites.

37. Mr. Robert Rivers, an expert in historic preservation planning testified that the proposed use of the Health and Wellness Center is not compatible with the church use because the peak hours of usage are the same and the noise generated will be disruptive to church activities. Using slides, Mr. Rivers also testified that increased usage of the alley would be detrimental to the church structure's integrity, that the scale of the Center would overwhelm the church and construction of the Center, as proposed, would result in a significant blockage of sunlight to the church and the church's stained glass windows. Mr. Rivers also demonstrated with his shadow study that shadows would exist year-round and only during two months of the year would the church be relatively free of such shadows during the peak hours.

38. Responding to concerns expressed by St. Mary's Church, the applicant had its expert conduct a review of St. Mary's shadow study. The applicant's expert, George Sexton Associates, maintains that St. Mary's shadow study diagrams are a reasonably accurate indication of the shading of St. Mary's by the Health and Wellness Center as it was initially proposed (90-foot height with no set back and penthouse). However, the applicant's expert found the shadow study report to be incomplete because it does not take into

consideration the total effect of daylight on St. Mary's, including all of the components of natural light (i.e. the sky and number of cloudy and partly cloudy days in Washington). The applicant's expert noted that at any point in time, the amount of daylight and the weather conditions are constantly changing and these changes should be considered in analyzing the actual impact that the center would have on the church.

39. Based on the conclusions of the applicant's lighting expert, the applicant stated that the Center would cast some shadows on St. Mary's Church, particularly on the south-facing windows adjacent to the alley. However, the material prepared by a lighting consultant demonstrates that the amount of available light to those windows would be approximately the same as was afforded by the building which was only 30 feet high on the Church's property. The applicant maintains that the lighting expert's testimony and report were based on reasonable assumptions using a computerized model and were not contradicted by any probative testimony or evidence submitted by the opposition. The principal stained glass window in the sanctuary is at the front in the east wall of the Church. That window would not be affected in any way by the proposed building. The applicant stated that the consultant's report and expert testimony further demonstrate that there would be adequate light to illuminate the stained glass windows as seen from inside the Church, even if that light is not from the direct rays of the sun. The ratio of the brightness of the windows to the wall would generally be a minimum of 25:1, whereas a ratio of only 10:1 is a good and acceptable condition.

40. With respect to the courtyards, the applicant stated that the shadow which would be cast by the proposed building would not significantly change the condition caused by the shadows cast by the existing church and garden wall.

41. As for the study by the applicant's lighting expert, St. Mary's stated that even with the new setback, direct sunlight to the church and its stained glass windows still would be substantially reduced. Furthermore, the lighting studies were misleading insofar as they discuss the past building conditions caused by the 30-foot building that was adjacent to the two-story garage owned by St. Mary's Church. Although it is true that the 30-foot building reduced the amount of direct light to the church, the building did not span the entire depth of the site. There were breaks between the house and the carriage house that allowed light to enter the church. This is much different from the currently proposed solid wall that would extend the entire length of the lot. In addition, according to St. Mary's expert, the applicant totally disregards the special qualities for direct sunlight, and instead depends on a cumulative ambient light over time.

42. St. Mary's Church raised several other issues in opposition to this application. They are as follows:

a. The proposed design is in contradiction to Condition No. 9 of BZA Order No. 14455, requiring that university structures be compatible with and sensitive to the height, bulk and design of adjacent non-university owned structures.

b. The medical uses included in the building are inconsistent with the campus plan which limits the use of the site to support uses.

c. The peak hours of usage of the Center would occur at the same hours when the Church is most heavily used. The noise, activity in the alley, and demand for parking would have an adverse impact on the Church.

d. The proposed building is out of scale with St. Mary's Church and the rowhouses across G Street to the south, which form the immediate context for the building.

e. The construction of the Center threatens the physical integrity of the Church, particularly the foundation of the Church during construction.

f. The applicant's analysis of the traffic impacts did not take into account the cumulative effect of existing development plus other proposed University development in the area.

43. The Foggy Bottom Association, by written statement and by the testimony at the public hearing, opposed the application for the following reasons:

a. The campus plan intends to have recreational programs conducted either in the Smith Center or off-campus, not on the subject site.

b. The proposed building violates the campus plan, by placing a facility generating a high volume of activity close to residential areas and not in the center of the campus.

c. The proposed building is not compatible with adjacent non-university structures.

d. The proposed building would bring a high level of both pedestrian and vehicular traffic into close proximity with the adjacent residential neighborhood.

44. The Columbia Plaza Tenants Association, by written statement and the testimony of Dorothy Miller, opposed the application because of potential adverse impacts on the community resulting from traffic, the size of the facility and encroachment of the University into the residential area.

Issues Raised:

The issues raised in this application are as follows:

1. Whether the use, height, bulk and design of the proposed facility are sensitive to and compatible with nearby non-university owned structures and uses?

2. Whether the proposed University facility is located in such a way that it is likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions?

3. Whether granting the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map?

4. Whether granting the special exception will tend to affect adversely the use of neighboring property?

FINDINGS OF FACT:

Based on the evidence of record, the Board makes the following findings of fact:

1. The proposed structure for the Health and Wellness Center is too bulky to be located adjacent to the St. Mary's Episcopal Church, given the church's design and historical significance, and the location of the stained glass windows.

2. The proposed use of the facility is inappropriate for this location adjacent to St. Mary's Episcopal Church, given the church's purpose and the activities that occur there.

3. The use is too intense for this location because of the number of people expected to use the facility on a daily basis and the incompatibility of the use during church hours.

4. Traffic created by the facility would adversely affect the use of neighboring property.

5. Noise associated with use of the facility would create adverse impacts on neighboring property.

6. Measures imposed by the University would not alleviate the most objectionable impacts of the proposed facility even though they may minimize other objectionable impacts. While some impacts are lessened, the resulting conditions remain objectionable.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception to construct a health, wellness and fitness center in an R-5-D District. The Board concludes that the applicant has not met the burden of proof for the relief requested.

The Board is of the opinion that the use and bulk of the proposed structure are insensitive to St. Mary's Church. The Board believes that while the applicant modified the initial design to accommodate the church, the applicant was unable to adequately address the impact that the large building will have on the sunlight needed to illuminate the stained glass windows. The Board believes that the architectural integrity of the church would be compromised by the size of the proposed structure.

The Board concludes that the location of the structure at the site would create objectionable conditions for the adjacent church. The Board also concludes that granting the special exception would not be in harmony with the general purpose and intent of the Zoning Regulations and Map and that it would affect adversely the use of neighboring property.

This case involves the further processing of a Campus Plan prepared for the 15-year period between 1985 and 2000. The Plan was approved in 1988 and is subject to 18 conditions.

Under the Zoning Regulations, a campus plan or, in this case, a further processing of a campus plan, is governed generally by the special exception provisions of Section 210 of the Zoning Regulations. With regard to the special exception relief sought, the burden is on the university to show that the proposed exception satisfies the requirements of the regulation. In that regard, the Board must find that the proposal is not likely to become objectionable to neighboring property owners because of noise, traffic, the number of users, or other conditions and that the proposal will not unreasonably expand the campus into improved low-density districts.

In Draude v. Board of Zoning Adjustment, 527 A.2d 1242 (D.C. 1987), the Court considered issues relating to the bulk limitations

contained in Subsection 210.3 of the Zoning Regulations and the "aggregation" principles in that provision and the proper analysis of issues relating to impacts on traffic, air and light. Subsection 210.3 provides that the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-D District. The Court stated that although the regulation creates permissive increases in bulk requirements otherwise applicable to residential districts it is the intent of the regulation to prevent unreasonable campus expansion into improved low-density districts.

While the regulation creates permissive increases, the composite FAR is not permitted as a matter of right but only by special exception. Thus, the Court made it clear that before permitting any construction under the aggregation rule, the Board must find that the permitted expansion in a structure's bulk is consistent with the expressed policy of avoiding unreasonable expansion into improved low density districts and will not tend to affect adversely the use of neighboring property. This is reflected in the Board's order where it conditioned approval on the campus plan by the incorporation of a design criteria which requires the University to design future structures adjacent to non-University buildings such as St. Mary's Episcopal Church in a manner which is consistent with the existing height, bulk and design of that structure. Thus, with each specific building submitted for approval, whether it seeks to take advantage of the aggregation rule or not, construction must also separately qualify under standards applicable for a special exception and the conditions ordered by the Board. In protecting the Church and its historic character, the condition also permits the Board to insure that adequate light and air is received by the Church and that its aesthetic or visual context is protected.

In this case, while the proposed Center has an FAR equal to the maximum FAR permitted under R-5-D, and the aggregate FAR is 2.43, the Board still had to consider whether the height and density of the proposed Center, given the additional limitations placed upon the design of the proposed Center in its prior Order, is consistent with the expressed policy of avoiding unreasonable expansion into improved low density districts and will not tend to affect adversely the use of neighboring property. The Board concludes that the construction proposed does have a significant adverse affect on adjacent property and is not sensitive to the adjacent St. Mary's Episcopal Church.

In Draude the Court also looked at the issues relating to traffic impacts and the impacts on the light and air to adjacent development. With regard to traffic impacts, the Court stated that the Board must consider whether the increase in traffic, in relation to the traffic generated by other buildings, is objectionable. The University's traffic expert cannot evaluate the traffic

conditions created by the Wellness Center in a vacuum but must provide the Board with traffic figures that are generated by all existing buildings and new buildings recently approved for construction or by comparison with any possible non-University structure which could be built as a matter of right. The University did not comply with this requirement.

As for light and air, the Board concludes that construction of this building will have a significant adverse impact on the historic St. Mary's buildings. In Draude, supra, 527 A.2d at 1252-53, the court held that an adverse effect on light and air can be a basis for denying either a special exception or a variance. In some cases the Board has stated that if the conditions are worse then before, or worse than what would be permitted as a matter of right, than the effect is an adverse effect. Cf. Draude v. Board of Zoning Adjustment, 527 A.2d at 1252-53. Thus, in most circumstances, the Board must either evaluate the effect of the new construction on the light and air to the Church in comparison with what could be constructed as a matter of right, that is, a realistic conforming structure, or the Board must evaluate the impacts to determine whether the proposed building would significantly increase objectionable qualities over current conditions. Condition No. 9 of the Board's prior order precludes any reference to what could be built as a matter of right, when considering the effect on light and air. Moreover, as the testimony demonstrated, regardless of what test is utilized, matter of right conforming structure, current conditions or development under the design condition imposed, the Wellness Center creates objectionable conditions on neighboring property.

In Levy v. Board of Zoning Adjustment, 570 A.2d 739 (D.C. 1990), the Court considered objections to the 1985 Campus Plan approved by the Board. The Board's order, which imposed the 18 conditions on the University (already referenced), required the University to provide an early warning on development plans for specific sites and made it clear that if any proposed development was not sensitive to nearby non-University owned structures and uses they would be rejected when formally submitted for approval. Commenting on the generalized nature of the plan approved, the Court stated that it would contravene the regulatory scheme for the Board to approve a building plan, even one with broad outlines, but then grant future special exception applications for specific buildings inconsistent with the plan. The approved campus plan, the Court said, restrains the placement of a given building much like other zoning restrictions.

Finally, under the approved campus plan, the University may locate a facility on the site which supports a residential use, such as athletic facilities, physical plant facilities, auxiliary services and parking, if it had met the special exception criteria under the Zoning Regulations. The Board concludes, however, that

the University may not locate health care facilities and support functions related to health care facilities. Thus, to the extent the construction plans show that such health care facilities are located within the proposed Wellness Center, the Board concludes that, in the absence of an application to amend the campus plan, such uses are in violation of the approved campus plan.

In light of the foregoing discussion, the Board concludes that the application is hereby **DENIED.**

Vote: 3-2 (Laura M. Richards, Susan Morgan Hinton and Angel F. Clarens to deny; Craig Ellis opposed to the motion; William Johnson opposed to the motion by absentee vote).

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

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: FEB 21 1997

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, 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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