

RECEIVED
D C OFFICE OF ZONING
2012 MAR -2 PM 1:04

goulston&storrs
counsellors at law

MEMORANDUM

TO Sharon Schellin, D C Zoning Commission
FROM David Avitabile 
DATE March 1, 2012
SUBJECT PUD Covenants

Enclosed please find certified copies of the final recorded PUD Covenants for the following cases

- Z C Order No 06-11A1/06-12A1
- Z C Order No 06-11B1/06-12B1

Please feel free to contact me at (202) 721-1137 with any questions Thank you

DCDOCS\7060885 I


ZONING COMMISSION
OFFICE OF COMPTROLLER
CASE NO. 06-11A1/06-12A1
EXHIBIT NO. 52
ZONING COMMISSION
District of Columbia
CASE NO. 06-11A1/06-12A1
EXHIBIT NO. 52

PUD COVENANT

THIS COVENANT, ("Covenant") is made as of this 6th day of January 2012, by and between (i) The George Washington University, a nonprofit corporation incorporated by an Act of the United States Congress (hereinafter referred to as the "**University**"), and (ii) the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter-referred to as the "**District**")

WITNESSETH

WHEREAS, the University is the owner of property located on 22nd Street NW between H Street NW and I Street NW (Square 55, Lot 29) ("**Subject Site**"),

WHEREAS, the Zoning Commission of the District of Columbia (hereinafter referred to as the "**Zoning Commission**") approved a first-stage Planned Unit Development under Chapter 24 of the Zoning Regulations of the District of Columbia (the "**Zoning Regulations**") for the University's Foggy Bottom Campus in Zoning Commission Order No 06-11/06-12, effective October 26, 2007, in Zoning Commission Case No 06-12,

WHEREAS, the University intends to develop the Subject Site for use as a Planned Unit Development (hereinafter referred to as the "**Project**") under Chapter 24 of the Zoning Regulations in accordance with Zoning Commission Order No 06-11B1/06-12B1, effective July 15, 2011, in Zoning Commission Case No 06-11B/06-12B, which approved a second-stage Planned Unit Development, and

WHEREAS, said Chapter 24 and Order No 06-11B1/06-12B1 further require that the University enter into this Covenant with the District of Columbia assuring the University's (and its successors and assigns) development and use of the Project as approved by the Zoning Commission in Order No 06-11B1/06-12B1 and all modifications, alterations or amendments thereto



RECEIVED
D.C. OFFICE OF ZONING
2011 MAR -2 PM 1:04

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed among the parties hereto as follows

1 Approved Plans The terms and conditions of the Zoning Commission's approval of the Planned Unit Development under Order No 06-11/06-12, effective October 26, 2007, and Order No 06-11B1/06-12B1, effective July 15, 2011 (as the same may be amended and/or modified from time to time, the "Orders"), are incorporated herein by reference and made a part hereof as Exhibits A and B, respectively, and shall be considered a part of this Covenant. The Subject Site will be developed and used in accordance with the plans approved by said Orders and in accordance with conditions and restrictions contained in said Orders, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia may authorize pursuant to §§ 2409.9 and 2409.6, respectively. The University covenants that it will use the Subject Site only in accordance with the terms of the Orders, as the same may be further amended and/or modified from time to time, subject to the terms and conditions contained herein and the provisions of Chapter 24 of the Zoning Regulations.

2 Additional Time to Construct Planned Unit Development If the University should fail to file for a building permit and to commence construction of the approved Project within the time specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the Orders, the Zoning Commission may duly consider an application for an extension of time for good cause shown pursuant to Section 2408.10.

3 Default In the event that the University fails to file for a building permit and to commence construction of the approved Project within the time specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the Orders or within any extension of time granted by the

Zoning Commission for good cause shown, the benefits granted by the Orders shall terminate pursuant to Section 2408.14 of the Zoning Regulations

4 Future Conveyance The University covenants that if any conveyance of all or any part of the Subject Site takes place, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns to develop and use the Subject Site in accordance with the terms and conditions of this Covenant

5 Successors and Assigns The covenants and restrictions contained herein shall be deemed real covenants running with the land, and shall bind the parties hereto, their successors and assigns and shall inure to the benefit of the parties hereto, their successors and assigns. Such covenants are not binding upon any party who no longer has a property interest in the Subject Site. The District shall have the right to enforce all covenants, conditions and restrictions contained herein

6 Recordation The University shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission

7 Counterparts This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument

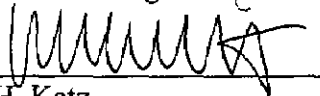
8 Rescission/Alteration of this Covenant If the Orders are modified or amended by the Zoning Commission, no formal amendment of this Covenant shall be required, provided that the University, or its successors or assigns, records a notice of modification in the Land Records of the District of Columbia together with a copy of the written order authorizing the modification or amendment. No other amendment of the obligations created by this Covenant is permitted

without the written consent of the District and, if determined by the Office of the Attorney General to be necessary, without the prior approval of the Zoning Commission

[signatures on following pages]

IN WITNESS WHEREOF, The George Washington University has as of the day and year first above written, caused this Covenant to be signed by Louis H Katz, Executive Vice President and Treasurer of The George Washington University and attested by Aristide Collins, Vice President and Secretary of The George Washington University, and does hereby appoint the said Louis H Katz to be its attorney-in-fact, and in its name to acknowledge and deliver this Covenant according to law

The George Washington University
a non-profit corporation incorporated by an Act of the
United States Congress



Louis H Katz
Executive Vice President and Treasurer

Attest

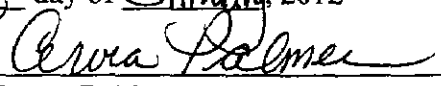


Aristide Collins
Vice President and Secretary of the University

State of Washington
County of DC, ss

I, Arvia Palmer, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Louis H Katz, Executive Vice President and Treasurer of The George Washington University, party to the foregoing PUD Covenant bearing date as of the Jan 6, 2012, the said Louis H Katz being named as attorney-in-fact for said organization in the foregoing and annexed PUD Covenant, personally appeared before me and, being personally well known to me as such attorney-in-fact, acknowledged said PUD Covenant to be the act and deed of said organization and that he delivered the same as such

GIVEN under my hand and seal this 6th day of January, 2012



Notary Public

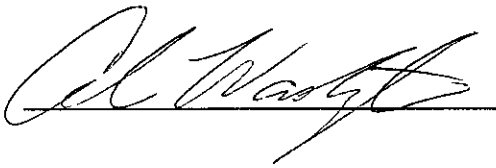
Arvia Palmer
Notary Public, District of Columbia
My Commission Expires 11/30/2014

My commission expires _____

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D C , who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932

WITNESS

DISTRICT OF COLUMBIA
a Municipal Corporation



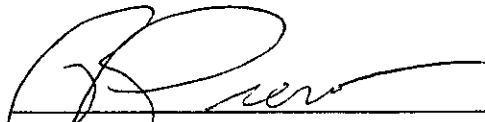
(Corporate Seal)

By 
Secretary, D C

DISTRICT OF COLUMBIA, ss

I, Robert Pierno, a Notary Public in and for the District of Columbia, do hereby certify that Cynthia Beck-Smith, who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing PUD Covenant bearing date of the 16 day of February, 2012 and hereunto annexed, personally appeared before me in said District and, as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA

GIVEN under my hand and seal this 16 day of February, 2012


Notary Public

My commission expires 9/30/2015

District of Columbia SS
Subscribed and Sworn to before me
this 16 day of February, 2012

Notary Public D.C.
My commission expires 9/30/2015

Robert C Pierno
Notary Public, District of Columbia
My Commission Expires 9/30/2015

APPROVED AS TO LEGAL SUFFICIENCY

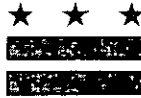
Alan Brighton 2-14-12
Chief, Land Use and Public Works Section
Office of the Attorney General
for the District of Columbia

APPROVED AS TO FORM AND CONTENT

Matthew Z. Gost 1-31-2012
Zoning Administrator for the District of Columbia

EXHIBIT A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO 06-11/06-12

Z C Cases No 06-11 and 06-12

Applications of George Washington University for Special Exception Approval of a
Campus Plan and for Approval of a First-Stage Planned Unit Development and
Related Zoning Map Amendments for the Foggy Bottom Campus
March 12, 2007

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing to consider two applications from George Washington University ("Applicant" or "University") concerning its Foggy Bottom campus Z C Case No 06-11, an application for special exception approval of a new Campus Plan¹ ("Campus Plan") and Z C Case No 06-12, an application for review and first-stage approval of a planned unit development and related amendments to the Zoning Map of the District of Columbia applicable to University-owned properties within the campus boundaries. The Commission considered the application in Case No 06-11 pursuant to §§ 210, 3035, and 3104 of the Zoning Regulations and the application in Case No 06-12 pursuant to Chapters 24 and 30 of the Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the applications, subject to conditions.

FINDINGS OF FACT

Applications, Parties, and Hearing

- 1 On February 16, 2006, the University submitted an application seeking special exception review and approval of a new campus plan for the Foggy Bottom campus. Also on February 16, 2006, in conjunction with the campus plan application, the University submitted an application for first-stage approval of a planned unit development ("PUD") and related amendments to the Zoning Map of the District of Columbia. Both applications were subsequently amended by filings submitted on July 13, 2006 and on August 25, 2006, as well as through several additional submissions made during the

¹ The application sought approval of "The Foggy Bottom Campus Plan 2006-2025." The Commission understands that the intent of the application was to seek approval of a twenty-year term. As will be explained later, the Commission has chosen to begin that term upon the effective date of this Order.

course of the public hearing in response to requests for further information by the Commission

- 2 At a public meeting held April 20, 2006, the Commission voted to set down Case No 06-12, the PUD application, for a public hearing Pursuant to 11 DCMR § 3035.5, no setdown vote was required for Case No 06-11, the request for approval of a new campus plan The two applications were consolidated and heard simultaneously² Notice of the public hearing was published in the *D C Register* on August 4, 2006 (53 DCR 6345) and was mailed to Advisory Neighborhood Commission (“ANC”) 2A and to owners of all property within 200 feet of the subject property
- 3 The public hearing on the applications was conducted on September 14, 21, 25, and 28, October 11, and November 30, 2006 The hearing was conducted in accordance with the provisions of 11 DCMR §§ 3022 and 3117
- 4 In addition to the Applicant, ANC 2A was automatically a party in this proceeding The Commission granted requests for party status in opposition to the applications from the Foggy Bottom Association (“FBA”) and the West End Citizens Association (“WECA”)
- 5 The Applicant provided testimony and evidence from Louis Katz, the University’s executive vice president and treasurer, Dr Lydia Thomas, vice president of the University’s board of trustees, Charles Barber, senior counsel, Sherry Rutherford, managing director of real estate and planning at the University, Matt Bell, qualified as an expert witness in architecture, Laura Hughes, an architectural historian, Anne Adams, qualified as an expert witness in architectural history, and Martin Wells, qualified as a traffic expert
- 6 At the public hearing the Commission heard testimony and received evidence from the Office of Planning (“OP”), including the Historic Preservation Office, and from the Zoning Administrator and the District Department of Transportation (“DDOT”) as well as from ANC 2A and the two parties in opposition The Commission also heard testimony from numerous persons either in support of or in opposition to the applications

² On April 10, 2006, the Office of Planning, on behalf of the District of Columbia, petitioned for a text amendment to amend the Zoning Regulations applicable to college and university uses located in Residence zones The proposed amendment would have amended § 210 so as to increase the allowable aggregate floor area ratio (“FAR”) permitted for a university use in R-5-D and R-5-E districts from 3.5 to 4.0 FAR The proposed text amendment was assigned Z C Case No 06-19 and, on April 20, 2006, was set down for public hearing immediately prior to the hearing for Cases No 06-11 and 06-12 Before the public hearing, by memorandum dated September 5, 2006, OP asked to withdraw the text amendment as unnecessary By letter dated September 8, 2006, the West End Citizens Association asked to become the petitioner for the proposed text amendment At its September 11, 2006 public meeting, the Commission voted 5-0-0 to dismiss Case No 06-19 (Carol J Mitten, Anthony J Hood, Gregory N Jeffries, John G Parsons, and Michael G Turnbull voting to dismiss)

- 7 At a special public meeting on January 17, 2007, the Commission requested additional information from the Applicant with respect to the public benefits and amenities proffered in support of the PUD application. At a special public meeting on February 5, 2007, the Commission took proposed action to approve the proposed PUD and related Zoning Map amendments in Case No. 06-12, subject to conditions, by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, John G. Parsons, and Michael G. Turnbull voting to approve, Gregory N. Jeffries not present, not voting).
- 8 The proposed action was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated March 1, 2007, found that the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.
- 9 At a public meeting on March 12, 2007 the Commission took final action to approve the application in Case No. 06-12, subject to conditions, by a vote of 5-0-0. At the same public meeting, the Commission also voted to approve the application in Case No. 06-11, subject to conditions, by a vote of 5-0-0.

Preliminary Matters

- 10 The University's current campus plan was adopted by the Board of Zoning Adjustment by Order No. 16553-I, issued April 26, 2004. The campus plan was approved, subject to certain conditions, for a term ending June 30, 2009.
- 11 On August 31, 2006, FBA submitted a motion to dismiss the University's application for approval of a new campus plan on grounds that the Applicant failed to comply with Conditions 8 and 9(a) of Order No. 16553-I. According to the FBA, the University had "more students, fewer beds and more faculty" than allowed under Order No. 16553-I.
- 12 In its response, submitted September 11, 2006 in opposition to the FBA's motion, the Applicant asserted that the University "has continuously remained in substantial compliance with all of the Campus Plan conditions, and none of the grounds cited by the FBA or its expert in support of its motion provide any basis for its motion to dismiss." The Applicant also asserted that compliance with the existing campus plan was not a prerequisite for the filing of a new special exception application for approval of a new campus plan.
- 13 The Commission concurs with the Applicant that a finding of compliance with the existing campus plan was not required before the Commission could consider a request for approval of a new campus plan. The existing campus plan, by means of Condition

No 20,³ required the University to demonstrate its substantial compliance with that campus plan before any special exception application for further processing under that campus plan could be granted. Nothing in Condition No 20, or any other provision of the existing campus plan or in the Zoning Regulations, precluded the filing of a new campus plan. The Commission makes no finding in this proceeding with respect to whether the University was in substantial compliance with the existing campus plan.

- 14 On August 31, 2006, FBA also filed a motion to postpone the proceeding pending the Applicant's preparation of a consolidated environmental review. FBA asserted that an environmental review of the Applicant's proposals was required before any zoning relief could be granted, specifically, FBA argued that the case should not proceed until the University had submitted an environmental impact screening form and the environmental review had occurred, which it claimed were required under the District of Columbia Environmental Policy Act of 1989 ("DCEPA"), D.C. Official Code § 8-109.01 *et seq*.
- 15 In its response, submitted September 11, 2006 in opposition to the FBA's motion, the Applicant asserted that "the environmental review process occurs as part of the building review process, not as part of planning review." The University argued that the DCEPA permits environmental review to take place after a major action has been approved but before it is implemented, that the District of Columbia Court of Appeals has held that environmental review is legally required to take place before construction actually commences rather than before zoning approval is granted, and that practical considerations necessitate that environmental review be conducted as part of the building permit stage rather than the planning review stage. According to the University, the Commission's consideration of environmental factors in reviewing the proposed PUD should be limited to the PUD evaluation standards set forth in 11 DCMR § 2400 *et seq*.
- 16 The Commission concurs with the Applicant that the proceeding should not be postponed pending the Applicant's preparation of a consolidated environmental review. Under the DCEPA, an environmental impact statement must address, among other things, the "relationship of the proposed major action to requirements as promulgated by the Zoning Commission" (D.C. Official Code § 8-109.02 (a)(2)). The purpose of a campus plan and a first-stage PUD is to determine, respectively, what the requirements of the Commission will be for a particular university use and for a particular development for which zoning relief is being requested. Thus, the DCEPA process cannot begin until after these requirements are determined, which, for these two applications, could not be known while the proceedings were ongoing. (See *Concerned Citizens of Brentwood v D.C. Board of Zoning Adjustment*, 634 A.2d 1234, 1241 (D.C. 1993) (BZA did not violate DCEPA by failing to require an environmental impact statement assessing proposed use of property where the BZA order did not result in the issuance of any

³ Condition No 20 is quoted in the Decision portion of this Order.

“license, permit, certificate, or authorization” and, therefore, requirements of DCEPA were not yet applicable) and *Foggy Bottom Association v D C Board of Zoning Adjustment*, 791 A 2d 64, 71 (D C 2002) (affirming BZA order that declined to postpone consideration of a special exception application because necessary environmental review would occur as part of building review process))

- 17 Further, the Commission’s consideration of the University’s applications is not an “action,” which the DCEPA defines, in pertinent part, as “a project or activity that involves the issuance of a lease, permit, license, certificate, other entitlement, or permission to act by an agency of the District government” Approval of a campus plan and a first-stage PUD involves none of these things Neither of these preliminary approvals would permit the University to obtain a building permit
- 18 Nor can it be said that these approvals are permissions or entitlements, unless the Commission were to adopt the interpretation that granting a right to file an application is the type of permission or entitlement the Council was concerned with when it enacted the DCEPA It is also worth noting that, while the word “permission” appears in the definition of the term “action,” it is not to be found in the actual substantive provision of the DCEPA that the FBA relies upon The requirement that an agency determine whether an Environmental Impact Statement is necessary applies “if the action involves the grant or issuance of a lease, permit, license, certificate, or other entitlement by a District agency” (D C Official Code § 8-109.03) The absence of the word “permission” can only mean that an agency may approve an “action” that involves a “permission” without determining whether an EIS must be prepared
- 19 In addition, an application for approval of a campus plan or a first-stage PUD is not a “major action” within the meaning of the DCEPA, because the actions being permitted – that is, the filing of a further-processing application or a second-stage PUD application – would not cost more than \$1,000,000

Foggy Bottom Campus

- 20 The property that is the subject of the campus plan application comprises the University’s Foggy Bottom campus, as defined by the Board of Zoning Adjustment (“BZA”) in its order approving the current campus plan The subject property, located in Northwest Washington, has an area of approximately 43 acres and is bounded generally by K Street, Washington Circle, and Pennsylvania Avenue to the north, 24th Street to the west, F Street to the south, and 19th and 20th Streets to the east The properties included within the campus boundaries are Square 39 Lot 803, Square 40, Lot 36, Square 41, Lot 40, Square 42, Lots 14, 51, 52, 54, 55, 820, 821, 822, and 840, Square 43, Lot 26, Square 54, Lot 30, Square 55, Lots 28, 854, and 855, Square 56, Lots 30 and 31, Square 57, Lots 55 and 56, Square 58, Lots 1, 5, 6, and 800-804, Square 75, Lots 23, 33, 34, 41, 42, 46, 47,

858, 861, 863, 864, and 2001–2125, Square 77, Lots 5, 51, 59, 60, 845, 846, and 864, Square 79, Lots 5, 63-65, 806, 808, 853, 854, 861, and 862, Square 80, Lots 2, 26-30, 42-47, 50-52, 54, 55, 800, 802, 811, 820, 822-825, 828, 829, and 2001–2003, Square 81, Lot 846, Square 101, Lots 58, 60-62, 811, 839, 871, 874, and 879, Square 102, Lot 46, Square 103, Lots 1, 13, 14, 18, 26-28, 32-35, 40-42, 809, 812-814, 816, 819, and 820, Square 119, Lot 26, Square 121, Lot 17, 819, and 820, Square 122, Lots 29, 824, and 825, and Square N-101, Lot 800⁴

- 21 The University's Foggy Bottom campus was first established in 1912. Within the campus boundaries, properties owned by the Applicant are devoted to a variety of university uses, including academic, administrative, medical, residential, campus life, and athletic, as well as to commercial and investment purposes.
- 22 Residential neighborhoods – Foggy Bottom and the West End – abut the campus to the west and north. The central employment area abuts the campus to the east, government offices and institutional uses predominate to the south.
- 23 Properties within the campus are zoned R-5-D, R-5-E, C-3-C, or SP-2. The campus is bounded by high-density zone districts, including C-3-C to the north, C-4 to the east, R-5-E and SP-2 to the south, and R-5-E to the west.
- 24 The campus is adjacent to the Foggy Bottom Historic District, located west of New Hampshire Avenue and zoned FB/R-3.
- 25 The campus includes 12 properties that have been designated historic landmarks, as well as numerous others that have been identified as either potential historic landmarks or buildings that would contribute to a potential historic district.
- 26 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 development plan set forth in the proposed campus plan, to be implemented through the accompanying two-stage PUD, concentrates height and density within the central campus core, away from historically sensitive areas of campus and nearby residential neighborhoods.

⁴ Certain properties owned by the Applicant were included within the subject property of these applications and were also the subject of separate PUD applications before the Commission. These properties were (i) Square 54 (see Z C Case No. 06-27, concerning an application submitted May 30, 2006 by the University, Boston Properties, Inc., and KSI Services, Inc. for consolidated review and approval of a PUD and related map amendment to C-3-C to allow construction of a mixed-use development containing 333 dwelling units, 454,000 square feet of office space, and 84,000 square feet of retail space) and (ii) Square 80, Lot 55 (see Z C Order No. 06-17, effective February 23, 2007, approving an application by the University and D C Public Schools for consolidated review and approval of a PUD and related map amendment to SP-2 to allow construction of a new residence hall on property owned by the University as well as the renovation and expansion of the School Without Walls public high school).

- 27 No interim use of residentially-zoned land outside the Campus Plan boundaries was proposed as part of the campus plan. The Applicant indicated that, depending on the timing and sequencing of proposed development projects – particularly with respect to the redevelopment of the University Parking Garage – the University might need to utilize, on an interim basis, certain off-campus parking resources to maintain compliance with the 2,800-parking-space requirement. Any interim use of off-campus parking spaces shall be specifically addressed in connection with the second-stage PUD associated with the project triggering the interim parking use.

Campus Plan Application

- 28 The Applicant stated that the new campus plan was proposed as a means to “provide for predictable, planned growth consistent with surrounding development patterns and guided by ‘smart growth’ and transit-oriented development principles.” According to the University, principal considerations underlying the proposed new campus plan included the constraints of limited space and financial resources and the redevelopment potential of Square 54, a large vacant parcel formerly the site of the University’s hospital.
- 29 The proposed campus plan incorporated a development plan – known as “Grow Up, Not Out” – in reference to an effort to accommodate the University’s forecasted academic and student housing needs within the campus boundaries – that calls for increased density targeted at specific locations within the campus boundaries. As noted, density will be concentrated in the core of the campus (especially along 22nd Street), away from residential areas. Some potential development sites were removed from consideration in favor of retaining historic resources on the campus.
- 30 The University described its need for additional space so as to provide new facilities that will address evolving technological and academic program needs and to increase the number of on-campus beds. According to the Applicant, growth is required to further the University’s core academic mission and enhance the quality of its educational programs. The campus plan calls for the addition of approximately 1.5 million square feet of academic space.
- 31 The development plan set forth in the proposed campus plan provides for the differentiated character of pedestrian-oriented east-west streets to help define the existing and proposed campus activity and development patterns. Pursuant to the plan, F Street will serve as a transitional street between the campus and nearby residential and institutional uses, G Street will feature new development that will complement the existing built environment and maintain historic and architecturally relevant buildings, H Street will serve as the primary “campus street,” the key location for future academic facilities and residential development, with active pedestrian traffic, and I Street will be

developed as an active retail corridor, providing campus and neighborhood-serving retail uses that will extend three blocks from the Foggy Bottom-GWU Metrorail Station to The Shops at 2000 Penn by incorporating ground-floor retail in University facilities as they are redeveloped

- 32 The development plan identified 18 sites (including the sites of separate PUDs on Square 54 and Square 80) within the campus plan boundaries. Each site was designated a use category: Academic/Administrative/Medical, Residential/Campus Life/Athletic, or Commercial/Investment; three sites were designated for potential alternative uses. The development sites were selected based on each site's current use and condition, suitability for redevelopment, existing campus use patterns, and the University's forecasted space requirements. The proposed campus plan included a "development program summary" indicating the proposed height, site coverage, gross square footage, and net new beds and parking spaces for each development site.
- 33 The proposed campus plan proffered numerous conditions based on those previously adopted by the BZA as a condition of approval of the existing campus plan to avoid the creation of adverse impacts as a result of the location of university uses in a Residence zone. The Applicant's proposed campus plan restated all of the prior plan's conditions of approval, with certain modifications, and also incorporated some additional conditions to address concerns raised by residents of neighborhoods abutting the campus. The conditions address, among other things, the number of students, faculty, and staff at the Foggy Bottom campus, the number of beds available on campus for undergraduate students, student conduct, and transportation management, parking, and student vehicles.

Noise

- 34 The proposed campus plan contains provisions intended to avoid objectionable conditions arising from noise associated with student behavior. Pursuant to the current campus plan, the University established a hotline for use by members of the community to submit complaints and make inquiries regarding potential objectionable behavior by University students and other subjects of community concern. All calls are documented in an "incident report," and the reports are forwarded to the appropriate University offices, including the Dean of Students Office, the Office of District of Columbia and Foggy Bottom/West End Affairs, and University Relations. About 80 percent of calls to the hotline concern complaints of noise. University students found to have engaged in misconduct are subjected to University disciplinary action. The Student Code of Conduct provides for a progressive range of disciplinary actions based on the circumstances of each case to ensure appropriate treatment.

- 35 The Commission finds that the University policies regarding student conduct are appropriate and generally effective in seeking to avoid objectionable impacts on the surrounding residential community due to noise

Traffic

- 36 The new campus plan did not propose to change the University's faculty and staff populations from the headcount and full-time equivalent levels approved in the existing campus plan, that is, a total headcount of 12,529 and a full-time equivalent of 10,550. The Applicant proposed to combine the faculty and staff counts into a single faculty/staff population cap to avoid complex distinctions among various categories of faculty and staff and to allow the University to report the employee population in a manner more consistent with existing business processes
- 37 The campus is convenient to several modes of public transit, with the Foggy Bottom-GWU Metrorail Station located at 23rd and I Streets, N W and at least eight Metrobus lines as well as commuter buses providing service from locations throughout the District, Maryland, and Virginia. The University provides shuttle bus service between the Foggy Bottom campus and the Mount Vernon and Virginia (Loudoun County) campuses
- 38 The University's traffic expert testified, and the Commission finds, that peak-hour vehicle trips are currently eight percent University-related during the morning peak and nine percent University-related during the afternoon peak. Future peak-hour vehicle trips were projected to be 11 percent University-related during the morning peak and 12 percent University-related during the afternoon peak
- 39 The University's traffic expert testified, and the Commission finds, that the existing levels of service at intersections within the campus and in the immediate vicinity are primarily A through D during both the morning and evening peak. Lower levels of service were reported at the intersection of Pennsylvania Avenue and 24th Street (LOS F during both morning and evening peaks), the intersection of K Street and Washington Circle, on the west side of the circle (LOS F during the morning peak), the intersection of 21st and I Streets (LOS F during both morning and evening peaks), the intersection of Pennsylvania Avenue and 20th Street (LOS F during the morning peak), the intersection of Pennsylvania Avenue and I Street (LOS E during the morning peak), and the intersection of 23rd and I Streets (LOS E during the afternoon peak)
- 40 The University's traffic expert testified, and the Commission finds, that the total future levels of service at intersections within the campus and in the immediate vicinity, with projected improvements, were expected to remain primarily A through D during both the morning and evening peak. Lower levels of service were anticipated at the intersections currently experiencing lower levels of service, along with several other intersections

along the edges of the campus, especially F Street (LOS E during the morning peak at the intersections of F Street with 20th and 22nd Streets and during the afternoon peak at the intersection of F and 23rd Streets)

- 41 As part of the proposed campus plan, the University will enhance its existing Transportation Management Plan ("TMP") with additional measures to encourage greater transit use and minimize traffic impacts. The planned measures include utilization of a transportation management coordinator, technology initiatives, web-based transit purchases, a truck management plan, pedestrian and bicycle programs, parking management, and special-event management.
- 42 The Commission agrees with the conclusion of the Applicant's traffic expert that approval of the proposed campus plan, subject to conditions requiring implementation of measures to mitigate traffic impacts, will not tend to create conditions objectionable to neighboring property because of traffic.

Parking

- 43 The campus currently provides off-street parking in parking garages, both above and below grade, and in surface lots in various locations. The proposed campus plan identified several sites that could accommodate underground parking facilities, which the Applicant indicated would allow the University to meet the parking needs of the campus while providing flexibility necessary for the sequencing of development sites.
- 44 The Applicant proposed to maintain the current minimum parking requirement of 2,800 parking spaces on the campus.
- 45 The Commission finds that approval of the proposed campus plan will not tend to create conditions objectionable to neighboring property because of parking. Demand for parking is not likely to increase significantly, because the new campus plan will maintain the maximum student and faculty/staff populations permitted under the current campus plan, the University will attempt to reduce the number of trips to the campus by private vehicles through implementation of the TMP, and the campus will retain the current required minimum of 2,800 parking spaces within the campus boundaries.

Number of Students

- 46 The proposed campus plan contained the same enrollment caps as the current campus plan, *i.e.* a "Foggy Bottom student headcount" not to exceed 20,000 students and a "Foggy Bottom student full-time equivalent" not to exceed 16,553.

- 47 The Applicant proposed to define “Foggy Bottom student headcount” as the number of students in the student body at the University’s Foggy Bottom and Mount Vernon campuses minus study-abroad students, continuous enrollment students, students who reside at the Mount Vernon campus, students who take all of their courses at the Mount Vernon campus, and Foggy Bottom faculty and staff who are also enrolled in one or more courses at the Foggy Bottom campus. The definition was designed to encompass all of the University’s students enrolled in a creditable course who maintain a “primary relationship” with the Foggy Bottom campus.
- 48 The Applicant proposed to calculate the “Foggy Bottom student full-time equivalent” by assigning a fraction to part-time students included in the Foggy Bottom student headcount number based on the number of credits they are taking compared to a full-time course load (currently 12 credits for undergraduates and 9 credits for graduate and professional students) and adding the number of full-time students. The Applicant indicated that the formula for determining full-time equivalents might change over the term of the campus plan depending on program requirements or the restructuring of the academic calendar.
- 49 The University reported that, in Fall 1999, full-time undergraduate enrollment at the Foggy Bottom campus was 6,857 students, with 3,519 beds available to undergraduates on-campus (51 percent). By Fall 2006, full-time undergraduate enrollment at the Foggy Bottom campus was 8,204 students, with 6,381 beds available to undergraduates on-campus (78 percent).
- 50 The University calculated these figures based upon the methodology it had employed under the existing campus plan for calculating its full-time undergraduate enrollment. However, the University has proposed a modified methodology to be used under the new plan that, if immediately utilized, would result in the University being out of compliance with its on-campus housing requirement as stated in Condition C-7 of this Order. As a matter of fairness, the Commission is allowing the current methodology to be used for the purposes of determining compliance with that condition until the fall 2010 semester or until the completion and occupancy of the next GW residence hall project proposed in accordance with the Foggy Bottom or Mount Vernon Campus Plans, whichever occurs first.
- 51 The proposed campus plan incorporated the on-campus housing requirements set forth in the existing campus plan. The new campus plan proposed to make up to 1,000 additional beds available on-campus for undergraduate students, including approximately 474 beds in a new residence hall approved as part of a PUD for Square 80.
- 52 The Commission finds that approval of the proposed campus plan will not tend to create conditions objectionable to neighboring property because of the number of students. The

new campus plan will maintain the maximum headcount and full-time equivalent student populations permitted under the current campus plan, will continue to require the University to make beds available on-campus for 70 percent of the full-time undergraduate population, plus one bed for each additional undergraduate student in excess of 8,000, and will maintain measures implemented by the University to educate students on “good neighbor” issues and to address potential misconduct by students living off-campus

Other Objectionable Conditions

- 53 The Commission does not find that approval of the proposed campus plan will tend to create other conditions objectionable to neighboring property

PUD Application

- 54 The PUD site encompasses all properties owned by the University within the campus plan boundaries⁵ The affected properties are Square 39, Lot 803, Square 40, Lot 36, Square 41, Lot 40, Square 42, Lots 54 and 55, Square 43, Lot 26, Square 54, Lot 30, Square 55, Lots 28, 854, and 855, Square 56, Lots 30 and 31, Square 57, Lots 55 and 56, Square 58, Lots 1, 5, 6, and 800-803, Square 75, Lots 23, 33, 34, 41, 42, 46, 47, 858, 861, 863, 864, and 2097, Square 77, Lots 5, 51, 59, 60, 845, 846, and 864, Square 79, Lots 63-65, 808, 853, 854, 861, and 862, Square 80, Lots 2, 26-29, 42-47, 50-52, 54, 55, 800 811, 820, 822-825, and 828, Square 81, Lot 846, Square 101, Lots 58, 60, 62, and 879, Square 102, Lot 46, Square 103, Lots 1, 13, 14, 27, 28, 33-35, 40-42, 809, 812-814, 816, 819, and 820, Square 121, Lot 819, and Square 122, Lots 29, 824, and 825
- 55 The land area of the PUD Site is approximately 1,669,744 square feet The PUD Site exceeds the minimum area requirements specified in § 2401, the Zoning Regulations do not specify a maximum permitted area for a planned unit development
- 56 The PUD Site is located in the Institutional land use category depicted on the District of Columbia Generalized Land Use Map The areas immediately to the north and east of the campus plan boundaries are designated for high-density commercial use, the area immediately to the south is designated for high-density residential use, and the area to the west is designated for moderate-, medium-, and high-density residential use
- 57 The PUD Site is located in the R-5-D, R-5-E, SP-2, and C-3-C Zone Districts The R-5-D Zone District permits a maximum height of 90 feet, maximum lot occupancy of 75 percent and maximum density of 3.5 FAR, the PUD guidelines for the R-5-D District

⁵ Any properties within the campus boundaries acquired by the University after the campus plan and PUD filing and advertisement will not be included in the first-stage PUD unless the PUD is subsequently amended to include them Those properties would be covered by the campus plan by virtue of their location within the campus boundaries

allow a maximum height of 90 feet and maximum density of 4.5 FAR. The R-5-E Zone District permits a maximum height of 90 feet, maximum lot occupancy of 75 percent, and maximum density of 6.0 FAR, the PUD guidelines permit the same. The SP-2 Zone District permits a maximum height of 90 feet, a maximum lot occupancy of 80 percent for buildings devoted to residential use, and a maximum density of 6.0 FAR for buildings devoted to residential use, the PUD guidelines allow a height of 90 feet and a maximum density of 6.5 FAR for buildings devoted to residential use. The C-3-C Zone District permits a maximum height of 90 feet, maximum lot occupancy of 100 percent for all uses, and maximum density of 6.5 FAR, the PUD guidelines allow a maximum height of 130 feet and a maximum density of 8.0 FAR.

- 58 The proposed PUD identified specific development sites detailed in the campus plan as second-stage PUD projects. Additional density and height were targeted on specific development sites primarily located in the campus core.
- 59 To achieve the height and density necessary to accommodate the University's forecasted academic and student housing needs within the campus boundaries, the Applicant requested a zoning map amendment in conjunction with the PUD that would rezone certain properties within the PUD Site to the C-3-C Zone District and one site to the C-4 Zone District. The northeast corner of the campus is currently zoned C-3-C, and areas to the north and east of the campus are zoned C-3-C and C-4, respectively. The residential zoning of the remainder of the campus, specifically those areas adjacent to the existing residential communities to the west and south of campus and the development sites included in those areas, will remain unchanged.
- 60 The proposed rezoning of the identified sites to C-3-C and C-4 is consistent with current zoning within the campus boundaries and the zoning of the surrounding properties. The proposed rezoning is also consistent with the Comprehensive Plan's Generalized Land Use Map designations for the surrounding properties.
- 61 The first-stage PUD identified 16 potential development sites within the campus boundaries and designated the proposed uses, height, lot coverage, and gross floor area for each site. Consistent with the University's proposal, each development project identified in the PUD will require approval through a second-stage PUD, including a detailed site plan review, to confirm compliance with the first-stage approval and the applicable provisions of § 210.
- 62 The University proposed building heights up to 130 feet along Pennsylvania Avenue, consistent with the existing commercial zoning and surrounding high-density environment, up to 110 feet along 22nd Street between G and I Streets, reflecting the intensity of existing and proposed University uses and the desire to concentrate density in the campus core, away from surrounding residential neighborhoods, and up to a

maximum of 90 feet on the balance of campus remaining sensitive to certain areas where a lower scale for new development is appropriate

- 63 The existing density on campus is approximately 5.6 million square feet of gross floor area creating a density of approximately 3.0 FAR in the Residence districts and 3.4 FAR for the campus as a whole. The Applicant sought to increase density through the first stage PUD and related zoning map amendments to a total of 7.4 million square feet for an overall density of 4.77 FAR and an aggregate density of 5.0 FAR for the campus (including the projects proposed in separate PUDs for Square 54 and Square 80)
- 64 The Commission finds that the proposed increases in density at the identified locations are appropriate. The Applicant's proposal will result in greater density in locations in the central core of the campus further from the surrounding residential neighborhoods. The increased density will not violate § 210 which applies to university uses located in a Residence zone within the boundaries of an approved campus plan because the proposed density for the residentially zoned portions of the campus will be 3.69 FAR less than the density of 4.5 FAR permitted under a PUD in the R 5 D zone
- 65 The proposed PUD will provide the following project amenities and public benefits
- a Streetscape Plan The Streetscape Plan sets forth a framework for future streetscape improvements to occur over the next two decades in accordance with the new campus plan. The Streetscape Plan reflects the diversity of the campus — particularly the primary campus streets (G, H, and I Streets) — and focuses on areas where university activity is concentrated. The Streetscape Plan includes a block by block implementation plan for appropriate streetscape improvements to be made to all enhanced streetfronts. The University estimated that the cost to implement the sidewalk, curb, and gutter improvements associated with the Streetscape Plan will exceed \$5.5 million (in current dollars). Street trees and lighting improvements are estimated to cost approximately \$1.1 million (in current dollars). It is anticipated that DDOT will share some costs associated with the installation and maintenance of street trees and lighting improvements
 - b Sustainable Development Planning and Design Principles The first stage PUD will provide an approach to future campus development consistent with sustainable development and neighborhood planning standards advanced by the U.S. Green Building Council, the Congress for New Urbanism, and the Natural Resources Defense Council. In connection with each second stage PUD application, the University will provide an overview of specific environmentally sensitive features to be incorporated into the design and construction of the project

- c Historic Preservation Plan The University worked with the Historic Preservation Office (HPO) and a team of architectural historians to develop a comprehensive Foggy Bottom Campus Historic Preservation Plan which proposed a historic district on the campus as well as the landmark designation of several additional campus buildings The Applicant's historic preservation plan for the Foggy Bottom campus was presented to the Historic Preservation Review Board as a master plan review at public meetings on June 29 2006 and July 27 2006 The University assumed the cost approximately \$100 000 associated with the preparation and submission of the multiple landmark applications and the preparation of the historic district application for submission by the HPO Future University expenditures associated with the heightened maintenance associated with the designated structures though difficult to quantify will be significant and ongoing The implementation of the University's preservation commitment will preserve and protect the historic built environment of the campus for the benefit of the University community the Foggy Bottom and West End communities and the city
- d I Street Retail Corridor The new campus plan contemplates the creation of a dynamic retail corridor along I Street providing neighborhood serving retail services The I Street retail corridor concept coupled with the retail program included in the proposed mixed use development on Square 54 will help create a critical mass of retail extending from the Foggy Bottom GWU Metro Station to The Shops at 2000 Penn This effort will be implemented over time by including ground floor retail in University facilities as they are redeveloped and will provide opportunities for a variety of retailers including small local and mom and pop establishments as University retail venues are often smaller in scale and retail rents charged by the University are generally below-market Estimated rents for retail space along the proposed I Street retail corridor are expected to be approximately \$25 per square foot (comparable to the grocery store rents contemplated on Square 54) The overall cost to the University of providing this amenity is the difference between the revenues generated from I Street retail rents and the cost of occupying other space (as a tenant) at an estimated \$40 per square foot (average) The Applicant estimated the value of the I Street Retail Corridor amenity in excess of \$4 million (assuming a capitalization rate of six percent)
- e Below Grade Parking The proposed campus plan calls for the construction of underground parking facilities at various sites dispersed throughout the campus and the elimination of the above grade University Parking Garage (located at 22nd and I Streets) and other surface lots The elimination of surface parking will reduce stormwater runoff allow for more efficient utilization of existing space resources and enhance the campus environment by distributing traffic and improving pedestrian safety This element will result in substantial costs in

excess of those associated with providing spaces at or above grade. In current dollars, construction costs associated with below grade parking are estimated at \$58,000 per space.

- f Off Campus Commitments In response to concerns expressed by OP, ANC 2A, and neighborhood residents, the University made certain commitments with respect to off campus properties. Specifically, the University proposed to limit its rights with respect to the acquisition and use of residentially zoned properties outside of the campus plan boundaries in the Foggy Bottom/West End area. The commitment would not preclude the purchase of properties for investment purposes, but would restrict the University from purchasing a residentially zoned property within the Foggy Bottom/West End area and changing its use to one limited to the University population. The University also proposed a schedule for ending the use of off campus residence halls to house undergraduate students with certain exceptions.

- 66 The Commission finds that the project amenities and public benefits proffered by the Applicant and adopted as conditions in this Order are commensurate with the additional height and density sought and warrant the planning flexibility available through the PUD process.
- 67 The proposed rezonings are not inconsistent with the Comprehensive Plan and are in keeping with the character of the surrounding neighborhood. The Commission credits the testimony of OP that the uses, buildings, and zoning changes described in the PUD are compatible and consistent with the institutional use designation of the campus area on the Comprehensive Plan Generalized Land Use Map and with the character of the surrounding neighborhood.
- 68 The PUD and Zoning Map amendments are consistent with the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods, respecting and improving the physical character of the District, and preserving the historic character of the District. The PUD will further the objectives and policies of several of the Major Elements of the Comprehensive Plan, including:
- a the Urban Design Element through the preservation and enhancement of the outstanding physical qualities of District neighborhoods; use of appropriate arrangements of height, scale, mass, and buffering to complement the immediate region; development of a unifying system of well designed streets and sidewalks; creation of a visually interesting environment in the public space that attracts people and stimulates redevelopment and commerce; respect of boundaries of areas having strong architectural character, both within the campus and relative to the Foggy Bottom/West End neighborhood.

- b the Preservation and Historic Features Element through the continued appropriate use of historic properties protection of the established form of development in historic districts protection of the integrity of historic properties and new construction that is compatible with the historical architectural character of the historic landmarks and district and
 - c the Land Use Element by encouraging the development of adequate neighborhood shopping protecting residential neighborhoods from disruptive uses assuring neighborhood stability as non government institutions grow promoting the continued contributions by private institutions toward the economic and cultural vitality of the District and recognizing the specialized land needs and unique economic and human development opportunities presented by colleges and universities
- 69 The PUD and Zoning Map amendments are also consistent with objectives of the Ward 2 Element including
- a the alleviation of pressures caused by students on the housing stock outside the boundaries of the campus plan through commitments not to purchase residentially zoned properties outside the campus boundaries and to end the use of existing off campus residences to house undergraduates
 - b the implementation of the Streetscape Plan
 - c the improvement of the land use mix and urban design qualities of areas around the Foggy Bottom GWU Metrorail Station
 - d the development of new businesses with a special emphasis on small and minority business development compatibility of businesses with adjacent residential neighborhoods and mixed use residential and commercial uses
 - e the utilization of the potential of the District s universities to create an expanded center of knowledge and learning in the center of Washington and
 - f the designation of buildings and areas in Ward 2 meriting historic landmark and historic district protection and preservation and reuse of historic landmarks and buildings in historic areas in Ward 2
- 70 The impacts associated with the implementation of the PUD on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the PUD

- 71 Consistent with § 2407.7 the Applicant described a community based planning process undertaken by the University to engage a variety of interested stakeholders and elicit their input and feedback. The University retained Ehrenkrantz Eckstut & Kuhn as the lead architect/planner to study the future of the Foggy Bottom campus in the context of its surrounding neighborhoods. It launched a website (www.neighborhood.gwu.edu) to make available relevant planning materials and cosponsored with OP an Urban Land Institute Advisory Services Panel to evaluate the development potential of Square 54. The University also cosponsored with OP and ANC 2A a series of open community meetings moderated by an independent facilitator at which a list of issues and concerns raised by participating stakeholders was compiled and made publicly available. The Applicant indicated that many of the issues and concerns resulted in changes to the proposed campus plan. Following the series of cosponsored meetings the University continued to participate in outreach activities including community meetings, small group briefings, brown bag lunches, and one on one information sessions.

Office of Planning

- 72 By memorandum dated September 5, 2006, OP recommended approval of the University's applications, subject to certain conditions. OP reviewed the applications both under the standards for special exception approval of a campus plan under § 210 and under the guidelines for a PUD set forth in chapter 24 of the Zoning Regulations.
- 73 At the public hearing, OP testified that approval of the proposed campus plan would likely have no objectionable impacts in terms of noise, traffic, number of students, or other objectionable conditions under the special exception standards of § 210. OP also stated that the campus plan proposal was not inconsistent with the Comprehensive Plan, but would support Comprehensive Plan policies in the Land Use Element that advocated protection of established residential neighborhoods and economic development, as well as furthering the Ward 2 Plan's policy in favor of the protection of historic resources through the formation of a campus historic district.
- 74 OP stated that the proposed first stage PUD identified specific development sites that would allow the University to meet its forecasted space needs but would limit development on the remainder of the campus. OP testified that the PUD process was the only mechanism that would adequately provide certainty about how the campus plan would be fulfilled. OP further found the commitments and benefits associated with the PUD to be commensurate with the density and flexibility sought through the PUD process and to be likely to reduce the University's impacts on the surrounding community. OP testified that the proposed PUD related zoning changes were not inconsistent with the Comprehensive Plan and were in keeping with the character of the surrounding neighborhood.

Zoning Administrator

- 75 The Zoning Administrator submitted a report on a student count audit undertaken by Walker & Company LLP under contract with the Department of Consumer and Regulatory Affairs (DCRA). The audit considered two core considerations 1) what constitutes a student and 2) verification of the student count numbers provided by the University. Based on the auditor's finding, the Zoning Administrator recommended that the Commission further refine and clarify the definition and methodology for conducting future headcounts so as to count all students physically present in the neighborhood by attending courses at the Foggy Bottom campus without any double counting (e.g. a faculty or staff person who enrolled as a student).
- 76 By report dated October 11, 2006 and through testimony at the public hearing, the Zoning Administrator testified as to the enforceability of conditions proposed by the parties in their respective October 4, 2006 filings.

District Department of Transportation

- 77 By memorandum dated September 14, 2006, DDOT indicated its agreement with most of the conclusions and recommendations of the Applicant's transportation impact study and DDOT's support for the applications provided that the University fully implement the proposed transportation management plan (TMP) that includes public transportation passes, shuttle bus service, [University] parking facility permits, carpool programs, attendant parking, and a parking deduction program. DDOT agreed that University-related traffic accounted for no more than 10 percent of all traffic on streets within the campus during the AM and PM peak hours.
- 78 DDOT commented favorably on the Applicant's plan to disperse traffic across the campus by providing parking facilities at various locations rather than concentrating parking at the University Parking Garage located at 2211 H Street NW. According to DDOT, locating parking structures throughout the campus would minimize impacts on the surrounding neighborhoods and provide convenient access to major commuting routes.
- 79 DDOT indicated its support for the traffic management recommendations of the Applicant's transportation study. DDOT recommended that the University should continue its efforts to maximize many undergraduate residential facilities within the study area in order to reduce vehicle trips and congestion around the Foggy Bottom campus and to provide transit subsidies to faculty and staff to encourage transit use.

- 80 DDOT indicated that additional information was needed with respect to the Applicant's conclusion that certain curb parking spaces should be restricted during travel peak hours and to University parking policies applicable to first and second-year undergraduate students. DDOT also requested the University to provide quarterly reports to DDOT and ANC 2A regarding utilization of transit services and the number of vehicles entering and leaving the campus daily. DDOT agreed to monitor traffic conditions in the study area to determine if additional transportation improvements were needed.
- 81 DDOT submitted a supplemental report dated November 27, 2006, to provide additional information in response to issues raised by the FBA's traffic expert. DDOT indicated its continued support for the traffic management recommendations made by the University.

ANC 2A

- 82 At a regularly scheduled meeting on August 16, 2006, with a quorum present, ANC 2A approved a motion in opposition to the applications based upon the following issues and concerns:
- a The applications should not be considered until proof of compliance with conditions of approval of the existing campus plan had been proffered pursuant to Condition No. 20 of the current campus plan, which provides that no special exception application filed by the University may be granted unless the University first proves it has remained in substantial compliance with Conditions 1 through 19 of the order that approved the campus plan.
 - b The Zoning Regulations, in order to limit the intensity of university uses and their attendant impacts, provide in §§ 210.3 and 402.2 that the total bulk of all buildings and structures on the campus shall not exceed either 1.8 FAR or 3.5 FAR, depending on the zoning of the residential properties in question. By applying the PUD process campus-wide, the University requests rezoning of major portions of its campus to C-3-C or C-4 and requests further relief under Chapter 24, which would have the effect of taking all major proposed construction out of the scope of the limitation of §§ 210 and 402 by removing those parcels from the Residence zones. The aggregate impact of the requested changes would be to increase the bulk of structures on the campus from a current 3.5 FAR to 5.0 FAR or more, destroying the protection of the regulations and perverting the intended uses of PUDs. Neither rezoning applications nor PUD applications should be considered in lieu of or as granting rights in addition to those set out in § 210.

- c The University currently has the right to add an estimated 550 000 square feet of net new construction while complying with §§ 210 and 402 without further Commission action. The pending applications anticipate construction of approximately 2 75 million square feet of net new construction on a campus of approximately 43 acres. Given the record of a tipping point reached between University expansion and preservation of the nearby residential neighborhoods, the impacts attendant to development for institutional uses of 2 75 million square feet of property currently zoned for residential use, some 2 2 million more square feet than is permissible under current zoning, would necessarily violate the standard of § 210. No development beyond the currently allowable 550 000 square feet should be considered and that should be allowed only upon the showings required by § 210.
 - d There is no indication that satellite campuses have been considered, even though the effects of University growth on the co-located residential community have been the subject of administrative and judicial proceedings.
 - e Square 54 is a large parcel located within the campus boundary that would accommodate the remaining needs of the University to house students in order to comply with Condition No. 9 of the current campus plan, as well as academic and university office uses. Its use as an entirely commercial development frustrates compliance with the current plan and the law and would create arguments and pressures for even greater development of other parcels within the campus. Separate consideration of the University's Square 54 proposal violates § 210.4 requiring that a university submit a plan for developing the campus as a whole.
 - f No further consideration should be given to the applications before the environmental impact review process is complete as to all proposed construction on Square 54 and elsewhere on or near the 23rd Street corridor, in light of a 1999 finding by the Department of Health that the area in the 23rd Street corridor just south of Washington Circle will experience peak carbon monoxide concentrations close to the applicable health standard, and because the DCEPA and applicable regulations require that the environmental impact statement process be initiated at the earliest stages of planning for major actions.
- 83 Through testimony at the public hearing, ANC 2A requested denial of the applications as failing to satisfy either the legal requirements for campus plans or the public policies undergirding those requirements. The ANC noted that the Board of Zoning Adjustment, in adopting the Applicant's existing campus plan, had found that the Foggy Bottom/West End neighborhood was at a tipping point, such that the continued vitality of the residential neighborhood was in jeopardy from pressures associated with University expansion. According to ANC 2A, the existing campus plan has not produced a

diminution of impacts and a more secure residential community but traffic noise student behavior and other impacts have continued and increased

- 84 ANC 2A objected that the Applicant had not shown the location height and bulk of all present and proposed improvements or analyzed their interconnections and synergies and aggregate impacts The ANC argued that the University should be required to show no likelihood of objectionable impacts from the *totality* of their plan (emphasis in original)
- 85 The ANC also objected to the effects of framing this application as a massive Planned Unit Development rather than as a special exception under the protective provisions of Section 210 According to the ANC there is nothing in the regulations to indicate that Chapter 24 was intended to be applied to campus plans overriding the protective provisions (FAR limit and finding of not objectionable impact) of Section 210

Parties in Opposition

- 86 The Foggy Bottom Association presented testimony and evidence from George Oberlander an expert in planning Joe Mehra an expert in traffic Joy Howell and Elizabeth Elliott The FBA argued that the existing campus plan should remain in effect subject to more stringent enforcement of the conditions of its approval According to the FBA major problems remained in the Foggy Bottom neighborhood despite the 2000 campus plan particularly with respect student housing misconduct and activities that draw large numbers of students and visitors to the campus
- 87 With respect to student enrollment the FBA asserted that the University's compliance reports submitted in accordance with the 2000 campus plan omitted certain categories of students and that the University had understated its actual enrollment by changing its counting methodology The FBA argued that the focus should be on the total intensity of use of the Foggy Bottom campus so that all students (and other persons using the campus) be counted
- 88 The FBA opposed the University's proposed 20 000 student cap stating that any cap should set a limit that realistically measures the impact of usage of the Foggy Bottom campus According to the FBA headcount (however defined) was not a sufficient measure of total impact rather the focus should be on the intensity of uses of the campus
- 89 The FBA also argued that the Applicant's proposed conditions of approval of the new campus plan contained several loopholes particularly with respect to use of the Foggy Bottom campus by students living elsewhere enforcement of the conditions the

University's acquisition of off campus properties and the University's student disciplinary program

- 90 According to the FBA the applications should be denied because the Applicant failed to show that additional development would not be objectionable based on noise traffic number of students or other objectionable conditions but instead offered alleged amenities to divert the focus from problems associated with the requested increase in density
- 91 The FBA objected to use of the PUD process in conjunction with the campus plan stating that nothing in the Zoning Regulations contemplated a campus wide PUD and that approval of a special exception pursuant to § 210 was the only method in the Zoning Regulations to deal with the specific problems of allowing universities in a residential neighborhood
- 92 The FBA argued that the Applicant's proposed benefits and amenities would not counter the objectionable impacts attendant to use of the campus under the proposed campus plan in part because the University would not be precluded from expanding its operations to off campus locations and because the amenities would not offset the detrimental impacts – additional traffic activity noise and other negative effects on the neighborhood – associated with the increased density requested under the proposed PUD
- 93 According to the FBA the additional density called for under the proposed campus plan would exacerbate existing adverse conditions while the requested PUD related rezonings to C 3 C would circumvent the density maximums specified in § 210
- 94 The FBA's traffic expert raised questions about the traffic study submitted by the Applicant particularly concerning truck traffic and determinations of the levels of service at intersections on or near the campus
- 95 WECA presented testimony and evidence from Barbara Kahlow According to WECA the Commission should postpone consideration of the University's proposed 20 year plan until the Zoning Regulations governing campus plans have been amended in part because the proposal – a combination of campus plan and planned unit development – was not permitted under current zoning WECA objected to approval of an omnibus PUD of the size proposed by the Applicant and to approval for a 20 year term According to WECA a term longer than one year was not permissible for a first stage planned unit development WECA indicated its support for only limited expansion in Foggy Bottom by the University possible development of satellite campuses in other locations and the adoption of certain conditions that would limit the University's acquisition of off campus properties restrict freshman and sophomore students from bringing cars to the campus or parking in the Foggy Bottom/West End area and require

the Applicant to submit an environmental impact statement before further processing of the approved campus plan as well as with each future major action proposal submitted to the Commission

Persons in Support

- 96 The Commission heard testimony or received letters from numerous persons and organizations in support of the applications. The persons in support who included many current and former students of the University, residents living in Foggy Bottom, and persons affiliated with neighborhood businesses generally commented favorably on the University's "Grow Up Not Out" concept, the development of a new retail town center along I Street as part of the redevelopment of Square 54, the University's commitment to house more undergraduates on campus, the University's need to upgrade its facilities, and the benefits to neighborhood residents offered by the University, such as the opportunity to take classes and use university facilities.

Persons in Opposition

- 97 The Commission also heard testimony or received letters from a number of persons and organizations in opposition to the applications. The persons in opposition who included primarily residents living in Foggy Bottom generally cited adverse impacts associated with the continued growth of a large institution in a residential neighborhood, the loss of permanent taxpaying residents, objectionable behavior by students, the use of the PUD process rather than special exceptions approved pursuant to § 210 for projects within the campus boundaries, and the uncertainty associated with the 20 year term of the proposed new campus plan.

CONCLUSIONS OF LAW

- 1 The Applicant requested special exception approval pursuant to 11 DCMR §§ 210.3035 and 3104 of a new campus plan for a term ending June 30, 2025, and approval pursuant to 11 DCMR Chapter 24 of a first stage planned unit development valid for 20 years and related Zoning Map amendments for its Foggy Bottom campus. The Commission is authorized under the aforementioned provisions to grant a special exception when, in the judgment of the Commission, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. A special exception to allow use as a college or university in a Residence zone may be granted subject to the provisions contained in § 210, including that the university use must 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 and that maximum bulk requirements may be increased for specific buildings subject to restrictions based on the total bulk of all buildings and structures on the campus (11 DCMR §§ 210.2 – 210.9) The Commission is also authorized under the Zoning Act to approve planned unit developments consistent with the requirements set forth in Chapter 24 of the Zoning Regulations

- 2 Based on the above Findings Of Fact the Commission concludes that the Applicant has satisfied the burden of proof for special exception approval of the proposed new campus plan in accordance with § 210 The new plan will carry over principal elements of the current plan including the existing caps on student and faculty/staff populations and the existing minimum requirement for off street parking spaces within the campus boundaries The new campus plan will also continue to include the conditions of approval of the existing campus plan to avoid creation of adverse impacts or objectionable conditions as well as some new conditions intended in part to document compliance with the conditions of approval
- 3 Also based on the above Findings Of Fact the Commission concludes that the Applicant has satisfied the burden of proof for approval of the proposed first stage PUD and related Zoning Map amendments under Chapter 24 of the Zoning Regulations The planned unit development process is an appropriate means to control the future development of the Foggy Bottom campus in a manner consistent with the best interests of the District of Columbia Approval of the University's proposed PUD will encourage high quality developments that provide public benefits consistent with the overall goal of the PUD process to permit flexibility of development and other incentives provided that the PUD project offers a commendable number or quality of public benefits and that it protects and advances the public health safety welfare and convenience (11 DCMR §§ 2400.1 2400.2)
- 4 The first stage PUD sets the framework for new development on the campus in terms of bulk height and massing and identifies specific sites that may be developed in future second stage projects with no other developments permitted other than approved planned unit developments filed prior to the effective date of this Order The Commission concludes that the increased density requested by the Applicant is appropriate for the campus and that the proposed placement of the density on the identified building sites considering proposed height and lot occupancy parameters will be acceptable Under the University's proposal the majority of the new development will place greater density toward the center core of the campus maintaining lower densities on the perimeter adjacent to residential neighborhoods and preserving historic structures within the campus The Commission also concludes that the relative value of the project amenities and public benefits offered by the Applicant is acceptable in light of the degree of development incentives requested

- 5 The Zoning Regulations do not prohibit use of the PUD process in conjunction with the campus plan process provided that the PUD process is not used to circumvent the intent and purposes of the Zoning Regulations including § 210 or to result in action that is inconsistent with the Comprehensive Plan (11 DCMR § 2400.4). While some provisions of the regulations limit the amount of PUD flexibility that can be granted in certain circumstances § 210 is silent on the matter. Moreover § 210 like almost all special exception provisions is concerned with a use in this case a college or university. In contrast a planned unit development focuses on structure and design and grants zoning flexibility from area requirement such as FAR height and lot occupancy when the public will benefit commensurately as a result. The two processes are complementary. The Commission will not impose a disparate standard on this or any use that is neither expressly stated in nor furthers the purposes of the regulations. Thus while the two step approval process for college and university uses stated in Title 11 serves a legitimate land use purpose disqualifying universities from benefiting from the PUD process serves no legitimate purpose.
- 6 The Commission therefore finds that approval of the Applicant's proposed campus plan subject to the conditions of approval is consistent with the requirements of §§ 210 and 3104 and that the associated first stage PUD and related map amendments which will serve as a mechanism to implement the new campus plan will not circumvent the intent or purposes of the Zoning Regulations or result in action inconsistent with the Comprehensive Plan. Rather approval of the proposed campus plan in tandem with the proposed first stage PUD will provide greater certainty regarding the future development of the campus by specifying the sites and development parameters of all significant potential future development on the campus. The first stage PUD has identified specific development sites will provide for detailed design review with each second stage PUD consistent with the conceptual height density and use parameters established in the first stage and offers project amenities and public benefits in exchange for greater height density and design flexibility.
- 7 The first stage PUD will achieve an appropriate level of certainty predictability and control over development in the Foggy Bottom campus. The two stage PUD process mirrors the two stage campus plan process in which individual projects are subject to approval after the initial approval of a campus plan that deals with large concepts and the location of uses and densities. The PUD process provides greater control and specificity as well as public benefits and project amenities and will limit future development to the identified sites.
- 8 In approving the PUD the Commission may impose development conditions guidelines and standards that may exceed or be less than the matter of right standards identified for height FAR lot occupancy penthouse setback yards or courts. The PUD process either through individual PUDs or a campus wide PUD can be used by the Commission to increase the density of a campus above that allowed under § 210. Under § 210.3 the

FAR of the residentially zoned areas of a campus is aggregated to a total based on the allowable FAR in the district not to a specific number (e.g. 3.5). In this case the R 5 D District that comprises most of the campus has a maximum matter of right density of 3.5 FAR with a maximum density of 4.5 FAR achievable through the PUD process. Pursuant to § 210.3 the density limit is the gross floor area prescribed by the R 5 D district and the use of the PUD process is not proscribed to increase the allowable density within an approved campus plan.

- 9 The Commission has previously considered PUD applications submitted by the University for individual projects located within the campus boundaries.⁶ The proposed long term first stage PUD approved in this Order will serve as a second mechanism – in addition to § 210 – to guide development within the campus boundaries by providing a framework for predictable development and precluding the University from submitting applications on an individual basis. The prior campus plan included a development plan that provided general guidance for new development in terms of use and sites; the new campus plan in tandem with the first stage PUD will also define where height and bulk are appropriate on the campus and where the existing density and buildings should be maintained. The prior plan permitted further processing applications so that developments not identified on the plan but generally consistent with it could be submitted for approval. Under the new plan all new development on campus will be limited to those sites identified on the development plan at the specified heights and densities.
- 10 The Commission concludes that a 20 year term of approval is appropriate for the first stage PUD and the associated campus plan. The regulations do not require the imposition of a term and in fact the Applicant's prior plans had no limit of duration until the mid 1980s. The term requested by the Applicant while longer than the term of the immediately prior campus plan is appropriate given the level of detail provided in the new plan, the development controls imposed by the PUD and the realities of financing and designing the developments envisioned. The plan's length also provides greater certainty for the nearby residential neighborhoods as to the long-term build out of the campus.
- 11 The first stage PUD will have a term of 20 years consistent with the duration of the new campus plan. At the time each development project under the campus plan is approved through the second stage PUD process the underlying zoning and density associated with that particular development site will permanently vest. All of the densities and rezonings set forth in the first stage PUD will permanently vest when 70 percent of the gross floor area of the proposed development plan has been approved through a second stage PUD. In the event the 70 percent threshold is not achieved within the 20 year term of the first

⁶ See Z C Order No. 03 29 effective June 18, 2004 which approved a consolidated PUD for a new residence hall at 2025 F Street N.W. as well as Z C Order No. 06 17 and Z C Case No. 06 27.

stage PUD the remaining approved densities and rezonings will expire at the conclusion of the first stage PUD. This vesting provision will provide reasonable assurance that the development plan set forth in the campus plan and first stage PUD can be achieved and will provide the University with the requisite level of certainty necessary to maintain intact all of the commitments, benefits, and amenities proffered by the Applicant. It bears noting that the vesting is only of PUD related zoning which would not allow the university to proceed with any development not authorized through a second stage PUD and then only if an approved campus plan is in place.

- 12 The Zoning Regulations provide that approval of a first stage PUD shall be valid for a period of one year *unless a longer period is specified by the Commission*. 11 DCMR § 2407.10 (emphasis added). According to WECA, the italicized phrase should be read as follows: *unless a longer period is specified by the Commission by a subsequent amendment of this regulation*. Apart from stating the obvious, WECA's interpretation adds nothing to the substance of the provision. Clearly, the italicized text is intended to give the Commission the discretion to specify a period longer than one year in a given case, depending on the facts and circumstances presented.
- 13 Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a two stage PUD. The two stage PUD process is appropriate in this case because it involves a large site with multiple building types and complex site planning, transportation, and urban design issues. To a greater degree than would be possible under § 210 alone, the two stage PUD process offers the Commission the opportunity to address campus development in a comprehensive manner and specifically allows the Commission to identify individual development sites and designate where additional height and density will be most appropriate.
- 14 The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that will offer a variety of building types with more efficient and attractive overall planning and design than that achievable under matter of right development. The character, scale, mixture of uses, and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide, ward, and area plans of the District of Columbia. The development plan set forth in the campus plan and PUD is within the applicable height and bulk standards of the Zoning Regulations, and the height and density will not cause an adverse effect on nearby properties.
- 15 The Commission accorded the recommendation of OP the great weight to which it was entitled pursuant to D.C. Official Code § 6-623.04 (2001). As discussed in this Order, the Commission generally concurred with the recommendation of OP to grant the University's applications, subject to conditions. The Commission accorded the issues and concerns raised by ANC 2A the great weight to which they are entitled pursuant to D.C. Official Code § 1-308.10(d) (2001). In doing so, the Commission fully credited the

unique vantage point that ANC 2A holds with respect to the impact of the proposed campus plan and first stage PUD on the ANC's constituents. However, the Commission concludes that the ANC has not offered persuasive advice that would cause the Commission to find that approval of the applications, subject to the conditions adopted in this Order, will be contrary to the Zoning Regulations or will adversely affect the use of neighboring property.

- 16 In recommending approval of the applications, ANC 2A expressed issues and concerns regarding the Applicant's failure to prove compliance with the existing campus plan, potential adverse impacts associated with the proposed increase in aggregate FAR of university uses permitted on the campus, contrary to the intended uses of PUDs and in violation of protections set for in § 210, the Applicant's failure to consider satellite campuses to alleviate the effects of the University growth pressures on residential neighborhoods near the Foggy Bottom campus, separate consideration of the proposed non-university use of Square 54, and the absence of an environmental impact review process for proposed new construction on the campus.
- 17 For the reasons stated in Finding of Fact 13, the Applicant was not required, under the Zoning Regulations or by the campus plan, to prove compliance with its current campus plan before seeking approval of a new plan, nor, for the reasons stated in Findings of Fact 16 through 19, was the Applicant required to engage in the environmental impact review process required to commence before the Commission takes action on the applications.
- 18 For purposes of showing future on-campus development, parking, and traffic impacts, the University's campus plan proposal considered the entire campus, including the sites of individual projects undertaken on Square 54 and Square 80 that were considered in separate proceedings, as was permissible under the prior campus plan. The Commission also notes that while the University has developed satellite campuses, the applications in this proceeding concerned specific requests for zoning approval applicable to the Foggy Bottom campus. (See, e.g., *Glenbrook Road Ass'n v. D.C. Board of Zoning Adjustment*, 605 A.2d 22 (D.C. 1992) (Zoning Regulations do not require that a university's needs be treated as irrelevant in determination of whether a reasonable accommodation has been made between the university and the neighbors that does not interfere with the legitimate interests of the latter; discretion to grant a special exception is limited to a determination whether the exception sought meets the requirements of the regulation). Nor does the Commission agree that once a University is mapped in a Residence zone, it may never seek or obtain a map amendment that would be acceptable were it any other use. Finally, the Commission was not persuaded by the ANC's contentions that the proposed increase in height and density on the campus – not accompanied by increases in the University's student or faculty/staff caps – would result in objectionable conditions or adverse impacts on the use of neighboring property or would be contrary to the PUD process or in violation of § 210.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order the Zoning Commission for the District of Columbia orders **APPROVAL** of the applications for (1) special exception approval of the *Foggy Bottom Twenty Year Campus Plan (2007)* for a twenty year period commencing on the effective date of this Order (**Campus Plan** or “**Plan**”) to permit the continuation of a university use during that term at the level described herein⁷ and (2) first stage review of a planned unit development (**PUD**) and related amendment to the Zoning Map for The George Washington University Foggy Bottom Campus

Several of development sites are being rezoned to commercial districts (as shown on Exhibit C to the PUD application) where university uses are permitted as a matter of right without the need for further processing approvals. Nevertheless such further processing approvals will be required by the PUD. Even with the PUD related rezoning the University remains within a predominantly residential environment. PUD related rezonings often serve narrower purposes than traditional map amendments. In this case the Commission viewed the PUD related rezoning as an appropriate means to allow the University to grow within a defined area. It was not the Commission's intent that the PUD related rezoning be used to eliminate the further processing review analysis for each new project proposed. In any event the Applicant has agreed to subject each project to the special exception standards.

As a matter of administrative efficiency the Commission is exercising its option as permitted by 11 DCMR § 2405.7 to hear each special exception request at the same time it considers an application for second stage PUD approval. However the Applicant must demonstrate that the proposed use will comply with the special exception standards notwithstanding 11 DCMR § 2405.8 which permits but does not require the Commission to apply a lesser standard of review.

Several of the conditions that follow contemplate actions to be taken by persons and entities other than the Applicant such as the Zoning Administrator, DDOT, OP, the Historic Preservation Review Board, and the Advisory Committee (to be formed pursuant to Condition P 7). Since the Applicant cannot be held responsible for the action or inaction of third parties compliance with such conditions shall be determined based upon whether the University has undertaken good faith efforts to comply with the condition in question.

⁷ Although applications for campus plan approvals must be filed prior to the expiration of an existing plan the Commission recognizes that its consideration of such applications can extend beyond the expiration date. Should that happen the Commission would not expect that this or any other university would have to alter its operations while its application is pending before the Commission other than the fact no further processing applications may be filed during any period when an approved campus plan is not in effect.

Each of the two approvals granted in this Order is subject to its own set of conditions which in some instances cross reference each other. To avoid confusion each Campus Plan condition is preceded by a C and each PUD condition is preceded by a P. No condition in this Order applies to or modifies any other planned unit development approved by this Commission including those pertaining to Square 54 and Square 80.

Lastly Condition 20 of the current Campus Plan provides recourse for the Zoning Administrator and the Zoning Commission in the event the University should not maintain compliance with any condition of the Campus Plan and reads as follows:

- 20 No special exception application filed by the University for further processing under this plan may be granted unless the University proves that it has consistently remained in substantial compliance with Conditions 1 through 19 set forth in this Order. Further, any violation of a condition of this Order shall be grounds for the denial or revocation of any building permit or certificate of occupancy applied for by *or issued to* the University for any University building or use *approved under this plan* and may result in the imposition of fines and penalties pursuant to the Civil Enforcement Act D.C. Code §§ 6 2701 to 6 2723.

(Emphasis added)

The Applicant's draft conditions propose to delete the italicized text, thereby suggesting that the Zoning Administrator may not revoke a building permit or certificate of occupancy issued under the new campus plan if the University is in violation of a plan condition. The Commission notes that this provision was not struck by either the United States or the District of Columbia Courts of Appeals as part of their consideration of the University's legal challenge to the current campus plan. The Commission finds no merit in eliminating this important enforcement tool.

The same cannot be said for the absolute prohibition of non-residential further processing applications whenever the University is in non-compliance with its on-campus housing requirement (former Condition 9(d)). The University has demonstrated its commitment to on-campus housing. Moreover, the requirement that the University must demonstrate substantial compliance with this Order's conditions will suffice. However, like current Condition 9(d), an application to construct student housing will not be denied solely on the basis of the University's non-compliance with Condition C 6, otherwise there would be no means for the University to cure the violation.

In order to eliminate any confusion arising from the wording of the condition, the Commission has separated the first and second sentence into two separate conditions. The first sentence, new Condition P 17, governs the Commission's own processes and continues the past Plan's requirement that the University demonstrate substantial compliance with identified conditions.

as a prerequisite to obtaining approval of an application under this Order. The second sentence new Condition C 2 is addressed to the Zoning Administrator and authorizes but does not require the denial or revocation of permits issued under this Order if the University violates one or more of the identified conditions. Since Condition C 2 leaves it to the discretion of the Zoning Administrator when enforcement action is appropriate he or she will not be required to deny or revoke permits issued under this Order if the University violates one or more of the identified conditions. This should ameliorate the Zoning Administrator's concerns over how the phrase "substantial compliance" should be interpreted since the responsibility for doing so rests exclusively with this Commission.⁸

First Stage PUD Conditions

The approval of the application a first stage PUD is subject to the following conditions

DEVELOPMENT CONTROL PROFFERS

- P 1 The University shall not purchase either directly or as a contract purchaser or enter into a master lease agreement or similar transaction for additional residentially zoned properties outside of the Campus Plan boundaries in the Foggy Bottom/West End area (defined as the area bounded by the Potomac River and Rock Creek Park to the west N Street to the north 19th Street to the east and Constitution Avenue to the south) for university use. This condition does not prohibit the University from purchasing any properties for investment purposes however it does prohibit the University from purchasing or entering into a master lease or similar transaction for a residentially zoned property within the above defined area and changing its use to one limited to the University population. The University shall not include any such investment property in its undergraduate student housing program or otherwise directly refer undergraduate students to any such property.
- P 2 Except for minor renovation projects including those necessary to address building code compliance no development on Campus resulting in additional density or change in use may be undertaken by the University unless approved by the Commission in accordance with Conditions P 14 through P 17. Such permitted developments shall be
- a Limited to the development sites identified in Exhibit A of the PUD application

⁸ The Commission successfully applied the "substantial compliance" standard under the current plan in *Application by George Washington University for Further Processing of an Approved Campus Plan Under § 210 to Modify Conditions of Approval of the Lerner Health & Wellness Center at 2301 G Street N.W. (Square 42 Lot 847)* Zoning Commission Order 02 26 51 DCR 11931 (2004))

- b Substantially in conformance with the Campus Plan as approved herein and
 - c Consistent with the primary use and zoning designations for the respective development site on Exhibits A and C of the PUD application
- P 3 The additional gross floor area for each project that is the subject of a second stage application shall be consistent with the Tabulation of Development Data detailed in Exhibit B of the PUD application
- P 4 The lot occupancy for each development site shall be consistent with the Tabulation of Development Data detailed in Exhibit B of the PUD application
- P 5 The maximum building heights for the proposed development sites shall be consistent with Exhibit K of the PUD application
- P 6 The University shall notify the Office of Planning ANC 2A and the Advisory Committee described in Condition P 7 of its intent to develop a specific site on campus following approval of the development proposal by appropriate University committees and the University's Board of Trustees and prior to preparation of final detailed plans and specifications

ADVISORY COMMITTEE PROFFER

- P 7 The University shall work with community representatives to form an Advisory Committee for the purpose of fostering consistent communication between the University and the Foggy Bottom and West End communities discussing issues of mutual interest and proposing solutions to problems that exist or arise in implementing the approved Foggy Bottom Campus Plan
- a Key functions of the Advisory Committee include
 - i Reviewing the University's compliance reporting
 - ii Working with the Office of the Zoning Administrator to monitor compliance with the conditions of the Foggy Bottom Campus Plan and
 - iii Reviewing new University proposals to develop sites on the Foggy Bottom Campus

b Composition, Administrative Procedures, and Meeting Format

- i The Advisory Committee shall consist of ten members five representatives of the University to be selected by the University and five representatives of the community to be selected by ANC 2A The ANC shall select no more than three ANC commissioners and shall select at least one member to represent Foggy Bottom and at least one member to represent the West End
- ii The quorum for Advisory Committee meetings shall be five members
- iii The first Advisory Committee meeting shall take place within two months after the effective date of this Order and include adoption of specific administrative procedures (subject to the terms of this Condition) that govern the operation of the body
- iv The Advisory Committee shall schedule quarterly meetings open to the public and shall keep minutes of each meeting
- v Upon request and at least on a semi-annual basis, the University shall report to the Advisory Committee data relevant to campus planning that includes, but is not limited to report on student enrollment, planned development projects included in the University's capital program, historic preservation, implementation of the streetscape plan, public space permits, and reports on all conditions and commitments adopted as part of the Campus Plan

UNDERGRADUATE HOUSING PROFFER

P-8 With respect to the housing of undergraduate students in off-campus properties that the University owns or in which it has an interest, except as otherwise provided by this Condition

- a The University shall not house undergraduate students in The Hall on Virginia Avenue
- b Effective August 31 2007, the University shall not house undergraduate students in The Aston (1129 New Hampshire Avenue, N W)
- c Effective August 31, 2008 the University shall not house undergraduate students in units in Columbia Plaza, with the exception that juniors and seniors referred to Columbia Plaza (2400 Virginia Avenue, N W) as part of the University s student

housing program prior to August 31, 2008 may continue to reside in their respective units, subject to the rules and guidelines associated with the University's student housing program, until they graduate from the University or are no longer officially affiliated with the University

- d Effective July 1, 2016, the University shall not house undergraduate students in City Hall (950 24th Street, N W)

Notwithstanding the foregoing, the University may offer housing in these off-campus facilities to freshmen and sophomore students who would have been required by Condition C-7 to reside on campus, but have been exempted by the University from that requirement pursuant to that condition. The University's efforts with respect to Condition P-8 shall be monitored by the Advisory Committee

HISTORIC PRESERVATION & STREETScape PLANS PROFFERS

- P-9 Upon the effective date of this Order and the expiration of any appeal period, the University shall proceed within sixty (60) days to file the appropriate applications with the Historic Preservation Review Board to achieve the designations set forth in the Foggy Bottom Campus Historic Preservation Plan. Specifically, (a) the University shall prepare the applications for the University-owned individual landmarks identified in the Historic Preservation Plan and (b) the University shall work with the Historic Preservation Office to prepare the documentation for the proposed historic district, which shall be filed by the Historic Preservation Office. The University shall maintain University-owned historic landmarks as well as University-owned buildings identified as contributing within the proposed historic district in accordance with guidelines agreed to by the University and OP.
- P-10 Upon the effective date of this Order and the expiration of any appeal period, the University shall proceed within sixty (60) days to initiate the process to obtain necessary approvals of the proposed Streetscape Plan from the DDOT. The costs and resources associated with the implementation of building identifiers (*e g*, flags, awnings, and placards), street furniture (*e g*, benches, trash receptacles, bike racks, and emergency call stations), way-finding elements (*e g*, campus maps, directional signage, and location symbols), street banners (*e g*, pedestrian, vehicular, and thematic banners often mounted on street light posts), and distinctive design elements (*e g*, public art, plaques, busts, clocks, paving medallions, and mid-block crossing treatments) as set forth in the proposed Streetscape Plan will be the responsibility of the University. The costs and resources associated with the implementation of other streetscape elements—including sidewalk paving materials, street lighting fixtures, and certain plantings (particularly street trees)—may be allocated among the University, DDOT, and, as appropriate and available, other outside sources (including organizations or foundations such as Casey

Trees for campus street trees) The University shall work with DDOT with respect to planning for future District streetscape improvement projects that impact the Foggy Bottom campus, and the specific allocation and contribution of costs associated with such improvement projects will be made on a project-by-project basis. Streetscape improvements associated with development projects identified in the Campus Plan and first-stage PUD shall be funded by the University and shall be specifically addressed as part of the second-stage PUD application for each project.

I STREET CORRIDOR PROFFER

- P-11 Retail uses along the I Street Corridor shall include those retail uses permitted in the C-1 and C-2 Zone Districts, as limited by 11 DCMR §§ 701.1, 701.4, 721.2, and 721.3, with the exception that there shall be no restrictions on fast-food establishments, other than drive-through fast food establishments, which shall be prohibited.
- P-12 At least 75% of the street frontage of each building developed along I Street pursuant to a second-stage PUD approval shall be occupied by retail space with the following exceptions:
- a Space that is devoted to building entrances or required for fire control or life safety purposes, and
 - b Sites 77A and 77D and other street frontages associated with buildings identified as historic resources under the Foggy Bottom Historic Preservation Plan that may not be suitable for retail use.

SUSTAINABLE DEVELOPMENT PROFFER

- P-13 Each order granting a second-stage PUD application to construct a new building pursuant to this Order shall contain a condition substantially similar to the following:

No building permit for the new construction authorized herein shall be issued unless the project architect has provided appropriate documentation (e.g., the LEED-NC⁹ form checklist) demonstrating that the building will achieve the equivalent of a minimum LEED score of 16 points in accordance with the LEED-NC 2.2 Standard.

{

⁹ LEED is an acronym for Leadership in Energy and Environmental Design.

SECOND STAGE APPLICATIONS

- P-14 Subject to the exception and limitations of Conditions P-2 through P-5, the University shall submit a second-stage PUD application for any development on Campus resulting in additional density or a change in use
- P-15 In addition to satisfying the burden of proof for the approval of a second-stage PUD, the Applicant shall further demonstrate that each project meets the special exception standards set forth in 11 DCMR §§ 210 and 3104
- P-16 Each application for second stage PUD approval shall include
- a Demonstration of compliance with applicable provisions of the zoning regulations and the contents of the approved *Foggy Bottom Twenty-Year Campus Plan (2007)*,
 - b A showing that the use, height, bulk, and design (including the location of any means of ingress and egress) of the proposed structure is sensitive to and compatible with adjacent and nearby non-University-owned structures and uses,
 - c An indication of any need for, amount of, and proposed locations of interim leased space necessary to accommodate housing and/or activities displaced by construction and/or activities intended to be located permanently in the completed structure,
 - d A report recalculating the University's total FAR within the campus plan boundaries, which shall also be submitted directly to OP and the Zoning Administrator. Information included in the report shall be broken down by zoning district and include the following: existing FAR, gross floor area under development pursuant to Commission approval, and FAR upon completion of proposed structure,
 - e The most recent Foggy Bottom Campus Plan Compliance Report (as set forth in Condition C-15) evidencing compliance with the approved *Foggy Bottom Twenty-Year Campus Plan (2007)*, including the most recent reported counts of Foggy Bottom student headcount, Foggy Bottom student full-time equivalent, Foggy Bottom faculty and staff headcount, Foggy Bottom faculty and staff full-time equivalent, full-time Foggy Bottom undergraduate students, on-campus beds, and full-time Foggy Bottom undergraduate students residing in the Foggy Bottom/West End Area outside of the campus plan boundaries,
 - f A progress report on the implementation of the Streetscape Plan required by Condition P-10,

- g The number of off-street parking spaces within the campus plan boundaries as set forth in Condition C-13(b) as of 30 days prior to the application date, including documentation and an explanation of the methods and assumptions used in counting the parking spaces,
 - h A status report on the Transportation Management Program required by Condition C-14,
 - i Demonstration that the project has been presented to the Advisory Committee to be formed in accordance with Condition P-7 herein) for consideration, at a regularly scheduled or specially-called Advisory Committee meeting, at least 30 days prior to the filing of such an application, and
 - j A list of "outsourcing activities" that have occurred since the last second-stage application For the purposes of this Condition, an "outsourcing activity" shall be defined as termination within any 30-day period of 50 or more Foggy Bottom faculty or staff who are assigned to a specific University department or unit and are permanently replaced with contractors or other persons not employed by the University to perform on the Foggy Bottom campus the services of the terminated faculty or staff
- P-17 No second-stage PUD application filed by the University pursuant to this first-stage approval shall be granted unless the University is in substantial compliance with the foregoing conditions and Conditions P-1 through P-12 and C-4 through C-16 as demonstrated by the most recently filed Foggy Bottom Campus Plan Compliance Report Proof of such compliance is not required as a prerequisite to the filing of a second-stage application pursuant to this Order or to the Commission holding a hearing or hearing or deliberating upon the case Notwithstanding the above, lack of compliance with the on-campus housing requirement of Condition C-6 will not alone serve as grounds to deny an application to construct a project in which a student housing component would occupy at least 50% of the gross floor area of the structure

GENERAL CONDITIONS

- P-18 This first-stage PUD approval by the Zoning Commission shall be valid until October 26, 2027 At the time each development project is approved through the second-stage PUD process, the underlying zoning and density associated with that particular development site shall permanently vest with respect to that development Notwithstanding the foregoing, all of the densities and rezonings set forth in the first-stage PUD will permanently vest at such time as 70 percent of the gross floor area of the proposed development plan has been approved through a second-stage PUD within the term of the first-stage PUD

P-19 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 section 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, 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.

Campus Plan Conditions

The Campus Plan approved pursuant to this Order replaces the George Washington University Foggy Bottom Campus Plan Years 2000 through 2009 (BZA Order No. 16553-I) and is subject to the following conditions of approval:

- C-1 This campus plan and the level of University operation it describes are approved until October 26, 2027, subject to the following conditions, or until such time prior to that date as the Zoning Commission determines that conditions warrant submission of a campus plan amendment or an updated campus plan.
- C-2 The campus plan boundary for the *Foggy Bottom Twenty-Year Campus Plan (2007)* shall remain consistent with the campus plan boundary established by the Board of Zoning Adjustment with respect to the Foggy Bottom Campus Plan Years 2000 through 2009 (Order No. 16553-I). The properties included within the Foggy Bottom Campus Plan boundary are depicted in Exhibit I of the Foggy Bottom Campus Plan Application and are specifically identified and listed in Appendix 1 attached hereto.
- C-3 Any violation of the following Conditions furnish grounds for the denial of any building permit or certificate of occupancy applied for by the University for any University building or use, and may result in the imposition of fines and penalties pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D C Law 6-42, D C Official Code § 2-1801.01 et seq.).

FOGGY BOTTOM CAMPUS POPULATION

- C-4 For the duration of this Plan, the Foggy Bottom student headcount shall not exceed 20,000 students, and the Foggy Bottom student full-time equivalent shall not exceed 16,553.

- a For the purposes of this Condition
 - i **“Foggy Bottom student headcount”** shall be defined as the number of GW students in the “Foggy Bottom/Mount Vernon Campus Total Student Body”¹⁰, minus study abroad students, continuous enrollment students, students that reside at the Mount Vernon Campus, students that take all of their courses at the Mount Vernon Campus, and Foggy Bottom faculty and staff accounted for pursuant to Condition C-5 herein who are also enrolled in one or more courses at the Foggy Bottom campus
 - ii **“Foggy Bottom student full-time equivalent”** shall be determined by assigning a fraction to part-time students included in the Foggy Bottom student headcount number based on the number of credits they are taking compared to a full-time course load and adding the number of full-time students. Currently, the full-time course load for undergraduates is 12 credits, and the full-time course load for graduate and professional students is 9 credits. Formulas for determining full-time equivalents may change over the term of the proposed Foggy Bottom Campus Plan depending on program requirements or the restructuring of the academic calendar
 - b An audit of the Foggy Bottom student headcount and Foggy Bottom student full-time equivalent reported pursuant to Condition C-15 herein shall be conducted in a manner and by a firm previously approved by the Zoning Administrator and reported to the Advisory Committee. The audit shall be completed by January 10 of the year following each report submitted pursuant to Condition C-15 herein
 - c Compliance with this condition shall be based upon the data reported for the most recent semester in either the Foggy Bottom Campus Plan Compliance Report required in Condition C-15 or in the Interim Foggy Bottom Campus Plan Compliance Report required by Condition C-16
- C-5 For the duration of this Plan, the Foggy Bottom faculty and staff population shall not exceed a total of 12,529 on a headcount basis and 10,550 on a full-time equivalent basis
- a For the purposes of this Condition
 - i **“Foggy Bottom faculty and staff headcount”** shall include regular full-time faculty and staff, regular part-time faculty and staff, wage account staff that are not Foggy Bottom students accounted for pursuant to

¹⁰ The “Foggy Bottom/Mount Vernon Campus Total Student Body” is compiled by the GW Office of Institutional Research (OIR) and is currently reported on the OIR online “GW Factbook” available at www.gwu.edu/~ire/

Condition C-4, temporary part-time faculty (excluding part-time clinical faculty who are not paid employees of the University), affiliated faculty employed by the Medical Faculty Associates, and visiting instructional and research faculty. For the purposes of this Condition, Foggy Bottom faculty and staff shall not include faculty and staff whose primary office locations are not on the Foggy Bottom campus, employees of non-University owned or controlled entities that are located on the Foggy Bottom campus, and contractors that provide ancillary campus-related service functions who are not employees of the University.

- 11 **“Foggy Bottom faculty and staff full-time equivalent”** shall be determined by assigning a fraction to part-time employees included in the Foggy Bottom faculty and staff headcount number based generally on the number of hours worked as compared to the standard full-time 40-hour work week.

- b Compliance with this Condition shall be based upon the data reported for the most recent semester in either the Foggy Bottom Campus Plan Compliance Report required in Condition C-15 or in the Interim Foggy Bottom Campus Plan Compliance Report required in Condition C-16, whichever is the most current.

ON-CAMPUS UNDERGRADUATE STUDENT HOUSING

- C-6 For the duration of the Plan, the University shall make available on-campus beds for full-time Foggy Bottom undergraduate students equivalent to 70% of the full-time Foggy Bottom undergraduate student population up to an enrollment of 8,000, plus one bed per full-time Foggy Bottom undergraduate student over 8,000. Compliance with this condition shall be based upon the data reported for the most recent semester in either the Foggy Bottom Campus Plan Compliance Report required by Condition C-15 or in the Interim Foggy Bottom Campus Plan Compliance Report required by Condition C-16, whichever is the most current.

- a For the purposes of this Condition

- 1 **“full-time Foggy Bottom undergraduate students”** shall be defined as follows

- (A) Until the fall 2010 semester or until the completion and occupancy of the next University residence hall project proposed in accordance with the Foggy Bottom or Mount Vernon Campus Plans, whichever event first occurs, the term shall mean the number of students in the “Foggy Bottom/Mount Vernon Campus

Total Student Body” minus graduate students, first professionals (JDs and MDs), undergraduates taking fewer than 12 credit hours at the Foggy Bottom campus, non-degree students, full-time undergraduate study abroad students, undergraduate continuous enrollment students, and full-time undergraduate students accounted for under the Mount Vernon Campus Plan Order (BZA Order No 16505), which does not differentiate between resident and non-resident students

(B) Once either of the above-described events occurs, the terms shall have the same meaning as above, except only full-time undergraduate students who reside on the Mount Vernon Campus Plan will be subtracted from the “Foggy Bottom/Mount Vernon Campus Total Student Body ”

ii The term “**on-campus beds**” shall include beds available to full-time Foggy Bottom undergraduate students in any property in which the University has an ownership, leasehold, or contractual interest, or beds otherwise occupied by full-time Foggy Bottom undergraduate students in fraternities, sororities, or other programs recognized by or affiliated with the University and located within the campus plan boundary

b The University’s efforts with respect to this Condition shall be monitored by the Advisory Committee

C-7 The University shall require all full-time Foggy Bottom freshmen and sophomores students to reside in housing located within the campus plan boundary The University may exempt from this requirement those students who commute (i e , students who have established permanent residency off-campus prior to enrollment at the University or students who live off-campus with a parent, guardian, or other family member), are married or have children, or have disabilities or religious beliefs inconsistent with residence hall life The University’s efforts with respect to this Condition shall be monitored by the Advisory Committee

OFF-CAMPUS STUDENT HOUSING & STUDENT CONDUCT ISSUES

C-8 The University shall maintain a program to provide its students who are eligible to live off-campus with information about housing opportunities outside the Foggy Bottom/West End Area The University’s efforts with respect to this Condition shall be monitored by the Advisory Committee

- C-9 The University shall use disciplinary interventions for acts of misconduct by students living off-campus in the Foggy Bottom/West End Area, even if students are not in properties owned or controlled by the University. The University shall act on incident reports by residents, ANC 2A, community associations, building management, building association boards, University security officers, and the Metropolitan Police Department. The University shall maintain an outreach program with neighboring apartment buildings to educate management companies and tenant associations on the University's disciplinary program and its reporting requirements to facilitate effective use of its program. The University's efforts with respect to this Condition shall be monitored by the Advisory Committee.
- C-10 The University shall maintain and publicize (through appropriate written and/or electronic publications) a hotline available 24 hours per day, seven days per week to receive calls about student conduct issues and safety and security concerns. The University shall maintain a log of all calls received and all actions taken including all referrals made. The University shall maintain its Crimes Tips Hotline (presently 994-TIPS), where calls can be made anonymously to a recorded "tip" line. Calls needing a more immediate response shall be directed to the University police (presently 994-6110) 24 hours per day, seven days per week. The University police will aid off-campus complainants in obtaining assistance from the Metropolitan Police Department. Reports of improper off-campus student conduct will also be referred to the appropriate University departments for their attention. This process shall be fully described on the University website, published catalogs, and student handbooks. The University's efforts with respect to this Condition shall be monitored by the Advisory Committee.
- C-11 The University shall maintain a mandatory program for its students that will address "good neighbor" issues, educating students about appropriate conduct in the off-campus community. This program will especially emphasize objectionable noise both inside and outside of buildings, restricted parking in the Foggy Bottom/West End Area, illegal underage drinking, and respect for personal and real property of the residential and private business communities. The University's efforts with respect to this Condition shall be monitored by the Advisory Committee.
- C-12 The University shall gather information about the local addresses of the full-time Foggy Bottom undergraduate population. The University shall compile and report the number of full-time Foggy Bottom undergraduate students residing in (1) Foggy Bottom/West End outside the campus boundaries, (2) the District of Columbia outside both the campus boundaries and the Foggy Bottom/West End Area, organized by postal codes, (3) Maryland, and (4) Virginia. This information shall be reported as set forth in Condition 24 herein.

PARKING & TRAFFIC

C-13 The University shall implement the following measures to minimize adverse impacts associated with parking and traffic

- a Support of Mass Transit The University shall maintain the Metrocheck program offered by the Washington Metropolitan Area Transit Authority ("WMATA") to allow employees to pay for public transportation costs on a pre-tax basis. The University shall maintain an introduction to public transportation program for incoming students that includes provision of WMATA's "SmarTrip" cards to incoming students. The University will work with WMATA to schedule SmarTrip "carding events" at various locations around campus to provide additional information about public transportation to the University community. In the event these programs are discontinued over the term of the campus plan, the University will work to identify alternative programs to support the goal of encouraging mass transit ridership.
- b Parking The University shall continue to provide at least 2,800 off-street parking spaces, including proposed spaces to be dedicated for University use on Square 54 and all University-owned parking spaces on Square 122 (specifically including the parking lot and garage spaces at Old Main located at 1922 F Street, N W). The number of off-street parking spaces required to be provided may be increased in any subsequent further processing order pursuant to this plan if necessary to mitigate the adverse impact of the approved uses on the University's parking resources. The University shall monitor its utilization of University parking facilities to determine usage patterns and conduct an ongoing assessment of parking needs.
- c Notice The University shall notify affected property owners or occupants, ANC 2A, and members of the Advisory Committee in a timely manner of the occurrence of any temporary street closing necessary to accommodate University-related functions. For the purposes of this Condition "affected property owners or occupants" shall be defined in a manner consistent with the notice requirements of DDOT temporary street closure petition procedures.
- d Student Vehicles
 - 1 The University, through its Office of Parking Services, shall maintain an accurate record of the license plate numbers of motor vehicles kept by students in University parking facilities, to be updated annually at the beginning of each Fall semester.

- ii The University shall prohibit freshmen and sophomores from bringing cars to the Foggy Bottom / West End Area other than in exceptional circumstances. Exceptional circumstances may include, for example, transportation needs related to a disability or health condition of the student or member of his/her family. Requests for a policy exception due to exceptional circumstances must be documented by the student and approved by the University. If such an exception is granted, the vehicle must be parked in a University parking facility. Any violation of this policy shall be grounds for discipline under the University's Code of Student Conduct. The University shall appropriately sanction any discovered violators and keep a full accounting of all violations and sanctions.
 - iii Notice of this restriction will be included in at least one written document (e.g., the college catalog) mailed to parents of prospective freshmen and returning sophomores. In addition, each freshman and sophomore must provide a signature to indicate he or she has read and understands this parking policy, regardless of whether he or she drives to school or is eligible to have a car on campus. In addition, the University shall notify all undergraduate and graduate students that parking is prohibited on the streets adjacent to and surrounding the Foggy Bottom campus.
- C-14 The University shall maintain, and periodically update, its comprehensive Transportation Management Plan ("TMP") addressing traffic and parking associated with events on campus that are attended by a significant number of persons not normally associated with the University and the campus. The transportation management plan shall include the following:
- a Measures to schedule events at times that reduce conflicts with other traffic and other demands for parking.
 - b Measures to discourage travel by private automobile and encourage travel by public transportation.
 - c Measures to encourage persons who drive to park in commercial or University PARKING garages.
 - d Designation of a Transportation Management Coordinator responsible for implementing and monitoring the TMP program.
 - e Promotion of various technology initiatives (currently including, e.g., the use of video conferencing, podcasts, online library resources, the Bb@GW on-line

course management system based on the Blackboard Learning System™, and administrative document management systems) to reduce the need for physical movement to and between the Foggy Bottom campus and other University campuses

- f Evaluation of opportunities to provide access and links through appropriate website portals to allow members of the University community to purchase transit fare media, including SmarTrip fare cards and bus passes, online
- g As necessary throughout the term of the Campus Plan, when existing parking facilities are being renovated or redeveloped, utilization of attendant parking at various campus parking facilities to ensure that campus parking demands are adequately met
- h Implementation of a Truck Management Plan to avoid adverse impacts on the surrounding neighborhood

These measures and their efficacy and appropriateness given changes in programs, technology, and parking demand shall be regularly reviewed, evaluated, and updated over the twenty-year term of the Campus Plan. The TMP shall be submitted to and reviewed by the Advisory Committee on an annual basis.

REPORTING & COMPLIANCE REVIEW

C-15 On November 20 of each year following the effective date of this Order or, if a Saturday, Sunday, or holiday, on the next business day thereafter, the University shall file a Foggy Bottom Campus Plan Compliance Report with the Commission, Zoning Administrator, OP, ANC 2A, and the Advisory Committee. The Foggy Bottom Campus Plan Compliance Report shall contain the following information, reported for the current and previous semester, and based upon actual numbers existing as of the end of the sixth week of each semester unless otherwise noted¹¹

- a Current fall and previous spring semester Foggy Bottom student headcount and Foggy Bottom student full-time equivalent in accordance with Condition C-4

¹¹ The end of the sixth week of each semester is the date when the University currently makes its official count of student enrollment, which it refers to as the "Census Date." In the event the University modifies the Census Date due to changes in the academic calendar or other necessary administrative policy modifications, upon 60 days' written notice to the Commission, Zoning Administrator, OP, ANC 2A, and the Advisory Committee, the date upon which the actual numbers will be based may be changed to accommodate the new Census Date.

- b Current fall and previous spring semester Foggy Bottom faculty and staff headcount and Foggy Bottom faculty and staff full-time equivalent in accordance with Condition C-5
- c Data in connection with the on-campus undergraduate student housing requirement set forth in Condition C-6, specifically
 - i Current fall and previous spring full-time Foggy Bottom undergraduate students
 - ii The number of on-campus beds available to full-time Foggy Bottom undergraduate students,
 - iii The number of on-campus beds occupied by full-time Foggy Bottom undergraduate students,
 - iv The number of off-campus University-supplied beds within the Foggy Bottom/West End Area,
 - v The number of off-campus University-supplied beds within the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students,
 - vi The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area, and
 - vii The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students
- d Information evidencing compliance with Condition C-8
- e Information evidencing compliance with Condition C-9
- f Information evidencing compliance with Condition C-10
- g Information evidencing compliance with Condition C-11
- h Updated address information in accordance with Condition C-12
- i Current inventory of University-owned parking spaces and other evidence of compliance with Condition C-13(b)

j Information evidencing compliance with Condition C-14

Each report shall be accompanied by supporting documentation and full explanations of methods, assumptions, and sources used to compile information in the report

C-16 On April 15 of each year following the effective date of this Order, or, if a Saturday, Sunday, or holiday, the next business day thereafter, the University shall file an Interim Foggy Bottom Campus Plan Compliance Report with the Commission, Zoning Administrator, OP, ANC 2A, and the Advisory Committee. The Interim Foggy Bottom Campus Plan Compliance Report shall contain the following information, reported for the current and previous semester, and based upon actual numbers existing as of the end of the sixth week of each semester except under the circumstances noted in footnote 3, *infra*

a Current spring and previous fall semester Foggy Bottom student headcount and Foggy Bottom student full-time equivalent in accordance with Condition C-4

b A copy of the audit report of the previous fall semester Foggy Bottom student headcount and Foggy Bottom student full-time equivalent conducted pursuant to Condition C-4(c) herein

c Current spring and previous fall semester Foggy Bottom faculty and staff headcount and Foggy Bottom faculty and staff full-time equivalent in accordance with Condition C-5

d Data in connection with the on-campus undergraduate student housing requirement set forth in Condition C-6, specifically

i Current spring and previous fall full-time Foggy Bottom undergraduate students. For purposes of these Conditions, "full-time Foggy Bottom undergraduate students" shall be defined as the number of students in the Foggy Bottom/Mount Vernon campus total student body minus all graduate students, all first professionals (JDs and MDs), all undergraduates taking fewer than 12 credit hours at the Foggy Bottom campus, non-degree students, full-time undergraduate study abroad students, undergraduate continuous enrollment students, and full-time undergraduate students that reside at the Mount Vernon Campus

ii The number of on-campus beds available to full-time Foggy Bottom undergraduate students,

- iii The number of on-campus beds occupied by full-time Foggy Bottom undergraduate students,
- iv The number of off-campus University-supplied beds within the Foggy Bottom/West End Area,
- v The number of off-campus University-supplied beds within the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students,
- vi The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area,
- vii The number of off-campus University-supplied beds outside the Foggy Bottom/West End Area occupied by full-time Foggy Bottom undergraduate students

Each report shall be accompanied by supporting documentation and full explanations of methods, assumptions, and sources used to compile information in the report

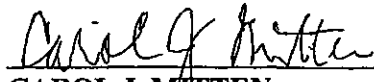
- C-17 The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D C Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D C Human Rights Act of 1977, as amended, D C Official Code section 2-1401.01, 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, 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.

On February 5, 2007, the Zoning Commission **APPROVED** Z C Case No 06-12 by a vote of 4-0-1 (Carol J Mitten, John G Parsons, Anthony J Hood, and Michael G Turnbull to approve, Gregory N Jeffries not present, not voting)

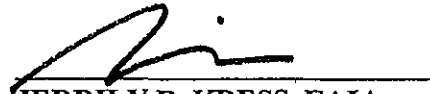
This Order was **ADOPTED** by the Zoning Commission at its public meeting on March 12, 2007 by a vote of 5-0-0 (Carol J Mitten, John G Parsons, Anthony J Hood, Gregory N Jeffries, and Michael G Turnbull to adopt)

Z C ORDER NO 06-11/06-12
Z C CASES NO 06-11/06-12
PAGE 50

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D C Register*, that is, on OCT 26 2007



CAROL J MITTEN
CHAIRMAN
ZONING COMMISSION



JERRILY R KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

DEVELOPMENT SITES

PRIMARY USE CATEGORIES

- ACADEMIC/ADMINISTRATIVE/MEDICAL
- RESIDENTIAL/CAMPUS LIFE/ATHLETIC
- COMMERCIAL/INVESTMENT

OTHER

- ADAPTIVE REUSE OF HISTORIC BUILDINGS
- SITES TO BE ADDRESSED UNDER SEPARATE ZONING PROCESS
- CAMPUS PLAN BOUNDARY

Appendix 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



Z.C. CASE NOS.: 06-11 & 06-12

OCT 18 2007

As Secretary to the Commission, I hereby certify that on _____ copies of this Z C Order No 06-11/06-12 were mailed first class, postage prepaid or sent by inter-office government mail to the following

- | | | | |
|---|---|----|---|
| 1 | <i>D C Register</i> | 8 | Office of Planning (Harriet Tregoning) |
| 2 | Maureen Dwyer, Esq
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N W
Washington, D C 20037-1128 | 9 | Ken Laden, DDOT |
| | | 10 | Matt LeGrant, Acting Zoning
Administrator |
| 3 | Asher Corson, Chair
ANC 2A
West End Branch Library
1101 24th Street, NW
Washington, DC 20037 | 11 | Jill Stern, Esq
General Counsel - DCRA
941 North Capitol Street, N E
Suite 9400
Washington, D C 20002 |
| 4 | Commissioner David Lehrman
ANC/SMD 2A01
2020 F Street, NW #431
Washington, DC 20006 | 12 | Office of the Attorney General
(Alan Bergstein) |
| | | 13 | Foggy Bottom Association
c/o Cornish F Hitchcock
1200 G Street, NW Suite 800
Washington, DC 20005 |
| 5 | Commissioner Eric Malinen
ANC/SMD 2A05
2440 Virginia Avenue NW Apt. D1207
Washington, DC 20037 | 14 | West End Citizens Association
c/o Barbara Kahlow
West End Citizens Association
800 25th Street, N W #704
Washington, DC 20037 |
| 6 | Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N W
Washington, D C 20004 | | |
| 7 | Councilmember Jack Evans | | |

ATTESTED BY:

A handwritten signature in dark ink, appearing to read "Sharon S. Schellin", is written over a horizontal line.

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

441 4th Street, N W , Suite 200/210-S, Washington, D C 20001

Telephone (202) 727-6311

Facsimile (202) 727-6072

E-Mail dcoz@dc.gov

Web Site www.dcoz.dc.gov

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO 06-11B1/06-12B1
Z C Case No 06-11B/06-12B
(Second Stage Planned Unit Development ("PUD") and
Further Processing of an Approved Campus Plan)
The George Washington University Foggy Bottom Campus – Square 55)
June 13, 2011**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on March 24, 2011, to consider an application of The George Washington University (the "University" or "GW") for the review and approval of the second stage of an approved PUD and further processing of an approved campus plan. The Commission considered the application pursuant to Section 210, Chapter 24, and Chapter 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. The Commission approves the application, subject to the conditions below.

FINDINGS OF FACT

Application, Parties, and Hearing

- 1 The property that is the subject of the application is located in Square 55, Lots 28 and 857 (the "Property").¹
- 2 In November 2010, the University submitted an application for second-stage PUD approval of the Property. The University sought approval to develop an eight-story Science and Engineering Complex ("SEC") as an interdisciplinary and multidisciplinary teaching and research environment for the University's science and engineering programs. The University concurrently requested further processing approval of its approved campus plan to construct the new facility (Exhibits 4-40).

¹ Concurrently with the Zoning Commission review process, the Property was subdivided into a single record lot, and is now known as Lot 29.

- 3 The application was set down for a public hearing at the Commission's December 13, 2010 public meeting. Notice of the public hearing was published in the *D C Register* on January 28, 2011 (58 DCR 805) and was mailed to Advisory Neighborhood Commission ("ANC") 2A and to owners of property within 200 feet of the second stage PUD site.
- 4 A public hearing was conducted on March 24, 2011. The Commission accepted Craig Spangler as an expert in the field of architecture, Jami Milanovich as an expert in the field of traffic engineering, and Andi Adams as an expert in the field of historic preservation. The University provided testimony from these experts as well as from Dr. Steven Lerman, the University's Provost, and Alicia O'Neil Knight, the University's Senior Associate Vice President for Operations.
- 5 In addition to the University, ANC 2A was automatically a party in this proceeding. The Commission also granted a request for party status in opposition to the application from the West End Citizens Association ("WECA").
- 6 At the hearing, the Commission heard testimony and received evidence from the Office of Planning ("OP") and the District Department of Transportation ("DDOT") in support of the application, as well as testimony and evidence from ANC 2A and WECA expressing concerns with or objections to the application.
- 7 The Commission also heard testimony from numerous area residents, faculty, and students in support of the application. Other than ANC 2A and WECA, no other person or party testified in opposition to the application.
- 8 At the close of the hearing, the Commission asked the University for further information regarding the timing of the development of a site across 22nd Street (Square 77) and for further details on the features of the PUD that would address pedestrian safety issues.
- 9 The University filed its post-hearing submission addressing the Commission's comments on April 11, 2011. (Exhibit 69.)
- 10 At its public meeting on April 25, 2011, the Commission took proposed action to approve the PUD application and plans that were submitted into the record. As part of its amenities proffer, the Applicant indicated that it would construct a pocket park that would front on 23rd Street and that it would relocate the John A. Wilson plaque to that location. The plaque had been located in a pocket park that fronted on 22nd Street. The Commission, during its deliberations on proposed action, requested the Applicant to provide site plans depicting the former and future parks, and identifying the location of the plaque at each location. The Applicant responded to this request through attachments to a letter dated May 9, 2011. (Exhibit 75.)

- 11 The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the Home Rule Act. NCPC, by action dated 76, found that the proposed PUD would not be not inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other identified federal interests
- 12 The Commission took final action to approve the application on June 13, 2011

Campus Plan and First Stage PUD Approval

- 13 In Z C Order No 06-11/06-12, the Commission concurrently approved a new campus plan and first-stage PUD for the Foggy Bottom Campus (the "Campus Plan/PUD"). The Campus Plan incorporated a plan for developing the campus as a whole by concentrating height and density within the central campus core and redistributing parking supply throughout the campus in multiple underground parking garages. The first-stage PUD is coterminous with the approved boundaries for the Foggy Bottom Campus, and includes all properties that were owned by the University at the time of approval of the Campus Plan/PUD. The approved first-stage PUD identified 16 development sites for future development as well as the uses, height, gross floor area, and lot occupancy for each development site
- 14 For the Property that is the subject of this application, the Campus Plan/PUD approved a building devoted to academic/administrative/medical use with a height of 110 feet, lot occupancy of 90%, and gross floor area of 400,244 square feet. The Campus Plan/PUD also called for approximately 350 new parking spaces on the Property in an underground facility
- 15 The Campus Plan/PUD approved the rezoning of certain development sites in order to permit the University to achieve the height and density needed to achieve its forecasted academic and student housing needs
- 16 For the Property that is the subject of this application, the Campus Plan/PUD approved a rezoning to the C-3-C Zone District
- 17 The historic preservation component of the Campus Plan/PUD called for a stepdown in height to 90 feet along 23rd Street. The historic preservation component did not call for the retention of either of the two existing structures on the Property, the University Parking Garage and an academic building known as Building K
- 18 The Campus Plan/PUD called for the retention of the existing alley entrance that runs north-south from I Street, N W

- 19 In its Order approving the Campus Plan/PUD, the Commission recognized that the University would need to utilize, on an interim basis, off-campus parking resources to maintain compliance with the 2,800-space campus parking requirement (Z C Order No 06-11/06-12 at 7 (FOF 27))

Second-Stage PUD Approval/Further Processing

Overview of the Property

- 20 The Property is an irregularly-shaped parcel that fronts the entire length of 22nd Street, N W between H Street, N W and I Street, N W , as well as portions of H Street, N W , I Street, N W , and 23rd Street, N W The Property is currently improved with the University Parking Garage, which contains parking for 1,252 vehicles (1,482 including valet capacity), and Building K, a small gymnasium that contains academic uses
- 21 The University provided evidence and testimony from its expert architectural historian regarding Building K at the public hearing As a part of the Campus Plan/PUD, the University and its preservation consultants undertook a comprehensive assessment of potential historic resources throughout the campus Building K was evaluated and determined not to merit preservation because of substantial façade alterations to the building The University's representatives also testified that, in response to a request from a neighbor, the University had agreed to acknowledge the history of the building as a church through a commemorative plaque on the site
- 22 Also located in the same square are three brick buildings between 80 and 90 feet in height that are operated by the University as residence halls and which were recently designated as historic landmarks as a part of the University's campus historic preservation plan
- 23 Surrounding uses include the GW Hospital and the Medical Center to the west and northwest, the University's Academic Center to the east, a residence hall and academic building to the south, and the mixed-use Square 54 PUD approved by the Commission in Z C Order No 06-27 to the north
- 24 The Foggy Bottom-GWU Metrorail station is located immediately to the northwest of the Property

The Project

- 25 The University sought approval to develop an eight-story building as a new Science and Engineering Complex for the University containing uses consistent with the Property's academic/administrative/medical designation under the approved Campus Plan (the "Project") The Project also includes two stories of below-grade program space, four levels of underground parking containing approximately 328 parking spaces (379 with

valet capacity), and approximately 3,000 square feet of retail space fronting I Street, N W

- 26 At the hearing, the University's representatives explained that the Project will permit consolidation of existing departments in its science and engineering programs within a single structure. The University explained that the co-location of these science and engineering disciplines under a single roof would foster a premier teaching and research environment to promote multidisciplinary and interdisciplinary interaction and improve the University's profile as a world-class educational institution.
- 27 Because the Project fronts on all four streets on the block, it will improve the pedestrian experience surrounding the entire square as well as promote campus connectivity through the SEC itself. The Project will feature multiple pedestrian entrances along 22nd Street as well as an entrance off 23rd Street, across from the Medical Center, and an entrance to the retail space on I Street.
- 28 At the hearing, the project architect provided a detailed description of the building design intent, façade design, materials selection, and surrounding context. The architect noted the proposed components of the building design including type and color of materials, ground-floor design and roof lines, and use of bay windows, which were all incorporated based on their compatibility with surrounding buildings in order to articulate the building's facades.
- 29 The Project will create an improved site plan for vehicular and pedestrian traffic over existing conditions.
 - a As a result of the removal of the University Parking Garage, the University will eliminate five of seven curb cuts surrounding the block. Underground parking will be accessed from H Street.
 - b The University will convert an existing surface parking lot between two of the residence halls in the block into a shared service and loading area for the SEC and residence halls. This loading area will be accessed from the existing curb cut on I Street.
 - c The University will establish two pocket parks on privately controlled GW property along the perimeter of the square, one located adjacent to the loading entrance on I Street, and the other located adjacent to the pedestrian entrance on 23rd Street.
 - d Pursuant to its Streetscape Plan and related agency approvals, the University will improve the streetscape surrounding the entire square. These improvements will result in an enhanced pedestrian experience through wider sidewalks, improved paving materials, widened tree pits, and new landscaping and furnishings consistent

with the Streetscape Plan. The University indicated that the north-south sidewalks will be paved with concrete, and the east-west sidewalks will be paved with brick pavers, consistent with the campus-wide Streetscape Plan developed as a part of the implementation of the Campus Plan/PUD.

- 30 The proposed Project will minimize environmental impacts, particularly compared to existing conditions. Specific features cited by the University's representative include green and white roofs for the building, the use of enthalpy wheels and chilled beam systems to reduce the energy demand associated with heating and cooling the building, and adaptable furnishings within the building to maximize adaptability in use of interior spaces without significant renovation. The University testified that it is targeting a Silver rating under the U.S. Green Building Council's LEED 2009 for New Construction rating system.
- 31 The Project will provide approximately 110 bicycle parking spaces, including both surface spaces and spaces within the parking garage, as well as dedicated parking spaces in the garage for electric cars and carsharing services.
- 32 The total gross floor area for the Project is approximately 377,036 square feet for a total floor area ratio ("FAR") of approximately 6.6 and a lot occupancy of approximately 90%. The building will reach a maximum height of approximately 110 feet.
- 33 The University requested flexibility from the width and area requirements for courts in order to accommodate the proposed design of the building relative to the underlying lot, flexibility from the roof structure requirements in order to accommodate the design of the enclosure wall and lack of required setback along one portion of the structure facing an interior wall, and flexibility from the loading requirements in order to permit the berths to project over the underlying lot lines.

Project Amenities and Public Benefits

- 34 The project amenities and public benefits of the PUD were proffered and accepted in conjunction with the Campus Plan/PUD process.
 - a In the Campus Plan/PUD Order, the Commission recognized that the University had developed its first-stage PUD, including the identification of project amenities and public benefits for the surrounding community, through a comprehensive community-based planning process that engaged a variety of stakeholders to elicit input and feedback. (Z.C. Order No. 06-11/06-12 at 18 (FOF 71).) During that proceeding, many persons and organizations, including residents of the surrounding neighborhoods, testified in support of the proposed benefits and amenities. (*See, id.* at 24 (FOF 96).)

- b In approving the Campus Plan/PUD, the Commission found that the proposed increases in height, density, and lot occupancy and related changes in zoning, were appropriate and concluded that the value of the project amenities and public benefits were acceptable in light of the degree of development incentives requested (Z C Order No 06-11/06-12 at 25 (COL 4)) On appeal, the D C Court of Appeals sustained the Commission's decision, specifically holding that the record contained substantial evidence to support the Commission's decision regarding the sufficiency of the amenities package (*Foggy Bottom Ass'n v D C Zoning Comm'n*, 979 A 2d 1160, 1172 (D C 2009))
- 35 The University indicated in its written submissions and at the public hearing that it had started to implement many of these public benefits and project amenities pursuant to the conditions of approval of the Campus Plan/PUD Order, including
- a Transitioning the use of off-campus properties to uses other than undergraduate housing,
 - b Refraining from purchasing residentially-zoned properties in the Foggy Bottom/West End neighborhoods for university uses,
 - c Designating six University properties as historic landmarks, including three located on Square 55 adjacent to the proposed Project, and submitting the materials required for the District's Historic Preservation Office to create the campus historic district,
 - d Developing and submitting a final campus streetscape plan to DDOT, and
 - e Creating the campus plan Advisory Committee, with regular quarterly meetings since 2007
- 36 As detailed in the University's testimony and written submissions, the proposed Project will implement the following project amenities and public benefits that were approved as part of the Campus Plan/PUD
- a Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented landscape improvements, clear separation of pedestrian and vehicular entrances and circulation patterns, and sustainable features
 - b Site planning and efficient land utilization, through the replacement of the existing structured parking garage with the transformative academic complex, which will further both the distribution of parking supply throughout the campus and the development of additional academic and administrative space at the core of the campus plan

- c Effective and safe vehicular and pedestrian access and transportation management measures Specific features include
 - i Elimination of the University Parking Garage, which will reduce the number of overall trips to and from the square by approximately 75%, thereby reducing the number of trips at surrounding intersections,
 - ii Elimination of five of seven curb cuts around the square in order to reduce potential vehicular-pedestrian conflicts,
 - iii Consolidated loading for all uses within the square, within an interior open court that will permit most trucks to turn around within the loading area and therefore enter and exit front-first,
 - iv A combination of physical improvements and operational measures to regulate service and delivery activity in order to ensure pedestrian safety and reduce potential adverse impact, and
 - v Features that further the campus-wide transportation demand management measures, including 110 bicycle parking spaces, three dedicated spaces for carsharing vehicles, and six dedicated spaces for electric cars (equipped with charging stations)
- d Environmental benefits, including green roof and white roof, specific building systems and design features that will reduce the overall energy demands associated with heating and cooling the building, and stormwater management features that will capture runoff and permit its reuse, as well as a goal of achieving a minimum of the equivalent of a Silver rating under the LEED-NC 2009 rating system (which exceeds the minimum commitment of 16 points under Condition P-13 of the Campus Plan/PUD)
- e Uses of special value, including approximately 3,000 square feet of ground floor retail along I Street, N W , as a part of the University's commitment to build out an "I Street Retail Corridor "
- f Historic preservation, through the development of a Project that respects and complements adjacent historic landmarks through (1) design features such as the use of bay windows, stepdown in height along 23rd Street, and selection of appropriate materials and (2) specific improvements to the I Street service and loading area, including the use of special paving and creation of a pocket park at the street that integrates the historic wall and piers associated with the adjacent landmark

Evaluation of Transportation Issues

Traffic

- 37 The road network surrounding Square 55 consists of three two-way streets and one one-way northbound street. Two of the four street intersections are currently signalized, DDOT plans to install a signal at a third intersection in the near term as a result of payments made in connection with Z C Order No. 06-27.
- 38 The Project is located adjacent to several modes of transportation, including the nearby Foggy Bottom-GWU Metrorail station, Metrobus and D C Circulator lines, shuttle buses, bicycle facilities, a connected and developed urban network of pedestrian sidewalks and paths, and a connected network of arterial, collector, and local streets.
- 39 Representatives of the University provided evidence that they worked closely with representatives of OP and DDOT to evaluate potential vehicular entrances for the Project and, once these entrances were confirmed, determine what additional measures would be needed to mitigate potential pedestrian-vehicular conflicts, particularly at the proposed loading and service entrance off I Street, N W.
- 40 The University's expert traffic consultant provided a detailed report as well as testimony regarding the traffic impacts of the Project. The traffic expert found that the Project would generate 75% fewer peak hour trips than the current use. The traffic expert concluded that the Project would reduce the number of trips at almost all surrounding intersections and would not create any adverse impacts as compared to future background conditions without the proposed development. Based on the foregoing, the traffic consultant concluded that the Project would not impose adverse or objectionable impacts on traffic operations in the surrounding area.
- 41 The University's traffic consultant also concluded that the I Street loading and service entrance, with the physical and operational components of the truck management plan proposed by the University, will accommodate the loading operations for the SEC and minimize the impact of its service and loading activity.
- 42 At the hearing, the University agreed to comply with DDOT's recommendations to (a) provide information in the lobby through electronic displays regarding transportation options, and (b) provide transportation performance monitoring studies upon completion of the Project.
- 43 In written reports and testimony, representatives from DDOT and OP confirmed that the Project would not impose adverse traffic impacts and that no additional mitigation measures were needed to address traffic impacts. OP and DDOT also confirmed that the

proposed measures associated with the loading and service area would avoid objectionable or adverse impacts

Parking and Interim Use of Off-Campus Parking Resources

- 44 The Applicant's traffic consultant found that the Project will reduce the number of parking spaces on the square by 945 spaces (1,123 spaces including valet) and that, as a result of the construction of replacement parking facilities and interim use of off-campus parking facilities, the University will maintain its required minimum of 2,800 parking spaces
- 45 The Applicant's traffic consultant found that the Project will reduce the number of curb cuts from seven to two and correspondingly increase the number of curb parking spaces around the Project
- 46 In its written submissions and oral testimony, the University testified that it would need to utilize off-campus parking resources for approximately one year following the demolition of the University Parking Garage and before completion of the parking facilities approved in Z C Case No 06-11A/06-12A to maintain compliance with the 2,800-space campus parking requirement The University testified that it expected to lease approximately 350 parking spaces from the nearby Kennedy Center, with the lease to remain in effect during the construction of the SEC, although the number of spaces will be reduced after the parking facilities approved in Z C Case No 06-11A/06-12A are completed
- 47 The University testified that access to the off-campus parking will be provided through an existing shuttle bus service as well as through supplemental service provided by the University The University submitted a plan demonstrating that its shuttle service will avoid nearby residential areas, and this was acknowledged by the representative for the ANC
- 48 Representatives of OP and DDOT confirmed that the impact of the Project on parking – on-site, campus-wide, and through the interim use of off-campus parking resources during the construction period – will not be objectionable and will not impose adverse impacts, and that the University will continue to provide the minimum required number of spaces

Pedestrian Issues

- 49 The University provided written evidence and testimony that the proposed streetscape design and improvements will enhance the pedestrian experience around the entire perimeter of the square through the following features

- a Reduction in curb cuts from seven to two, which will reduce the number of potential pedestrian/vehicle conflicts,
 - b New sidewalks surrounding the entire square, which will be wider than existing sidewalks, improved tree pits, planting zones, and other pedestrian amenities, and
 - c Use of pedestrian-friendly paving materials, including scored concrete on north-south streets, brick pavers on east-west streets, and cobblestones between the tree pits that will be ADA-compliant. The University's representatives noted that, per the Streetscape Plan, the bricks will be laid on a concrete slab foundation and, when appropriate, use structural soil or silva cells to increase the volume of soil available for tree roots without causing the paving to heave
- 50 OP and DDOT supported the proposed streetscape improvements and asked the University to continue to work with DDOT and other public space officials to implement these improvements and address related pedestrian activity crossing public streets
- 51 In its post-hearing submission, the University agreed to work with DDOT and other public space representatives to work on the design of the streetscape improvements and explore whether additional width was achievable. The University also identified features of the site plan and Streetscape Plan that would encourage pedestrian use of crosswalks near the site, and agreed to work with DDOT to identify whether supplemental efforts should be considered
- 52 University representatives provided testimony that the Streetscape Plan called for the use of non-segmented benches in response to student preferences and consistent with the style of other benches on campus. In testimony, representatives from DDOT confirmed that the use of non-segmented benches had been deemed acceptable for the Foggy Bottom Campus

Second Metrorail Entrance

- 53 The University testified that, concurrent with but independent of the Campus Plan/PUD proceedings, WMATA had determined that a planned second entrance to the Foggy Bottom-GWU Metrorail station would be located at the northwest corner of Square 77, at the intersection of 22nd and I Streets, N W and across 22nd Street from the Project
- 54 The University further explained that, during the campus plan proceedings and in response to that WMATA study, GW had agreed to accommodate a future second Metrorail entrance in conjunction with its buildout of the development site located on Square 77

- 55 In conjunction with this Project, OP asked the University to consider whether it could include removable panels within the Project that would permit a direct connection to the Metrorail entrance when that entrance is completed. The University's representatives testified that a connection would not be possible because secured areas with sensitive equipment such as the SEC's "clean rooms" (climate and particle-controlled environment for work on microchips and other sensitive materials) were located at the level where such a connection would occur. At the hearing, OP testified that it accepted the University's explanation that such connection was not feasible.
- 56 In a post-hearing submission, the University reiterated its commitment to accommodate the future Metrorail entrance on Square 77 through the design of its future improvements for that site. The University also explained that while the timing of its future development of Square 77 was unknown, the University's development of Square 77 would have no impact on the construction of a second Metrorail station entrance or the timing of WMATA's implementation of its development plans.

Conclusions

- 57 The Project will not cause unacceptable impacts on vehicular or pedestrian traffic, as demonstrated by the testimony and reports provided by the University's traffic expert and the OP and DDOT reports and testimony described herein.
- a The Commission finds that the Project will not impose adverse or objectionable impacts on the surrounding transportation network. The Commission credits the findings of the University's traffic expert, who concluded that the Project will reduce the number of trips from the Property, resulting in reduced volumes most of the surrounding intersections. The Commission agrees with the traffic expert's finding that the Project will not create any adverse impacts when compared with future background conditions. The Commission credits the testimony of DDOT that the project will not impose objectionable impacts due to traffic.
 - b The Commission also finds that the proposed service and loading entrance, with the additional truck management measures proposed by the University, will ensure that the Project will not impose adverse or objectionable impacts because of truck traffic. The Commission also credits the testimony of DDOT that these measures are acceptable.
 - c The Commission finds that the proposed Project will not impose adverse or objectionable impacts due to parking. The Commission credits the testimony of the University and its traffic consultant that, upon completion of this Project and the parking garage approved in Z C Case No 06-11A/06-12A, the University will provide a total of approximately 3,300 on-campus parking spaces, which exceeds the minimum requirement of 2,800 parking spaces. The Commission also credits the

testimony of the University and its traffic consultant that the interim use of off-campus parking resources at the Kennedy Center will not impose objectionable impacts on the surrounding neighborhoods due to parking, because the University will continue to provide the minimum of 2,800 parking spaces and promote access to the off-campus parking supply through supplemental shuttle service

- d The Commission finds that the Project will not impose adverse or objectionable impacts on the surrounding pedestrian network, and in fact will improve existing conditions. The Commission recognizes that DDOT will determine the final measures to be installed through the public space approval process
- e The Commission does not agree with assertions by ANC 2A or WECA that the Project will impose adverse impacts on traffic or parking. As demonstrated by the University's traffic consultant, the Project will not impose adverse impacts on surrounding intersections when compared to future background conditions without the Project. Furthermore, the Commission does not credit the ANC's assertion that the University has increased, rather than decreased, the parking supply of the campus. Many of the spaces alleged by the ANC to be a part of this increase are not part of the University's supply, but rather are associated with the office, retail, and residential components of the mixed-use PUD approved in Z C Order No 06-27
- f The Commission does not agree with assertions by ANC 2A or WECA that the Project will impose adverse impacts on the pedestrian network. As demonstrated by the University, the Project's related streetscape improvements will result in an improvement over existing conditions, such as by increasing sidewalk widths and by the use of paving materials and methods that will not adversely impact pedestrian mobility
- g The Commission does not agree with the assertions by ANC 2A that the University should be required to fund or substantially contribute to the construction of a second Metrorail entrance, either through the Project or through future development. As discussed in greater detail below, the University has already provided ample benefits and amenities through the Campus Plan/PUD, and no additional benefits are warranted because of the impact of this Project. Furthermore, the Commission credits the testimony of the University that a direct connection to the Project is not feasible given the Project design, and notes that OP accepted the University's rationale. Finally, the Commission recognizes that the timing and buildout of the Campus Plan/PUD will not impact the ability of WMATA to construct the second entrance, particularly given the University's agreement to accommodate the entrance

Compliance with PUD Standards

- 58 In evaluating a PUD application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects” During its consideration of the first stage PUD in Z C Case No 06-11/06-12, the Commission determined that the development incentives and related rezoning for the entire campus were appropriate and fully justified by the superior benefits and amenities offered by the Campus Plan / PUD and this decision was affirmed by the District of Columbia Court of Appeals Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for this second stage PUD, including the requested flexibility from the court, roof structure, and loading requirements and satisfaction of the PUD standards The Commission does not find that contributions towards a second Metrorail entrance or other additional amenities and benefits are required to satisfy the PUD standards for this Project
- 59 The Commission credits the testimony of the University and its architectural experts and finds that the design, site planning, streetscape, sustainable design, uses of special value (retail space), and historic preservation features of the Project all constitute acceptable project amenities and public benefits consistent with the Commission’s first stage approval
- 60 The Commission finds that the character, scale, mix of uses and design of the Project are appropriate, and finds that the site plan is consistent with the intent and purposes of the PUD process to encourage high quality developments that provide public benefits In addition, the Commission finds that the site plan and features of the Project, including the amount of net new parking proposed, reduction in the number of curb cuts, streetscape improvements, and retention of the I Street curb cut is consistent with the first stage PUD
- 61 For the reasons detailed in this Order, the Commission credits the testimony of the University’s traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project on the surrounding area are capable of being mitigated through the measures proposed by the University and are acceptable given the quality of the public benefits of the PUD The Commission credits the findings of the University’s traffic consultant that the proposed service and loading plan, with the physical improvements and operational features proffered by the University are acceptable and will mitigate potential pedestrian-vehicular conflicts The Commission was not persuaded by ANC 2A or WECA’s testimony regarding the transportation impacts of the Project

- 62 As detailed in this Order, the Commission agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development
- 63 The Commission credits the testimony of the University and OP regarding the compliance of the Project with the Comprehensive Plan. The development is fully consistent with and furthers the goals and policies in the map, citywide and area elements of the Plan, including
- a Designation as an Institutional use on the Future Land Use Map,
 - b Land Use Element policies recognizing the important contribution of universities to the District economy and their efforts to address transportation issues and serve as corporate role models through high quality architecture and sustainable building methods,
 - c Other policies in the Economic Development, Education, Transportation, Environmental Protection, and Urban Design Elements related to the Land Use policies and goals stated above, and
 - d Policies in the Near Northwest Area Element regarding improved communication, increased density on-campus, and mitigation measures and amenities that improve the character of the area as a whole

Compliance with Requirements of Z C Order No 06-11/06-12

- 64 Pursuant to Condition P-14 of Z C Order No 06-11/06-12, the University demonstrated that the proposed second-stage PUD is consistent with the location, use, zoning, gross floor area, lot occupancy, and height set forth in the first-stage PUD
- 65 Pursuant to Condition P-16 of the Order, the University provided the compliance, impact analysis, and progress reports required for each second-stage PUD in its initial PUD application
- 66 Pursuant to Condition P-17 of the Order, the University provided its most recently filed Foggy Bottom Campus Plan Compliance Report indicating substantial compliance with Z C Order No 06-11/06-12
- 67 The Commission finds that the University has satisfied the above conditions and requirements of Z C Order No 06-11/06-12

Compliance with § 210 Standards

- 68 In evaluating a special exception to permit a college or university use in a residential zone district, the Commission must review whether the application meets the standards

for approval under § 210 of the Zoning Regulations, including whether the “proposed use will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable impacts” During its consideration of the campus plan in Z C Case No 06-11/06-12, the Commission determined that the use of the Foggy Bottom Campus as a whole, including the number of students, faculty and staff proposed and the related traffic and parking impacts associated with that use, would not become objectionable to neighboring property Here, the Commission finds that the University has satisfied its burden of proof under the Zoning Regulations for further processing of the approved campus plan to construct the Project

- 69 For the reasons detailed in this Order, the Commission credits the testimony of the University’s traffic consultant and finds that the traffic, parking, and other transportation impacts of the Project are not likely to become objectionable to neighboring property
- a During the campus plan proceedings in Z C Case No 06-11/06-12, the Commission concluded that the distribution of parking to underground garages – including one garage located on the Property – would not generate objectionable transportation impacts The Commission also concluded that the future levels of service at intersections throughout the campus and in the immediate vicinity would remain at primarily acceptable levels of service with the implementation of mitigation measures proposed by the University
 - b As detailed in the Order approving the Campus Plan/PUD, the Commission found there was substantial evidence in the record regarding traffic impacts, and therefore does not find it necessary to address WECA’s contention whether certain questions raised in that proceeding were specifically addressed by DDOT
 - c Here, the Commission credits the findings of the University’s traffic consultant that the proposed Project will not have an adverse impact on traffic operations at surrounding street intersections and will in fact reduce traffic impacts through the reduction in the number of trips originating from the Property
- 70 The Commission agrees with DDOT’s conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development The Commission credits DDOT’s evaluation of the University’s traffic study and related transportation demand and truck management measures The Commission also credits DDOT’s acceptance of the pedestrian and related streetscape measures proffered by the University subject to final approval by DDOT
- 71 The Commission credits the evidence submitted by the University that total campus FAR will remain within the density limit approved for the residentially-zoned portions of the campus after the construction of the Project

- 72 The Commission credits the evidence provided by the University and OP that the Project will not be inconsistent with the Comprehensive Plan for the National Capital, and will further the goals and policies of the Comprehensive Plan

Agency Reports

- 73 By report dated March 14, 2011 and by testimony at the public hearing, OP recommended approval of the application, including the second stage PUD and further processing of the campus plan. OP reviewed the application under the PUD and campus plan standards of the Zoning Regulations as well as the specific conditions of the Campus Plan/PUD Order, and concluded that the University had satisfied its burden of proof.
- 74 By report dated March 17, 2011, DDOT recommended approval of the University's application based on its review of the vehicular, pedestrian, and other transportation impacts of the Project. DDOT's specific conclusions and recommendations are discussed elsewhere in this order.

ANC 2A Report

- 75 At a regularly scheduled meeting on February 16, 2011, with a quorum present, ANC approved a resolution raising an objection to the application and listing the following issues for the Commission to request from the University:
- a Define a plan for the addition of a second Metro entrance and expedite such entrance through capital funding as a public benefit of the PUD, based on the ANC's assertion that the current amenity package was deficient,
 - b Address pedestrian mobility and safety, including through the width of the proposed sidewalks,
 - c Signalize the intersection of 22nd and I Streets, N W ,
 - d Provide details on the proposed Kennedy Center parking and related University shuttle service,
 - e Address the alleged historic value of Building K,
 - f Identify where existing uses in Building K would be relocated,
 - g Prepare a construction management plan, and
 - h Address how the University plans to manage to its enrollment caps

76 The University addressed these issues in its supplemental post-hearing submission. They are summarized as follows:

- a As discussed in Findings of Fact 53-56 above, the University has agreed to accommodate the future entrance with the design of future development in Square 77, which is WMATA's preferred location for the entrance. As discussed in Finding of Fact 58 above, the Commission does not agree that the current amenities package is insufficient or that additional amenities are required to justify the development incentives granted for this Project,
- b As discussed in Finding of Fact 49, the Project will improve pedestrian facilities over existing conditions, and as discussed in Finding of Fact 51, the University will continue to work with DDOT and other public space officials to further address whether additional improvements are warranted,
- c The cost of signalization of the intersection of 22nd and I Streets, N W was already provided through the Commission's approval of Z C Order No 06-27. At the hearing, DDOT testified that the signal would likely be installed within the year,
- d As discussed in Findings of Fact 46-47 above, the University provided additional details regarding the interim use of off-campus parking resources and related shuttle service. At the hearing, the ANC indicated that the proposed shuttle route was acceptable,
- e As discussed in Finding of Fact 21 above, Building K was determined not to warrant preservation because of significant alterations to its façade, but the University will provide a commemorative plaque recognizing its past use as a church. At the hearing, the ANC indicated that this plaque was acceptable,
- f The uses within Building K will be temporarily relocated to existing GW space either on campus or within leased space in the Golden Triangle/K Street corridor. Upon approval and completion of the proposed School of Public Health and Health Services, pending before the Commission in Z C Case No 06-11C/06-12C, the uses will be given a new home within that building,
- g The University agreed to prepare and share details on its construction management plan once the details were approved by DDOT, and
- h The University stated that it continues to remain in full compliance with the caps on student and faculty/staff population and further explained that while the Project will lead to an increase in building density, the University will continue to serve a relatively stable campus population. The purpose of the Project, as explained by the

University Provost at the hearing, was to provide improved teaching and research resources for existing students

- 77 At the hearing, the ANC raised additional questions regarding the potential impact of the SEC on air quality. The University indicated that air quality and other environmental impacts will be addressed through the environmental review process associated with the consideration of the building permit for the Project, and will meet all EPA and DDOE standards.
- 78 The Commission gives “great weight” to the issues and concerns raised by ANC 2A, which raised objections to the application. The Commission finds that the concerns presented by the ANC were largely addressed by the University both in its pre-hearing submission and in testimony at the public hearing, and the University’s conclusions were supported by testimony from OP and DDOT.

Testimony in Support

- 79 At the hearing, the Commission received evidence and heard testimony from many students and neighbors in support of the Application.

Testimony in Opposition

- 80 WECA presented testimony and evidence from Barbara Kahlow and Sara Maddux. WECA generally objected to the transportation impacts of the proposed Project related to impacts on traffic conditions and related streetscape improvements.
- 81 For the reasons discussed in detail above, the Commission does not agree with WECA’s assertions regarding the impacts of the Project, and finds that both the University and DDOT provided thorough evaluations of the traffic impacts and streetscape features.

CONCLUSIONS OF LAW

- 1 The Applicant requested special exception approval, pursuant to 11 DCMR §§210, 3305, and 3104, of further processing of its approved campus plan, and approval, pursuant to 11 DCMR Chapter 24, of a second-stage PUD and modification to a first-stage PUD development for its Foggy Bottom Campus. The Commission is authorized under the aforementioned provisions to grant a special exception which, in the judgment of the Commission, will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. A special exception to allow use as a college or university in a Residence zone may be granted subject to the provisions contained in § 210, including that the university use must 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” and that the maximum bulk requirements may be increased for specific buildings, subject to restrictions based on the total bulk of all buildings and structures on the campus. The Commission is also authorized under the Zoning Act to approve planned unit developments consistent with the requirements set forth in Chapter 24 of the Zoning Regulations.

2. Based on the above Findings of Fact and pursuant to Condition P-15 of Z C Order No 06-11/06-12, the Commission concludes that the University has satisfied the burden of proof for special exception approval of further processing of its campus plan in accordance with § 210. In particular, the Commission concludes that the proposed project will not create objectionable traffic, parking, pedestrian, or other impacts on the surrounding community.
3. Also based on the above Findings of Fact, the Commission concludes that the University has satisfied the burden of proof for approval of the second stage PUD under Chapter 24 of the Zoning Regulations. Approval of this Project will provide high-quality development that provides public benefits, is consistent with the overall goal of the PUD process to permit flexibility of development and other incentives provided that the PUD project “offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience.”
4. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.
5. Under the PUD process and pursuant to Condition P-14 of Z C Order No 06-11/06-12, the Commission has the authority to consider this application as a second-stage PUD. This second stage review permits detailed design review of each project based on the conceptual height, density and use parameters established in the first-stage PUD and the benefits and amenities approved in exchange for that height, density, and design flexibility. The Commission concludes that the Project is consistent with the first stage PUD, including the parameters regarding location, use, height, bulk, and parking set forth for the Property in the first-stage PUD.
6. In approving the PUD, the Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. In this application, the Commission concludes that the requested flexibility from the court, roof structure, and loading requirements can be granted without detriment to surrounding properties and without detriment to the zone plan or map.
7. Based on the documentation included in the initial PUD application, the Commission concludes that the University has demonstrated compliance with the conditions of the first-stage PUD as detailed in Condition P-16 of Z C Order No 06-11/06-12.

- 8 Based on the University's most recently filed Foggy Bottom Campus Plan Compliance Report, which was included in the initial application package, the Commission concludes that the University is in substantial compliance with Z C Order No 06-11/06-12
- 9 The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design not achievable under matter of right standards. The character, scale, mix of uses, and design of uses in the proposed PUD are appropriate, and the proposed development is compatible with the citywide and area plans of the District of Columbia
- 10 The Commission concludes that this project provides superior features that benefit the surrounding neighborhood to a significantly greater extent than a matter-of-right development on the Property would provide. The Commission finds that the urban design, site planning, efficient and safe traffic circulation, sustainable features, and streetscape improvements all are significant public benefits
- 11 The Commission concludes that the impact of the project is acceptable given the quality of the public benefits of the project. The Commission agrees with the conclusions of the University's traffic expert that the proposed project will not create adverse traffic, parking, or pedestrian impacts on the surrounding community
- 12 Approval of the PUD and further processing application is not inconsistent with the Comprehensive Plan. The Commission agrees with the determination of OP and finds that the proposed project is consistent with and furthers numerous goals and policies of the Comprehensive Plan, including the Land Use Element provisions related to educational institutions, transportation impacts, and corporate leadership in exemplary design, as well as related provisions in other citywide elements and policies in the Near Northwest Area Element related to managing the impacts of campus development
- 13 The Commission has judged, balanced, and reconciled the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects, and concludes approval is warranted
- 14 The Commission previously concluded in Z C Order No 06-11/06-12 that the proposed PUD-related Zoning Map Amendment for the Property from the R-5-D to the C-3-C Zone District was not inconsistent with the Comprehensive Plan and is appropriate given the superior features of the PUD, the goals and policies of the Comprehensive Plan, and other District of Columbia policies and objectives
- 15 The Commission is required under D C Official Code § 6-623.04 to give great weight to OP recommendations. The Commission concurs with OP's view that the first stage PUD modification, second stage approval and further processing approval should be granted

- 16 In accordance with D C Official Code § 1-309 10(d), the Commission must give great weight to the written issues and concerns of the affected ANC. The Commission accorded the issues and concerns raised by ANC 2A the “great weight” to which they are entitled, and in so doing fully credited the unique vantage point that ANC 2A holds with respect to the impact of the proposed application on the ANC’s constituents. The Commission concludes that the concerns raised by the ANC were addressed by the University and agencies at the public hearing.
- 17 Notice of the public hearing was provided in accordance with the Zoning Regulations.
- 18 The University is subject to compliance with D C Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the applications for (1) second stage PUD approval for property consisting of Square 55, Lots 28 and 857 (“Property”)², and (2) further processing approval of the 2007 Foggy Bottom Campus Plan. This approval is subject to the following guidelines, conditions, and standards:

- 1 This project shall be developed in accordance with the plans marked as Tab A of Exhibit 22 of the record, as modified by guidelines, conditions, and standards herein.
- 2 The University shall have flexibility from the court, roof structure, and loading provisions of the Zoning Regulations as shown on the approved plans.
- 3 The project shall be used for university academic/administrative/medical, retail, and parking uses.
- 4 The project shall provide parking as shown on the approved plans, provided:
 - a The University shall be permitted to make alterations to the design of the underground parking garage, provided that the garage contains approximately 328 striped parking spaces (approximately 379 spaces with valet capacity), which requirement may be satisfied with any combination of compact and full-sized spaces,
 - b The University shall set aside a minimum of three spaces for carsharing vehicles, and
 - c The University shall set aside a minimum of six spaces and related charging stations in the garage for electric vehicles.

² Concurrently with the Zoning Commission review process, the Property was subdivided into a single record lot, Lot 29.

- 5 The project shall provide loading consistent with the approved plans. Consistent with the flexibility approved by the Commission, such loading may be utilized to serve all properties within the square. The University shall abide by the Truck Management Plan detailed on page 28 of Exhibit 4, Tab H of the Record.
- 6 The University shall complete a transportation performance monitoring study of the Project at two years and five years after issuance of the certificate of occupancy for the Project, and shall provide a report summarizing its findings to OP, DDOT, ANC 2A, the West End Citizens Association, the Foggy Bottom Association, and the Advisory Committee. The study shall cover the items listed on page 4 of Exhibit 25 of the Record.
- 7 The University shall provide a minimum of approximately 110 bicycle parking spaces in connection with the Project, as shown on the approved plans.
- 8 Prior to the issuance of a certificate of occupancy for the Project, the University shall demonstrate that it has
 - a Constructed the streetscape improvements as shown on the approved plans,
 - b Constructed the pocket park adjacent to the I Street loading entrance as shown on the approved plans,
 - c Constructed the paving, marking, and signage improvements associated with the I Street loading entrance as shown on the approved plans,
 - d Constructed the pocket park adjacent to the 23rd Street pedestrian entrance as shown on the approved plans and has relocated the existing John A. Wilson plaque to this location, and
 - e Installed the commemorative plaque regarding Building K's prior use by the Liberty Baptist Church.

The final design of any improvements in public space shall be subject to final approval from DDOT and the University shall have flexibility to modify such improvements in response to DDOT direction. The final design of any improvements located on adjacent property in the square that has been designated as part of a historic landmark shall be subject to any required review and approval by historic preservation officials and may be modified in response to their direction.

- 9 The University shall have flexibility with the design of the PUD in the following areas
 - a To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators,

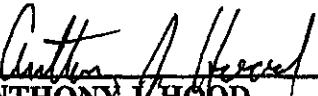
and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure,

- b To vary final selection of the exterior materials within the color ranges and materials types as proposed based on availability at the time of construction,
 - c To make minor refinements to exterior details and dimensions, including balcony enclosures, belts, courses, sills, bases, cornices, railings, and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit, or are needed to address the structural, mechanical, or operational needs of the building uses or systems,
 - d To vary the size, location and design features of retail entrances, including the size, location, and design of windows, doors, awnings, canopies, and similar features, to accommodate the needs of specific retail tenants and storefront design, and
 - e To vary the size, location, and other features of proposed building signage related to the university use or the retail use, provided that such signage is consistent with the locations and dimensions illustrated on pages A40-A43 of the approved plans or is otherwise permitted under the applicable provisions of the Construction Codes
- 10 No building permit shall be issued for this project until the University has recorded a covenant among the land records of the District of Columbia between the owners and the District of Columbia that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs. Such covenant shall bind the University and all successors in title to construct on or use the Property in accordance with this Order and any amendment thereof by the Zoning Commission.
- 11 The application approved by this Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for the building permit as specified in 11 DCMR § 2409.1.
- 12 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, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

On April 25, 2011, upon the motion of Vice Chairman Schlater, as seconded by Commissioner May, the Zoning Commission **APPROVED** this application at its public meeting by a vote of **5-0-0** (Anthony J Hood, Konrad W Schlater, Peter G May, Greg M Selfridge, and Michael G Turnbull to approve)

On June 13, 2011, upon motion of Chairman Hood, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J Hood, Konrad W Schlater, Peter G May, Greg M Selfridge, and Michael G Turnbull to approve)

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D C Register*; that is on July 15, 2011



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



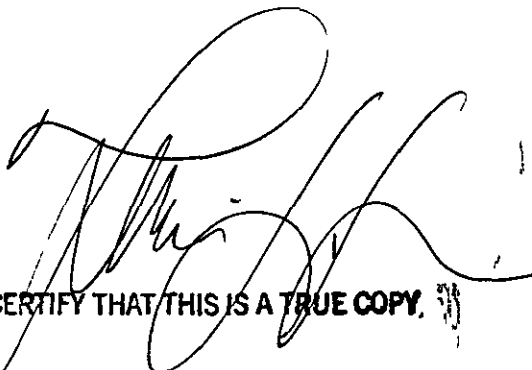
Z C CASE NO.: 06-11B/06-12B

As Secretary to the Commission, I hereby certify that on Jul 12 2011 copies of this Z C Order No 06-11B1/06-12B1 were mailed first class, postage prepaid or sent by inter-office government mail to the following

1	<i>D C Register</i>	6	Councilmember Jack Evans
2	Dave Avritable, Esq Maureen Dwyer, Esq Goulston and Storrs 1999 K Street, N W Suite 500 Washington, D C 20006	7	DDOT (Martin Parker)
3	ANC 2A West End Branch Library 1101 24 th Street, N W Washington, D C 20037	8	Melinda Bolling, Acting General Counsel DCRA 1100 4 th Street, S W Washington, DC 20024
4	Commissioner Florence Harmon ANC/SMD2A06 1099 22 nd Street N W #1011 Washington, D C 20037	9	Office of the Attorney General (Alan Bergstein)
5	Gottlieb Simon ANC 1350 Pennsylvania Avenue, N W Washington, D C 20004	10	West End Citizens Association c/o Barbara Kahow 800 25 th Street, N W #704 Washington, D C 20037
		RECORDING SURCHARGES	25 00 6 50

ATTESTED BY

Sharon S Schellin
Secretary to the Zoning Commission
Office of Zoning



THIS IS TO CERTIFY THAT THIS IS A TRUE COPY.

Ida Williams
Recorder of Deeds, D.C.

FEB 23 2012

PUD COVENANT

THIS COVENANT, ("Covenant") is made as of this 6th day of January 2012, by and between (i) The George Washington University, a nonprofit corporation incorporated by an Act of the United States Congress (hereinafter referred to as the "**University**"), and (ii) the DISTRICT OF COLUMBIA, a municipal corporation (hereinafter referred to as the "**District**")

WITNESSETH

WHEREAS, the University is the owner of property located along G Street NW between 20th Street NW and 21st Street NW (Square 103, Lot 44) ("**Subject Site**"),

WHEREAS, the Zoning Commission of the District of Columbia (hereinafter referred to as the "**Zoning Commission**") approved a first-stage Planned Unit Development under Chapter 24 of the Zoning Regulations of the District of Columbia (the "**Zoning Regulations**") for the University's Foggy Bottom Campus in Zoning Commission Order No 06-11/06-12, effective October 26, 2007, in Zoning Commission Case No 06-12,

WHEREAS, the University intends to develop the Subject Site for use as a Planned Unit Development (hereinafter referred to as the "**Project**") under Chapter 24 of the Zoning Regulations in accordance with Zoning Commission Order No 06-11A1/06-12A1, effective July 22, 2011, in Zoning Commission Case No 06-11A/06-12A, which approved a second-stage Planned Unit Development,

WHEREAS, the Zoning Commission in Zoning Commission Order No 06-11A1/06-12A1 also granted a modification to the Campus Plan PUD in order to incorporate what was formerly known as Lot 18¹ in Square 103 into the Campus Plan PUD, and



LT2-0-0-80

¹ Pursuant to an approved subdivision, Lot 18 was combined with Lots 13, 14, 809, 812, 813, 814, 819, and 820 into Lot 44

RECEIVED
D.C. OFFICE OF ZONING
2012 MAR -2 PM 1:05

WHEREAS, said Chapter 24 and Order No 06-11A1/06-12A1 further require that the University enter into this Covenant with the District of Columbia assuring the University's (and its successors and assigns) development and use of the Project as approved by the Zoning Commission in Order No 06-11A1/06-12A1 and all modifications, alterations or amendments thereto

NOW, THEREFORE, in consideration of the foregoing recitals, which are a material part hereof, it is agreed among the parties hereto as follows

1 Approved Plans The terms and conditions of the Zoning Commission's approval of the Planned Unit Development under Order No 06-11/06-12, effective October 26, 2007, and Order No 06-11A1/06-12A1, effective July 22, 2011 (as the same may be amended and/or modified from time to time, the "Orders"), are incorporated herein by reference and made a part hereof as Exhibits A and B, respectively, and shall be considered a part of this Covenant. The Subject Site will be developed and used in accordance with the plans approved by said Orders and in accordance with conditions and restrictions contained in said Orders, subject to such changes thereto as the Zoning Commission and/or the Zoning Administrator of the District of Columbia may authorize pursuant to §§ 2409.9 and 2409.6, respectively. The University covenants that it will use the Subject Site only in accordance with the terms of the Orders, as the same may be further amended and/or modified from time to time, subject to the terms and conditions contained herein and the provisions of Chapter 24 of the Zoning Regulations.

2 Additional Time to Construct Planned Unit Development If the University should fail to file for a building permit and to commence construction of the approved Project within the time specified in Sections 2408.8 and 2408.9 of the Zoning Regulations and the

Orders, the Zoning Commission may duly consider an application for an extension of time for good cause shown pursuant to Section 2408 10

3 Default In the event that the University to file for a building permit and to commence construction of the approved Project within the time specified in Sections 2408 8 and 2408 9 of the Zoning Regulations and the Orders or within any extension of time granted by the Zoning Commission for good cause shown, the benefits granted by the Orders shall terminate pursuant to Section 2408 14 of the Zoning Regulations

4 Future Conveyance The University covenants that if any conveyance of all or any part of the Subject Site takes place, such conveyance shall contain a specific covenant binding the grantee, its successors and assigns to develop and use the Subject Site in accordance with the terms and conditions of this Covenant

5 Successors and Assigns The covenants and restrictions contained herein shall be deemed real covenants running with the land, and shall bind the parties hereto, their successors and assigns and shall inure to the benefit of the parties hereto, their successors and assigns Such covenants are not binding upon any party who no longer has a property interest in the Subject Site The District shall have the right to enforce all covenants, conditions and restrictions contained herein

6 Recordation The University shall record this Covenant, as fully executed by the parties hereto, among the Land Records of the District of Columbia, and shall file a certified copy of this Covenant with the Zoning Administrator and the Zoning Commission

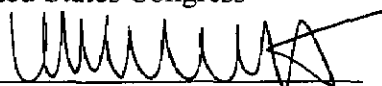
7 Counterparts This Covenant may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument

8 Rescission/Alteration of this Covenant If the Orders are modified or amended by the Zoning Commission, no formal amendment of this Covenant shall be required, provided that the University, or its successors or assigns, records a notice of modification in the Land Records of the District of Columbia together with a copy of the written order authorizing the modification or amendment. No other amendment of the obligations created by this Covenant is permitted without the written consent of the District and, if determined by the Office of the Attorney General to be necessary, without the prior approval of the Zoning Commission.

[signatures on following pages]

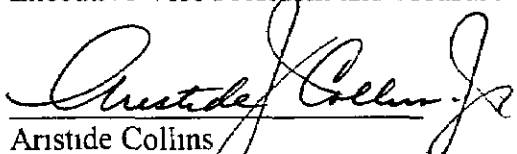
IN WITNESS WHEREOF, The George Washington University has as of the day and year first above written, caused this Covenant to be signed by Louis H Katz, Executive Vice President and Treasurer of The George Washington University and attested by Aristide Collins, Vice President and Secretary of The George Washington University, and does hereby appoint the said Louis H Katz to be its attorney-in-fact, and in its name to acknowledge and deliver this Covenant according to law

The George Washington University
a non-profit corporation incorporated by an Act of the
United States Congress



Louis H Katz
Executive Vice President and Treasurer

Attest

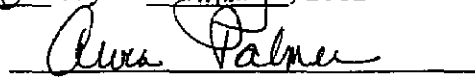


Aristide Collins
Vice President and Secretary of the University

State of Washington
County of DC, ss

I, Arvia Palmer, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Louis H Katz, Executive Vice President and Treasurer of The George Washington University, party to the foregoing PUD Covenant bearing date as of the JAN 6, 2012, the said Louis H Katz being named as attorney-in-fact for said organization in the foregoing and annexed PUD Covenant, personally appeared before me and, being personally well known to me as such attorney-in-fact, acknowledged said PUD Covenant to be the act and deed of said organization and that he delivered the same as such

GIVEN under my hand and seal this 6th day of January, 2012


Notary Public

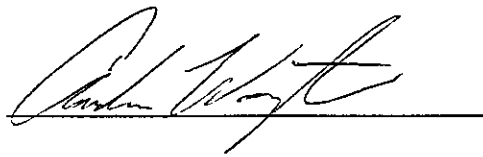
Arvia Palmer
Notary Public, District of Columbia
My Commission Expires 11/30/2014

My commission expires _____

IN WITNESS WHEREOF, the Mayor of the DISTRICT OF COLUMBIA, having first considered and approved the foregoing Covenant, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA, by the Secretary, D C , who has hereunto set her hand and affixed the seal of the District of Columbia hereto under authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932

WITNESS

DISTRICT OF COLUMBIA
a Municipal Corporation



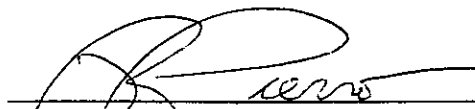
By 
Secretary, D C

(Corporate Seal)

DISTRICT OF COLUMBIA, ss

I, Robert Pierno, a Notary Public in and for the District of Columbia, do hereby certify that Cynthia Brock-Smith who is personally well known to me as the person named as Secretary of the DISTRICT OF COLUMBIA in the foregoing PUD Covenant bearing date of the 16 day of February, 2012 and hereunto annexed, personally appeared before me in said District and, as Secretary of the DISTRICT OF COLUMBIA aforesaid, and by virtue of the authority in her vested, acknowledged the same to be the act and deed of the Mayor of the DISTRICT OF COLUMBIA

GIVEN under my hand and seal this 16 day of February, 2012


Notary Public

My commission expires 9/30/2015

District of Columbia SS
Subscribed and Sworn to before me
this _____ day of _____, _____

Notary Public, D C
My commission expires _____

Robert C Pierno
Notary Public, District of Columbia
My Commission Expires 9/30/2015

APPROVED AS TO LEGAL SUFFICIENCY

Alan Beyntun 2-14-12
Chief, Land Use and Public Works Section
Office of the Attorney General
for the District of Columbia

APPROVED AS TO FORM AND CONTENT

Martha Le Grand 1-31-2012
Zoning Administrator for the District of Columbia