

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 957
Case No. 01-20CP/16553
(Campus Plan and Further Processing – George Washington University)
January 14, 2002

This Decision and Order arises out of an application by the George Washington University (“University” or “Applicant”) for special exception approval pursuant to 11 DCMR § 3104.1 and in accordance with § 210 of the Zoning Regulations for further processing under an approved campus plan to authorize the construction and use of a new dormitory on the campus of the University in an R-5-D District at premises 607 23rd Street, N.W. (Square 57, Lot 55).

HEARING DATE: December 6, 2002

DECISION DATE: January 14, 2002

SUMMARY ORDER

1. Advisory Neighborhood Commission (“ANC”) 2A was a party in this proceeding. The Commission received requests for party status from Dr. Donald Kreuzer, Robin Meigel, Marilyn Manolo, and Dorothy Miller. The Commission granted the request of Dr. Kreuzer and denied the requests of Ms. Meigel, Ms. Manolo, and Ms. Miller. St. Mary’s Episcopal Church filed a letter stating that it had not received notice of the hearing as required by § 3113.13(b) of the Zoning Regulations. The Applicant replied, and it was later determined, that St. Mary’s Episcopal Church is not located within 200 feet of the property that is the subject of this application and thus was not required by § 3113.13(b) to receive notice from the Applicant. The Commission noted that the record would remain open after the public hearing for the St. Mary’s Episcopal Church to submit comments.
2. Pursuant to Commission practices relating to campus plans, this application was not accompanied by a self-certification form or a memorandum from the Zoning Administrator certifying the required zoning relief.
3. The Applicant submitted a plan for developing the campus as a whole, showing the location, height, and bulk of all present and proposed improvements as required by 11 DCMR § 210.4. The Board of Zoning Adjustment (“BZA”) approved that plan by order

dated March 29, 2001. The BZA clarified that order, on remand, by order dated December 21, 2001. The approved Campus Plan For The George Washington University For Years 2000 Through 2010 ("approved Campus Plan") adds Square 43 to the campus boundary. The BZA's order of March 29, 2001, and the remand order of December 21, 2001, direct the University to take decisive steps to house 70% of its full-time undergraduate students within the campus boundaries. To that end, the remand order directs the University to provide beds for at least 5,600 full-time undergraduate students on campus, or outside of the Foggy Bottom/West End area, no later than August 31, 2002. In addition, beginning in August 2002, to provide one bed on campus, or outside of the Foggy Bottom/West End area, for each full-time undergraduate student in excess of the University enrollment of 8,000, and directs the University to meet the aforementioned housing requirements exclusively by on-campus housing no later than August 31, 2006.

4. The Applicant proposes to construct a new, state-of-the-art dormitory on a lot it now owns and uses for surface parking on Square 57. The new dormitory will be located adjacent to the Charles E. Smith Athletic Center and across G Street to the south of the University's Fungler Hall building and across 23rd Street to the east of the proposed 700-bed dormitory on Square 43. The proposed structure on Square 57 is also located southeast, across 23rd and G Streets, from the University's new Health and Wellness Center and north, across Virginia Avenue, from the Pan American World Health Organization.
5. The proposed dormitory will contain approximately 54,000 gross square feet of floor area, will consist of a four-story structure with a basement, and will have a capacity of approximately 204 beds. The maximum height of the building will be 45 feet from 23rd Street and the floor area ratio and parking requirements for the facility are considered in the overall FAR and parking requirements for the University as a whole pursuant to the approved Campus Plan. The University has submitted a certification, as required by 11 DCMR § 210.8 that this proposed building is within the FAR limit for the campus as a whole, based upon the computation in the approved Campus Plan and the FARs of other buildings constructed or demolished since the Campus Plan was approved.
6. The dormitory will be located on Lot 55, which is owned by the University and is located on its central campus on property that is properly zoned for dormitory uses.
7. To be named "Townhouse Row", the dormitory will contain "affinity style" dormitory residence rooms for male and female undergraduates in six 24-bed units and two 30-bed units. There will be no on-site parking spaces.
8. The property that is the subject of this application is located on a square bordered by G Street on the north, 23rd Street on the west, Virginia Avenue on the south, and 22nd Street on the east. The site is in the southwestern extremity of the campus area and two blocks south of the Foggy Bottom/GWU metrorail station. Lot 55 contains approximately 17,806 square feet of land area and is currently zoned R-5-D.

9. The University enrolled 8,058 full-time undergraduate students in the fall of 2001. It provides 4,056 beds on campus and 1,395 beds off campus in University owned or controlled facilities. The dormitory that is proposed on Square 57 will add 204 on-campus beds in 2004. In addition, the proposed dormitory on Square 43, if approved, will add another 700 beds and the residential facilities at the Elliott School building, if approved, will add an additional 193 beds. Thus, if all three of the aforementioned residential facilities are approved and built, 1,097 additional beds will be added to the campus inventory, thus raising the number of on-campus beds to 5,153 or approximately 64% of the University's Fall 2001 full-time undergraduate population.
10. The Commission finds that there is an immediate need for the University to construct and open on-campus dormitory facilities if it is to meet the on-campus housing requirement imposed by the BZA in its remand order of December 21, 2001.
11. The proposed dormitory project does not include parking or loading areas. The concrete paved rear yard of Townhouse Row will be designed as a pedestrian path. Each residence will have a designated area for trash and recycle bins which will be collected from the rear of the dormitory. Site features will be designed to limit vehicular access to University maintenance vehicles through the pedestrian path.
12. The University maintains that the proposed use meets the requirements of the Zoning Regulations and of the approved Campus Plan. It provided information about the proposed use, the appropriateness of its location and the proposed project's compatibility with surrounding uses.
13. In accordance with the BZA order of March 29, 2001, and the remand order of December 21, 2001, the University has submitted evidence in the record that shows that it has consistently remained in substantial compliance with conditions 1-19 therein.
14. The generalized land use map of the District of Columbia Comprehensive Plan Act designates the entire campus plan area for "institutional uses". The properties that lie adjacent to the campus are generally designed for high density residential and medium and high density commercial uses. Generally, medium to high density residential and commercial uses predominate to the west of the campus, while high density commercial uses dominate to the east.
15. The University's architect, who was recognized as an expert witness by the Commission, testified that the proposed dormitory is designed so as not to be objectionable to surrounding properties.
16. The University's architect also testified that the proposed design for the Townhouse Row dormitory responds to the urban residential neighborhood context in both massing and materials and draws upon the traditional stone and brick detailing and street rhythm seen in townhouses throughout Washington and the surrounding Foggy Bottom neighborhood. He testified further that the design of Townhouse Row would become an integral part of the streetscape that will introduce the University from the south and frames the view of

23rd Street toward the Lincoln Memorial from the north. The exterior materials of the building will be consistent with those used in other recent projects constructed on nearby blocks and will be designed to compliment the existing townhouses and the proposed residence hall located on Square 43. The Townhouse Row residences will be predominantly brick with precast concrete headers, sills, and banding used as accents. Brick coursing and bond patterns will be varied but ordered to add texture to the building façades. A lead coated copper false mansard roof will top the building and screen rooftop mechanical equipment. The architect testified further that landscaping, as shown on the landscaping plan, will be coordinated with the University's overall campus landscape plan and will not conflict with the city's requirements regarding types, sizes, and locations of plant material. Landscaping of the front yards of Townhouse Row will be residential in scale and plant materials. Finally, the architect testified that the architectural design of Townhouse Row is entirely consistent with the "special street" status of 23rd Street as designated in the District Elements of the D.C. Comprehensive Plan.

17. The University's traffic and parking consultant, who was also admitted as an expert witness, testified that he had performed and submitted into the record a transportation and parking analysis which assesses the impact that the proposed dormitory would have on existing traffic and parking in the area. He testified that there were relatively no new traffic impact caused by the proposed dormitory and that the proposed site access would not have an adverse impact on pedestrians or the surrounding street network. He testified further that the approval of this application would not cause any of the intersections in the surrounding areas to operate at unacceptable levels of service, with the exception of the Virginia Avenue and 23rd Street intersection during the morning peak hour. That intersection is projected to continue to operate at a failing level of service (level F) during future conditions but that the approval of this application will not exacerbate the existing problems because the morning congestion is attributable to commuter rather than local traffic. He also testified that the University would remain in compliance with its campus plan's minimum parking requirement of 2,800 spaces if this application is approved even though the Townhouse Row project will result in a decrease of 47 off-street parking spaces. The University's parking manager collaborated that conclusion in subsequent testimony. The Commission credits this testimony.
18. Based on these conclusions and recommendations, the University's traffic and parking expert concluded that the development of the proposed dormitory on Square 57 would not have an adverse impact because of traffic, parking, or loading. In reaching this conclusion, he testified that his study has taken into account all developments and transportation system changes since the approval of the campus master plan and through the foreseeable future.
19. By memorandum dated November 30, 2001, and by oral testimony at the December 6, 2001, public hearing, the D.C. Office of Planning opined that this application satisfied the zoning requirements and recommended that it be approved. In so doing, the memorandum noted that the development of a residential facility on Square 57 is compatible with the general development pattern along 23rd Street, that the development

of a student residence facility on Square 57 is in keeping with the BZA's campus plan order, that the building of a new dormitory on Square 57 is responsive to many of the concerns and policies of the Comprehensive Plan, that the height of the proposed dormitory is within that permitted in the R-5-D district, and that the granting of a special exception to permit the proposed dormitory on Square 57 will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property. In reaching this conclusion, the Office of Planning expressed concern that the architecture and landscaping plan be refined to reflect the "special street" status accorded to 23rd Street in the District of Columbia Elements of the Comprehensive Plan for the National Capital. The Office of Planning also recommended additional architectural design refinements and that the landscaping plan be further developed

20. By memorandum dated November 30, 2001, the D.C. Department of Public Works ("DPW"), Office of Transportation Planning, concluded that the proposed dormitory project on Square 57 will have no measurable impact on the surrounding street system and noted that this project will provide on-campus housing for students who otherwise would be living off campus, consistent with the directive of the BZA. Accordingly, DPW stated its support for this application. The report also noted that Square 57 is designated as an alternative site for "academic/administrative use" in the approved campus plan. The proposed development is not specifically addressed in the BZA Order of March 29, 2001, other than to generally require more on-campus housing for the University's full-time undergraduate students. The report suggested that the University prepare and submit to the BZA an updated plan that reflects this portion of Square 57 to be in the residential/campus life/athletic land use category. The report noted that the University would remain in compliance with the campus plan's minimum parking inventory of 2,800 spaces notwithstanding the loss of 47 surface parking spaces. The development of a new dormitory on Square 57 is responsive to many of the concerns and policies of the Comprehensive Plan. Finally, the report and testimony concluded that the approval of this application, with the concerns mentioned in the report, will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.
21. By letters dated November 28, 2001, and January 2, 2002, the Foggy Bottom and West End Advisory Neighborhood Commission (ANC-2A) stated that it does not oppose the construction of a dormitory on Square 57 subject to certain conditions:
 - a. That the University submit its overall plan and proposed timeline for student housing, as well as its academic facilities plans within its current campus boundary as provided by the approved Campus Plan;
 - b. That the University "revisit and adopt as closely as possible" its December 1999 campus plan proposal to house 350 not 700 students on Square 43;
 - c. That the University revisit the design of dormitory housing on Square 57 and increase the number of beds at that location to the maximum permitted under the

Zoning Regulations, so that any shortfall in the number of beds from Square 43 can be provided for on Square 57;

- d. That the University revisit an alleged pledge to retain the Foggy Bottom/West End historic ambiance by incorporating the original Square 43 townhouse façades or replicas thereof on the fronts of the Square 43 and Square 57 dormitory projects;
 - e. That the University plan and design a dormitory residence hall, with suitable capacity, for the remaining lot on Square 56; and
 - f. That unless the aforementioned conditions are met, the ANC will oppose the approval of zoning authority for the new dormitories on Squares 43 and 57 and for the School of Business and Public Management addition to Fungler Hall on Square 56.
22. The ANC-2A's letters also raised the following concerns:
- a. That the University's enrollment policies have resulted in adverse effects to the residential Foggy Bottom/West End neighborhood; and
 - b. That the University has not offered a plan that shows how it will meet the undergraduate housing requirements mandated by the BZA in its orders of March 29, 2001, and December 21, 2001.
23. By letter dated November 30, 2001, the Foggy Bottom Association ("FBA") stated its general agreement with the position of ANC-2A as stated in the record. Specifically, it stated that the FBA does not oppose the construction of a dormitory residence facility and ancillary services project on Square 57 provided more student beds are provided than the 204 that are planned. The FBA further stated its support for the concept of a townhouse façade with Townhouse Row's 23rd Street frontage. Mrs. Barbara Spillinger appeared at the hearing to give the FBA report.
24. The West End Citizens Association submitted a letter to the record on November 29, 2001, stating its concerns. Among them are concern for the displacement of the University equipment that is now stored on Lot 55 of Square 57, concern about the appropriateness of garbage disposal and other utility access from the rear of Townhouse Row, the availability of parking space during construction, and noise levels associated with a greater number of students being in the areas as a result of this residential development and that on Square 43.
25. Four persons appeared and testified in opposition to the application. Two were residents at the Remington Condominium; one testified as the President of the Columbia Plaza Tenants Association, and the other testified in her capacity as the ANC Commissioner for a single member district that is adjacent to the site. All stated that they had no opposition to this application but expressed a preference that the capacity of this dormitory be increased to accommodate a reduction that they advocate to the proposed dormitory on Square 43.

Findings of Fact:

1. The Commission finds that the University has met the requisite burden of proof as set forth in §§ 210 and 3104.1 of the Zoning Regulations. The construction and use of the proposed student dormitory on Square 57 will not tend to adversely affect the use of neighboring properties nor become objectionable to neighboring properties because of noise, number of students or vehicular traffic. In so finding, the Commission credits the expert testimonies and record evidence of the University's architect, and its traffic consultant and the findings and recommendations of the D.C. Office of Planning and the D.C. Department of Public Works.
2. The Commission recognizes the report of the University's expert traffic consultant that all intersections in the vicinity of Square 57 will operate at acceptable levels of service except the intersection of Virginia Avenue and 23rd Street at certain periods of the day. The Commission notes in the expert traffic consultant's testimony that the Virginia Avenue and 23rd Street intersection currently operates at a below acceptable level of service (level F) in the morning peak hour and that the development of the proposed dormitory on Square 57 will not cause the level of service at that intersection to further deteriorate. The Commission is especially mindful of the testimony of the University's parking manager who testified that it is the University's experience that very few students, less than 1%, are likely to bring cars to the proposed dormitory area once it is opened and that there are sufficient excess spaces in the Health and Wellness Center to adequately address the anticipated demand. The Commission finds further that there are a sufficient number of off-street parking spaces provided on the campus as a whole to accommodate the development of the dormitory on Square 57. For these reasons, the Commission concludes that the approval of this application will not have an adverse effect on the use or enjoyment of neighboring property because of traffic.
3. The Commission makes the following findings with respect to the concerns submitted by ANC-2A:
 - a. The University must present its overall plan for housing full-time undergraduate students on campus. The BZA first ordered the University to develop such a plan in its order dated March 29, 2001, approving the University's campus plan for the years 2000 through 2010. On June 15, 2001, this order was enjoined by the United States District Court. Subsequently, the District of Columbia sought and obtained a remand of this order from the D.C. Court of Appeals. After hearings on remand, the BZA issued a proposed order on November 1, 2001, which became effective and final on December 11, 2001. In the interim, the University has moved aggressively to create three development proposals that will increase the number of on-campus beds by 1,097 or 14%. Given the legal controversy surrounding this issue, the University's substantive steps to increase the number of on-campus beds and the timing of the remand order, the Commission is satisfied that the University is taking reasonable steps to produce an overall housing plan in a timely manner. Further, the BZA has heard substantial testimony and considered numerous

documents concerning the appropriate balance between the University's interest in being a thriving, attractive, and modern central city University campus and the Foggy Bottom/West End citizens' concern that the University is diminishing the fabric and quality of non-university residential life in that neighborhood. The Commission is satisfied that the BZA's order approving the campus plan, together with the substantive and strict conditions that are set forth therein, strikes a reasonable balance between these competing and conflicting interests. The Commission is obliged to apply these strict standards regarding student enrollment, on-campus undergraduate student housing and the development of academic and support facilities, on a case-by-case basis, adhering strictly to the balances fashioned by the BZA;

- b. The University should redesign its proposed dormitory on Square 57 so as to increase the number of beds on Square 57 and decrease the number of beds on Square 43. For the reasons given above, the Commission has found the proposed number of beds on Square 43 to be reasonable and in keeping with the requirements of the Zoning Regulations. The ANC has given no persuasive reason why the number of beds should be increased on Square 57 and decreased on Square 43;
 - c. The University should incorporate a townhouse façade on the 23rd Street face of the dormitory project. The Commission finds that the Zoning Regulations do not require the University, nor compel the Commission to establish a particular architectural style on any development. The Commission's function is to determine whether the proposed architecture will have an adverse effect on the use and enjoyment of neighboring property. The Commission notes that the underlying R-5-D zone district fully contemplates and supports the development of high density residential facilities on this square. Certainly the University could have considered a townhouse façade on Square 43 if it chose. But the Commission will not require it to do so because the Zoning Regulations don't require it to do so. Further, the Commission has found that the proposed architecture will not have an adverse effect on the use and enjoyment of neighboring property. The ANC has presented no evidence to the contrary; and
 - d. The University will plan and design a dormitory residence on the remaining lot that it owns on Square 56. The Commission finds that this condition has no relevance to its evaluation of the proposed development on Square 43. The ANC has submitted no evidence to the contrary.
4. The BZA finds that the concerns submitted by other parties and persons appearing in opposition to the application are substantively similar to those submitted by ANC-2A with respect to Square 57 and that the findings herein with respect to the ANC concerns adequately address the concerns submitted by those persons.
 5. The Commission finds further that the University has submitted into the record a suitable statement discussing the status of the conditions imposed by the BZA in its order of March 29, 2001.

Conclusions of Law:

1. Based on the Findings of Fact and the evidence of record, the University is seeking a special exception under § 210 of the Zoning Regulations for further processing under an existing campus plan authorizing the construction and use of a new student dormitory on the campus of the University at 607 23rd Street, N.W. The granting of this relief requires compliance with the provisions of §§ 210 and 3104.1 of the Zoning Regulations. The Commission concludes that the University has met its burden of proof.
2. The Commission further concludes that the proposed dormitory on Square 57 is located so as not to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions. The Commission further concludes that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and zoning maps.

The Commission concludes that it has accorded ANC-2A the “great weight” to which it is entitled. Accordingly, it is ordered that the application is **GRANTED**.

VOTE: **5-0-0** (Anthony J. Hood, James H. Hannaham, Carol J. Mitten, John G. Parsons, and Peter J. May to approve.)

[SIGNATURE ON FOLLOWING PAGE]

BY ORDER OF THE ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

Each concurring member has approved the issuance of this Summary Order.

ATTESTED BY:



JERRILY R. KRESS, FAIA
Director

APR - 3 2002

FINAL DATE OF ORDER: _____

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 TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURES AND RENOVATIONS WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999 Repl.). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.