

Government of the District of Columbia

ZONING COMMISSION



Application No. 16036 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 expand the site and building of a previously approved student residence facility from 93 to 119 units in an R-5-D District at premises 2350 H Street, N.W. (Square 42, Lots 816, 848 and 844).

HEARING DATE: April 12, 1995
DECISION DATE: April 12, 1995 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located at 2350 H Street, N.W., on the southeast corner of the intersection of 24th and H Street, N.W. It is located within the George Washington University Campus on Lots 816, 844 and 848 in Square 42.

2. The site consists of 22,180 square feet of land area and is improved with a surface parking lot accommodating 57 vehicles and three, two-story semi-detached and row dwellings. The site is generally rectangular in shape and is relatively level except for the southeastern portion where it slopes upward. It has 200.70 feet of frontage along H Street, N.W. and 122.0 feet of frontage along H Street N.W. The site abuts a portion of a 30-foot wide public alley at its southwest corner.

3. The property is located in the Foggy Bottom neighborhood within the northwest quadrant of the city. H Street is located to the north of the site. The rear of the George Washington University School of Medicine and Applied Sciences is located across H Street. The Hillel Center, a religious organization is housed in a three-story structure on the southwest corner of the intersection of 23rd and H Streets N.W. immediately east of the site. Immediately south of the site in the R-5-D District, there are located both a nine-story senior citizens building (St. Mary's Court) at 725 24th Street, N.W., and St. Mary's Episcopal Church at 728 23rd Street, N.W. The nine-story Potomac Plaza senior citizens building is located across 24th Street from the site. Diagonally across the intersection of 24th and H Streets there is a nine-story apartment house (Bon Wit Plaza).

4. The site is located in an R-5-D District which permits matter of right general residential uses of high density development, including single-family dwellings, flats, and apartments to a maximum height of 90 feet, a maximum floor area ratio (FAR) of 3.5, and a maximum lot occupancy of 75 percent. Relative to this

application, a college or university that is an academic institution of high learning, including athletic and other recreational facilities proposed to be located on the campus of a college or university, is permitted in an R-5-D District if approved by the Board of Zoning Adjustment.

5. The applicant is proposing to construct a 119-unit on-campus student residence facility to accommodate 447 students, and 57 parking spaces in an underground garage. The Board of Zoning Adjustment by BZA Order No. 15930 dated May 27, 1994, approved an application by George Washington University (GWU) for the construction of a 93-unit, 354 bed student residence facility on Lot 844. That application included a request for special exception relief from the penthouse setback provisions. The subject application does not require any additional relief.

6. Since the approval of Application No. 15930, the University has acquired property located to the east adjacent to Lot 844. The acquisition allowed the University to expand the size of the building site by combining the recently acquired property (Lot 816) with other properties it already owned (Lot 848). The additional land area allowed the University to add 26 more units, and 93 additional beds to what was proposed in the previous application.

7. The applicant, indicating that many of the findings and conclusions in the BZA Order No. 15930 are relevant to the subject application, has requested that the record in the previous case (No. 15930) be incorporated into the subject case.

8. The applicant stated that the proposed 119-unit residence facility is designed to accommodate 447 students. The plans provide for 14, one-bedroom and 105, two-bedroom units. The one bedroom unit plan consists of a combination living and dining room, full kitchen, bathroom with shower, and closets. The two bedroom unit plan consists of a combination living room and dining room, full kitchen, two bathrooms with showers, and closets. Laundry facilities for all of the units are provided on the ground floor, and there is trash handling/compactor room on the second floor. Common space areas, including community room, T.V. lounge, electronic library, mail room, and copier room are also available to students on the ground floor. The facility will include two underground parking levels consisting of 57 parking spaces to replace those spaces currently on the site.

9. The applicant further stated that the proposed student residence facility will be built of masonry, to a height of 80 feet and nine stories. The facility will have a floor area ratio of 6.46, and will raise the aggregate campus-wide residential floor area ratio from 2.29 to 2.40. The applicant indicated that the

building and its open space areas incorporate elements found throughout the larger community, including a continuation of the theme of the campus streetscape.

10. The applicant also testified that the George Washington University Campus Plan, year 1985 through 2000, revised Exhibit No. 44, dated October 12, 1993, Land Use Map identifies the subject site's land use designation as Residential with Educational Mixed Use. The Campus Plan also identifies the subject site as an alternative residential site. The proposed student residence facility is consistent with the land use designations.

11. By a statement submitted to the record of this case (Exhibit No. 25) and by testimony presented at the hearing, the applicant stated that the proposed facility meets the test of special exception approval under the provisions of Section 210, and Subsection 3108.1 of the Zoning Regulations specifically as it relates to noise, traffic, number of students, and other objectionable impacts as follows:

- A. The proposed building will be built of masonry construction, which has inherent sound insulating qualities. Included in the building's construction will be energy efficient windows and other insulation materials which have the added benefit of deadening sounds. The proposed facility is not expected to operate differently, in terms of noise generated, from that of a typical apartment house. Sound levels are not expected to exceed those of normal conversation.
- B. The proposed facility will not increase the student enrollment, and the University's faculty and staff population will not change as a result of the construction of the facility. The facility will provide on-campus housing for 447 undergraduate students.
- C. Except for the temporary closing of the parking lot during the construction of the residence facility, there will be no permanent displacement of a university use as a result of this case. No new personnel will be arriving on the campus as a result of the approval of the application. No additional visitor traffic to the campus will occur as a result of the proposed use. The proposed facility would have 57 underground parking spaces replacing the 57 surface parking spaces currently in the existing parking lot on the site. The total number of parking spaces on campus will meet the required range of 2,700 to 3,000 parking spaces established by the Board. Very few student residents of the building are expected to have automobiles at their personal disposal on-campus. Present acceptable traffic levels of service on 24th and

H Streets will not fall below the current operating status. The entrance to the garage has been designed so as not to be disruptive to pedestrian and vehicular movement.

- D. The proposed plans call for the location of a loading area at the rear of the building. The loading area is accessed via a public alley. The loading area will be used to service deliveries from van-sized vehicles. The University has agreed not to accept deliveries on Sundays via the public alley. The University has also agreed that trash removal from the building will be from the below ground garage access ramp, rather than the loading area via the public alley as was previously proposed in Application No. 15930. Major deliveries to the building by larger sized vehicles will be routed to the University's support building located in the 2000 block of F Street, N.W. Vehicular access to the site will be from 24th Street and the alley to the rear of the site except for Sundays.

12. The applicant's architect testified that the special exception relief from the roof structure provisions that was requested in the previous application is no longer needed. The penthouse, as it is currently designed, will meet all of the setback and height-to-depth ratio requirements.

13. The applicant testified that the University's outreach action in the community resulted in endorsements of the subject proposal by ANC-2A and property owners of Square 42 in which the subject site is also located. The property owners included the Hillel Center situated on the northeast corner of the block; the Oddfellows Association on the southwest corner; Saint Mary's Church on 23rd Street; and Saint Mary's Court on the west side, mid-block, on 24th Street. The University has signed agreements in principal with Saint Mary's Episcopal Church (Exhibit No. 41) and Saint Mary's Court (Exhibit No. 30).

14. The Office of Planning (OP) by memorandum dated April 3, 1995, recommended approval of the application. The OP was of the opinion that the proposed construction of a dormitory is needed to provide an on-campus student residential facility that adequately meets the present day needs of the University and its students. The OP was further of the opinion that by constructing the facility, the University would also address a long-standing demand by the community for the provision of residential facilities on the University's campus. The OP noted that the proposed facility would not result in an increase in the number of students and faculty or staff and that, with the proposed project, the bulk and height of buildings on the campus would not exceed that which is permitted in the approved campus plan. The Office of Planning was of the

opinion that the applicant met the burden of proof for the requested special exception relief under Section 210 of 11 DCMR 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.

15. By resolution dated April 4, 1995 and by testimony at the hearing, the Advisory Neighborhood Commission (ANC) 2A supported the granting of the application with the following conditions:

- A. The University shall secure the approval and support of St. Mary's Court, St. Mary's Episcopal Church and all other owners of the square.
- B. The applicant provides a staffed 24-hour desk/message center in the lobby level to enhance security and agrees to the following permanent and temporary operating conditions:

Permanent Operating Conditions:

- i. Deliveries shall be limited to the hours of 7:00 a.m. - 7:00 p.m. on Monday through Friday, and 8:00 a.m. - 6:00 p.m. on Saturday, and none on Sunday.
- ii. Trash pick-up shall be limited to 7:00 a.m. - 7:00 p.m. on Monday through Friday, and 9:00 a.m. - 6:00 p.m. on Saturday, and none on Sunday.
- iii. No semitrailers shall be permitted to enter the back alley and make deliveries. If necessary, use of a central loading point from which deliveries could be brought to the residence hall by smaller vehicles should be required.
- iv. Delivery vehicles and other vehicles shall not be allowed to idle at the loading dock area or when waiting to approach the loading dock area.
- v. Adopt stringent standards regarding pollution, trash, and rodents. The loading area and alley should be kept clean and free from litter and liquid wastes.
- vi. There shall be an attendant at the reception desk 24-hours per day.

Construction Period Conditions:

- i. Limited construction activity, with its attendant noise, to 8:00 a.m. - 5:00 p.m., on Monday through Friday, 9:00 a.m. - 5:00 p.m. on Saturday, and none on Sunday. This shall include no on-site warming up of machinery, equipment, or the equivalent along 24th or H Streets, or in the alley, and no workers on-site.
- ii. Limit the location of construction office trailers, cranes, trucks, waste dumpsters, and other vehicles and equipment, and of construction materials, to the site itself and/or to the parking lanes on H and 24th Streets only.
- iii. Restore the pavement in the alleyway and along 24th and H Streets, as necessary, at the conclusion of the construction period.
- iv. Take all necessary precautions to ensure that no damage is caused to buildings adjacent to the site.

16. Counsel to St. Mary's Episcopal Church (SMEC) submitted to the Board an agreement in principle that was reached between the Church and The George Washington University (GWU). Counsel, testifying on behalf of the church, addressed some aspects of the agreements including the issue of trash removal. He stated that in accordance with the agreement, trash will be collected from within the underground garage rather than through the ramp by way of the public alley behind the church. The Church also requested that the following four items which are in the agreement be made conditions of approval of the Board's Order.

- A. GWU will include in the project the installation of a six-foot privacy wall with an access gate to separate the On Campus Housing facility from the SMEC Rectory. GWU will grant a pedestrian and Church maintenance easement between the Church and the On Campus Housing facility.
- B. GWU will limit construction activity in the alley to that where no alternate means is reasonably possible, primarily involving lifting operations that must be conducted utilizing that side of the property. SMEC will be given prior notice of such construction activity and any activities will comply with the District's use of public alley space and precautions will be taken to limit such activity.

- C. GWU will assure access from the Rectory to all portions of the public alley after construction is complete.
- D. GWU will make every effort to avoid construction noise during funerals and other services at all times during construction. No exterior construction activity will take place on Sunday. Saturday exterior construction activity will be limited to makeup time due to bad weather when activities are not conducted on other days of the week.

17. The Vice President of the Board of Governors of Hillel, which is the facility directly adjacent to the proposed facility, testified on behalf of the Board of Governor's, the students, and the staff associated with Hillel, in support of the application.

18. Two residents of the neighborhood testified in opposition to the application. Issues and concerns identified by the two individuals were the following:

- A. A dormitory on the periphery of the campus boundary, abutting the residential neighborhood is not compatible with the existing residential neighborhood. The noise that would be generated by the large number of students, trash problems and parking and traffic congestion that would be created as a result of the use in the proposed facility would have a substantial detrimental and objectionable effect on residents of the neighborhood.
- B. The number of parking spaces provided for the proposed facility will not be sufficient enough to accommodate the parking need that would be generated from the use of the facility.
- C. There is inconsistency with the actual number of existing parking spaces on the subject site and the total number of spaces identified by the applicant. One of the two people in opposition also testified that proper notice had not been given to the residents of the Potomac Plaza Terraces, Inc., a cooperative located within 200 feet of the boundaries of the proposed facility. He also requested the Board to leave the record open to accept testimonies from the residents of the cooperative.

19. The University, through counsel, responded to issues and concerns raised by the opposition stating that the University has made a very determined effort to negotiate, discuss and work out the concerns of the community. The applicant believes that as a result of such an effort the community overwhelmingly supports the application. In addition, the concerns have been dealt with in the

conditions which the Board has imposed in the previous application and the supplemental conditions submitted to the record of this application.

With regard to allegation by one of the people in opposition that proper notice had not been given, the applicant indicated that proper procedures were followed and that notice was sent to the address listed for the registered owner of the property in the Office of Finance and Revenue.

FINDINGS OF FACTS:

1. The Board finds that the proposed facility complies with the special exception criteria set forth in Section 210 of 11 DCMR.

2. The proposed site has been designated as a preferred housing site under the approved campus plan.

3. The height, bulk and design of the project are compatible with existing development in the area. The architectural design and materials of the facade are in keeping with the design elements and red brick color common to campus development. The use of the structure for student housing is in keeping with the residential/institutional character of the immediate neighborhood and the approved campus plan.

4. The proposed project will not increase the present student enrollment of the University, but is designed to provide on-campus housing for the existing undergraduate student population. There will be no increase in the number of faculty or staff of the University as a result of this project.

5. The applicant has provided 57 underground parking spaces to replace the existing 57 surface parking spaces so that the total number of parking spaces on campus would remain within the 2,700 to 3,000 range currently required by the approved campus plan.

6. The proposed masonry construction, installation of energy efficient windows and other insulation materials, and the provision of window stops would minimize any noise impacts generated by the project. In addition, the windows on the east side of the building will not open to further reduce any potential noise impacts.

7. The applicant has agreed to conditions related to alley usage, deliveries, trash pick-up, pollution, rodent control operations and construction activities to mitigate any potential adverse impact on adjoining or nearby property and the public alley as set forth in Summary of Evidence No. 24 of BZA Order No. 15930, agreement in principle between St. Mary's Episcopal Church and The

George Washington University (Exhibit No. 41 of application No. 16036) and Agreement in principle between St. Mary's Court and The George Washington University (Exhibit No. 30 of Application No. 16036).

8. Proper notice was given to property owners within 200 feet of the boundaries of the subject property.

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 a showing of compliance with the requirements of Sections 210, and 3108.1 of the Zoning Regulations, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations. The Board further must find that the proposal will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met the requisite burden of proof. As to the special exception relief under Section 210 and Subsection 3108.1, the Board concludes 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 notes that the approved Campus Plan for the University designates the site in the "Residential with Educational Mixed-Use" category, and as a preferred housing site. The Board concludes that the use, height, bulk and design of the proposed student residence facility would not impair the intent, purpose and integrity of the R-5-D District regulations. The Board further concludes that, as hereinafter conditioned, the project is not likely to adversely impact adjacent or nearby properties. The specific design of the building is based on its use as a residential facility, to optimize the amount of natural light and ventilation.

The Board concludes that it has accorded to ANC-2A the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED subject to the following CONDITIONS:

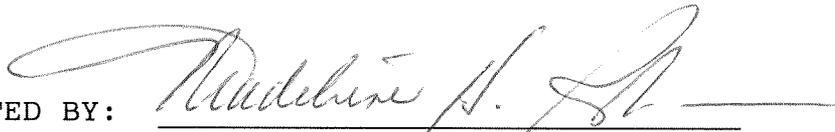
1. Construction shall be as shown on the plans marked as Exhibit No. 25F of the record, except that the applicant shall have the flexibility to provide up to 14 additional parking spaces, if practicable.
2. Deliveries shall occur only between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday; 9:00 a.m. and 6:00 p.m. on Saturday; and 9:00 a.m. and 2:00 p.m. on Sunday. No deliveries shall be made via the public alley at anytime on Sundays.

3. Trash pick up shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturday. There shall be no trash pick-up on Sundays.
4. No semitrailer-sized vehicles shall be permitted to make deliveries to the site via the public alley.
5. No vehicles shall be allowed to idle at the loading dock area or when queuing to approach the loading dock area.
6. The reception desk shall be attended on a 24-hour basis.
7. Access to the parking area at the rear of premises 2310 H Street, N.W. shall not be blocked by vehicles in the public alley at any time.
8. The applicant shall construct a six-foot high screening wall between the loading dock and adjacent property. The height of the screening wall shall be measured from the loading dock side.
9. The applicant shall include and construct a six-foot high privacy wall with an access gate to separate the on-campus housing facility from St. Mary's Episcopal Church Rectory. The applicant shall grant a pedestrian and church maintenance easement between the church and the student housing facility.
10. The applicant will limit construction activity in the alley to that where no alternate means is reasonably possible, primarily involving lifting operations that must be conducted utilizing that side of the property. St. Mary's Episcopal Church shall be given prior notice of such construction activity and any activities shall comply with the District's use of public alley space and precautions shall be taken to limit such activity.
11. The applicant shall assure access from Saint Mary's Episcopal Church Rectory to all portions of the public alley after construction is completed.
12. The applicant will make every effort to avoid construction noise during funerals and other services at all times during construction. No exterior construction activity shall take place on Sundays. Saturdays exterior construction activity shall be limited to make-up time due to bad weather when activities are not conducted on other days of the week.

- 13. The applicant shall maintain the loading dock area free of litter and liquid waste. The applicant shall adopt and maintain stringent operating standards with respect to controlling pollution, trash and rodents.
- 14. The applicant shall comply with all applicable D.C. Government regulations and codes with respect to construction activities, protection of adjoining properties, and repair of any damage to adjoining property or public space.

VOTE: 4-0 (Susan Morgan Hinton, Laura M. Richards, Maybelle Taylor Bennett and Craig Ellis to grant).

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

ATTESTED BY: 
 MADELIENE H. ROBINSON
 Director

FINAL DATE OF ORDER: SEP 15 1995

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16036

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 15 1995 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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MADELIENE H. ROBINSON
Director

DATE: SEP 15 1995