

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16553-G of the George Washington University, pursuant to 11 DCMR § 3104.1, for a special exception for the review and approval of the University Foggy Bottom Campus Plan – Years 2000-2010 under Sections 210 and 507.

HEARING DATES: April 26, 2000; September 13, 2000; September 26, 2000; September 17, 2001; and September 21, 2001

DECISION DATES: December 12, 2000; February 13, 2001; October 9, 2001; October 30, 2001; December 11, 2001; June 4, 2002; and September 4, 2002

ORDER CERTIFYING CAMPUS PLAN

By Order issued March 29, 2001 (“March 29 Order”), the Board approved the University Campus Plan for the Foggy Bottom Campus of the George Washington University (“Applicant”) until June 30, 2009, subject to conditions intended to mitigate adverse impacts arising from the location of a university use in a residentially zoned district. The Applicant subsequently filed a petition for review with the District of Columbia Court of Appeals as well as a civil action in the United States District Court for the District of Columbia. After the district court issued a preliminary injunction preventing enforcement of Condition No. 9 of the March 29 Order, the Corporation Counsel filed a motion in the District of Columbia Court of Appeals to remand the case to the Board for further consideration of its decision in light of the preliminary injunction. On July 31, 2001, the Court of Appeals remanded the case without limitation as to the scope of the remand proceedings. On remand, the Board held evidentiary hearings, and on January 23, 2002 issued an order on remand (“Remand Order”) that amended Conditions No. 2, 9, and 17 of the March 29 Order.

Condition No. 18 of the March 29 Order, which was not affected by the remand proceedings, directed the Applicant to revise its proposed campus plan to reflect changes mandated by the conditions adopted by the Board and set forth in the March 29 Order. Pursuant to Condition No. 18, the Applicant was required to submit a revised plan for certification by the Board as the approved campus plan. The Applicant submitted a draft revised campus plan on May 3, 2002. On August 28, 2002, the Applicant also submitted a biannual report required by Condition No. 9(d) and Condition No. 17 of the Remand

Order. The report provides information concerning enrollment, student housing, and the local addresses of full-time undergraduate students.

Parties in this proceeding, in addition to the Applicant, are Advisory Neighborhood Commission (“ANC”) 2A, the Foggy Bottom Association, the Monroe House Condominium Association, Stephen Mandelbaum, James McLeod, Dorothy Miller, Barbara Spillinger, and Maria Tyler. The Board received requests for additional time to consider the Applicant’s draft revised plan from Dorothy Miller on May 29, 2002, from the Foggy Bottom Association and James McLeod on May 30, 2002, and from Maria Tyler on May 31, 2002. On June 4, 2002 the Board granted the requests to postpone consideration of the Applicant’s draft revised plan.

Comments on the draft revised plan were filed by Dorothy Miller and James McLeod on August 5, 2002, by the Foggy Bottom Association on August 12, 2002, and by ANC 2A on August 29, 2002. The Applicant filed a response on August 26, 2002 asserting that the parties’ comments “[i]n large part . . . re-argue issues that were the subject of the campus plan hearings and were already heard and decided by the Board.” However, in response to issues raised by Dorothy Miller, the Applicant filed a corrected black-and-white map of the campus as well as page A-14 of Appendix A, which was inadvertently omitted from its original filing.

DISCUSSION

The Board’s March 29 Order directed the Applicant to revise its proposed campus plan to reflect the changes mandated by the Board as conditions of approval of the Applicant’s plan. The March 29 Order specified that the revision must include a revised map of the campus showing the campus boundaries and the number of each square within the boundary, and identifying the approved uses for each square. The draft revised plan submitted by the Applicant includes maps of the revised campus boundaries, including Figure D, “Existing Land Use,” and Figure E, “Proposed Land Use.”

Upon review of the comments submitted by the parties in opposition, the Board concludes that many of the issues addressed in the comments pertain generally to the updating of information set forth in the Applicant’s proposed campus plan, compliance with the Board’s orders conditionally approving the campus plan, or to matters already decided by the Board or otherwise outside the scope of the Board’s deliberations with respect to whether the Applicant’s draft revised plan should be certified as complying with Condition No. 18 of the March 29 Order. The parties’ comments do not identify perceived differences between the Applicant’s draft revised plan and the campus plan conditionally approved by the Board, and the parties do not allege that the Applicant’s draft revised plan is not in accord with the Board’s Orders.

The Board concludes that the Applicant's revised campus plan, submitted May 3, 2002 as Exhibit No. 352 in this proceeding, should be certified as the campus plan conditionally approved by the Board. The Board concludes further that that Applicant's filing of August 28, 2002, identified as Exhibit No. 2 in BZA Case No. 16553F, should be attached to the certified plan as an addendum so that the updated enrollment figures and other information will be readily available with the approved campus plan.

The Board notes that its decision to certify the Applicant's revised plan as the approved campus plan does not indicate the Board's agreement with or ratification of all statements made by the Applicant in its campus plan. Rather, the Board reaffirms that its Findings of Fact and Conclusions of Law, especially with respect to the Applicant's impact on neighboring property and compliance with Section 210 of the Zoning Regulations, were stated in the Board's prior orders in this campus plan proceeding, specifically in the March 29 Order and the Remand Order issued January 23, 2002. The Board's findings and conclusions set forth in its prior orders shall govern in the event of any inconsistency between the Board's orders and the certified campus plan.

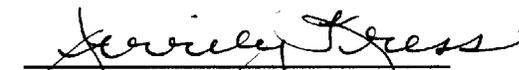
Accordingly, it is **ORDERED** that the Applicant's revised campus plan (Exhibit No. 352) shall be **CERTIFIED** as the **APPROVED** campus plan with the attachment of biannual report filed August 28, 2002 (Exhibit No. 2 in BZA Case No. 16553-F).

VOTE: **3-0-2** (Geoffrey H. Griffis, Anne M. Renshaw, and Carol J. Mitten to approve; Curtis L. Etherly, Jr., and David A. Zaidain not having heard the case, not voting).

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: FEB - 6 2002

PURSUANT TO 11 DCMR §3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR §3125.9, THIS ORDER WILL BECOME EFFECTIVE 10 DAYS AFTER IT BECOMES FINAL.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND

THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

MN/rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16553-G

As Director of the Office of Zoning, I hereby certify and attest that on **FEB - 6 2002** a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Maureen E. Dwyer, Esquire
Shaw Pittman
2300 N Street, NW
Washington, D.C. 20037-1128

Elizabeth Elliott, Chairperson
Advisory Neighborhood Commission 2A
c/o St. Mary's Court
724 24th Street, NW
Washington, D.C. 20037

Maria Tyler, Commissioner
Single Member District 2A03
949 25th Street, NW
Washington, D.C. 20037

Barbara Spillinger
2500 Virginia Avenue, NW
Washington, D.C. 20037

James McLeod
2424 Pennsylvania Avenue, Suite 407
Washington, D.C. 20037

Richard Sheehey, Commissioner
Single Member District 2A01
2000 F Street, NW, Suite 207
Washington, D.C. 20006

Dorothy Miller, Commissioner
Single Member District 2A05
2440 Virginia Avenue, NW
Washington, D.C. 20037

Sara Maddux, Representative
Monroe House Condominium Association
522 21st Street, NW
Washington, D.C. 20006

Steven J. Mandelbaum, Commissioner
Single Member District 2A06
2222 I Street, NW, Suite 513
Washington, D.C. 20037

Jacqueline Lemire, President
Foggy Bottom Association
2555 Pennsylvania Avenue, N.W.
Apt. 509
Washington, D.C. 20037

Jack Evans, Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W., Suite 106
Washington, D.C. 20004

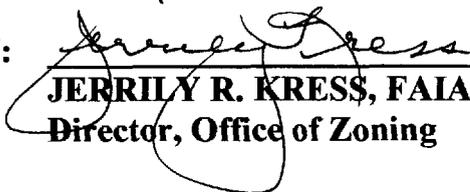
Andrew Altman, Director
D.C. Office of Planning
801 North Capitol Street, N.E., Suite 400
Washington, D.C. 20002

Kenneth G. Laden
Administrator
District Division of Transportation
Department of Public Works
2000 – 14th Street, NW
Washington, D.C. 20009

Robert Kelly, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, D.C. 20002

Alan Bergstein
Office of the Corporation Counsel
441 4th Street, N.W., 7th Floor
Washington, DC 20001

ATTESTED BY:


JERRILY R. KRESS, FAIA
Director, Office of Zoning