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April 27, 2012

VIA HAND DELIVERY

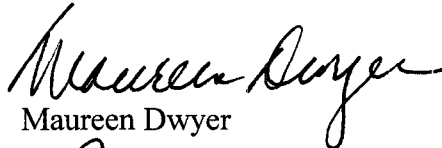
Mr. Anthony Hood, Chairman
Zoning Commission
441 4th Street, NW, Suite 210
Washington, DC 20001

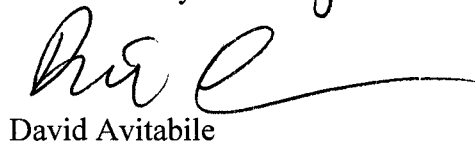
Re: **Z.C. Case No. 06-11F/06-12F**
GW Foggy Bottom Campus Plan / PUD – Square 102
The George Washington University Museum (“GW Museum”)
Post-Hearing Submission of the University

Dear Chairman Hood and Members of the Commission:

Enclosed please find the University’s proposed findings of fact, conclusions of law, and conditions of approval for the above-referenced proceeding. If you have any questions regarding this application, please feel free to contact Maureen at 202-721-1101 or David at 202-721-1137.

Sincerely,


Maureen Dwyer


David Avitabile

DA/da
Enclosures

cc: Charles Barber
Alicia Knight

ZONING COMMISSION
District of Columbia
CASE NO. 06-11F/06-12F
EXHIBIT NO. 39

CERTIFICATE OF SERVICE

On April 27, 2012, I caused a copy of the foregoing letter and enclosure to be delivered by electronic, hand or by U.S. Mail to the following:

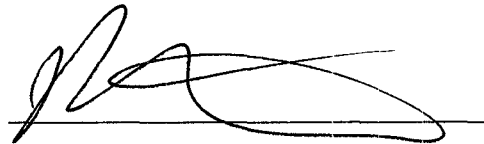
Jennifer Steingasser
Deputy Director, Development Review and
Historic Preservation
D.C. Office of Planning
1100 4th Street, SW, Suite E650
Washington, DC 20024

Jeff Jennings
Policy and Planning
District Department of Transportation
55 M Street SE, 5th Floor
Washington, DC 20009

Advisory Neighborhood Commission 2A
West End Branch Library
1101 24th Street, NW
Washington, DC 20037

L. Asher Corson
President, Foggy Bottom Association
955 26th Street, NW, Apt. 709
Washington, DC 20037

West End Citizens Association
c/o Barbara Kahlow
800 25th Street, NW #704
Washington, DC 20037

A handwritten signature in black ink, appearing to read 'David Avitabile', written over a horizontal line.

David Avitabile

RECEIVED
DISTRICT OF COLUMBIA OFFICE OF ZONING

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA

ZONING COMMISSION ORDER NO. 06-11F/06-12F 2012 APR 27 PM 1: 13

Z.C. Case No. 06-11F/06-12F

The George Washington University Foggy Bottom Campus

**(Second-Stage Planned Unit Development ("PUD") and Further Processing of an Approved
Campus Plan @ Square 102)**

DATE

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on April 5, 2012 to consider an application of The George Washington University (the "University") 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 § 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 approved 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 on part of Lot 46 in Square 102 (the "Property").
2. In November 2011, the University submitted an application for second-stage PUD approval of the development of the Property. (Exhibit 4.) The University sought approval to develop the Property as The George Washington University Museum (the "Museum"). The University concurrently requested further processing approval of its approved campus plan to construct the new facility.
3. The second-stage PUD portion of the application was set down for a public hearing at the Commission's January 9, 2012 public meeting. Notice of the public hearing on the combined application was published in the *D.C. Register* on _____ (DCR) 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 April 5, 2012. The Commission accepted Lee Becker as an expert in the field of architecture and Jami Milanovich as an expert in the field of traffic engineering. The University provided testimony from these experts as well as from Alicia Knight, the University's Senior Associate Vice President for Operations, and Charles Barber, the University's Deputy General Counsel.

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 support from the Textile Museum ("TM") as well as in opposition to the application from the West End Citizens Association ("WECA"). (See Exhibits 13 and 18).
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 from ANC 2A expressing no position on the application. The Commission also heard testimony TM in support of the application as well as from WECA expressing concerns with the application.
7. The Commission also heard testimony and received letters from numerous persons in support of the application. (Exhibits 19, 27, 28, 30, 31, and 32.) Other than WECA, no other person or party testified in opposition to the application.
8. At the close of the hearing, the Commission directed the University to provide additional information regarding the management of buses and additional detail regarding the proposal for a trained flag person to assist with deliveries into the loading berth. The Commission also requested that OP and the Office of Zoning follow up with the D.C. Fire and EMS Department ("FEMS") regarding its position on the application.
9. The University filed its post-hearing submission addressing the Commission's comments on April 19, 2012. (Exhibit 36.) WECA filed a response to the University's post-hearing submission on April 27, 2012.
10. At its public meeting on May 14, 2012, the Commission took proposed action to approve the application and plans that were submitted into the record.
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 June XX, 2012, found that the proposed PUD would not be 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 _____, 2012.

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. 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 as well as properties added by the Commission through modifications to 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 65 feet, lot occupancy of 90%, and gross floor area of 26,271 square feet. The Campus Plan / PUD also called for the retention of the pedestrian connection from 21st Street to the University Yard.

Second-Stage PUD Approval/Further Processing

Overview of the Property

15. The Property is located at the intersection of 21st Street NW and G Street NW and includes the Woodhull House as well as the infill site identified in the Campus Plan / PUD as Development Site 102B (“Site 102B”) in the Campus Plan / PUD. The Property is bounded on the north by Corcoran Hall and bounded on the east by Bell Hall; both buildings are four-story academic buildings. To the northeast of the Property is the University Yard, an open space used for pedestrian travel as well as university events and leisure. To the west of the Property, across 21st Street, is the Hall of Government, another four-story academic building. (Exhibit 4.)
16. The Property is oriented north-south along 21st Street. 21st Street runs one-way, southbound and contains three lanes. The easternmost lane, adjacent to the Property, is permanently devoted to parking and building entrance areas. The center lane is used for through travel at all times. The westernmost lane is used for through travel during rush hour; at other times, it is used for parking and building entrance areas. G Street runs one-way, westbound with one center lane for through traffic and two lanes of parking on either side of the roadway. (Exhibit 4; Exhibit 17, Tab A.)
17. The Foggy Bottom–GWU Metrorail station is located a few blocks to the northwest of the Property.
18. The Property is located in the R-5-D Zone District and is designated as Institutional on the Future Land Use Map of the Comprehensive Plan.

The Project

19. The University sought approval to develop the Property as The George Washington University Museum. The Museum will be located in an infill building to be constructed between Woodhull House and Corcoran Hall as well as in the Woodhull House (the “Project”). The infill building will be connected to the Woodhull House, and it will contain four above-grade and two-below grade stories of space for the Museum. As a part of the Project, the University will also renovate the existing Woodhull House, which is a historic landmark. The University will also relocate and reconstruct a stair tower associated with Corcoran Hall in order to accommodate the footprint of the Project. (Exhibit 4.)
20. The Museum will foster the study and appreciation of art, history, and culture, both within the University and throughout the global community, through an affiliation with The Textile Museum and through the University’s collections, including the Albert H. Small Washingtoniana Collection. The Museum will provide members of the GW community with

opportunities for participation in research and academic programs as well as provide broader opportunities for education and outreach, such as through youth-oriented educational programs, internships, and public programs. (Exhibit 4.)

21. The primary pedestrian entrance to the Project will be located off 21st Street. Pedestrian access from 21st Street to the University Yard will be maintained through an exterior passage below the bridge connection between the infill building and the Woodhull House. (Exhibit 4.)
22. The primary façade of the four-story infill component will be composed of limestone, which provides the gallery spaces with needed protection from daylight. Stone coursing and a soft curve at the southwest corner as well as the use of glass panels for large portions of the ground floor as well as for the top floor all create visual interest in the façade and lighten the apparent mass of the new structure. The massing of the building, including the setback of the top story and the location of the freight elevator at the northeast corner of the building help to modulate the building shape and respect the historic Woodhull House. (Exhibit 4.)
23. The Museum use requires a controlled and secured internal loading berth for Museum artifacts and exhibits. The proposed loading berth is located at the northern end of the Property and will be accessed from 21st Street NW. (Exhibit 4; Exhibit 17.)
24. The Project does not include on-site parking; visitors who drive are expected to park in available public parking on the campus or in the immediate vicinity. The Project includes approximately 16 surface bicycle parking spaces. (Exhibit 17, Tab A.)
25. The University testified that the Project will target a Silver rating on the U.S. Green Building Council's LEED-NC 3.0 2009 Rating System. (Exhibit 4.)
26. The total gross floor area for the Project, including the existing space in the Woodhull House and the relocated Corcoran Hall stair tower, is approximately 31,470 square feet, and the total lot coverage of the Project is approximately 10,010 square feet. The net new gross floor area (in other words, exclusive of the existing Woodhull and relocated Corcoran portions of the Project) is approximately 25,418 square feet, and the net new lot coverage is approximately 7,235 square feet, for a Floor Area Ratio ("FAR") of 2.61 and a lot occupancy of approximately 74%. (Exhibit 17, Tab C; Exhibit 24.)
27. To accommodate the design of the Project, the University requested flexibility from the lot control requirements and the roof structure requirements of the Zoning Regulations. The University explained that all of the existing improvements on Square 102 currently exist on a single record lot, and creating new record lots for each building would be extraordinarily challenging, particularly given the presence of historic landmarks on the square. The University also explained that the roof structure varied in height in response to both the different uses within each component of the roof structure as well as the relationship to the adjacent historic structures. (Exhibit 4.)
28. The University presented testimony and evidence that the proposed design of the Project, including both the infill building and the renovations to Woodhull House, had received

concept approval from the Historic Preservation Review Board (“HPRB”). HPRB staff praised the design as a “cohesive and sculptural form that is both exciting and appropriate for its building typology” that “respectfully adds to” existing campus precedent for “simply massed, monolithic limestone clad structures” that “represent some of the most important buildings on the campus. The University requested flexibility to continue to modify the design of the Project in response to comments from HPRB and the Historic Preservation Office. (Exhibit 17, Tab D.)

Public Benefits

29. The project amenities and public benefits of the PUD were proffered and accepted in conjunction with the Campus Plan / PUD process. The University indicated in its written submissions that it had started to implement many of these public benefits and project amenities.
30. 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 a part of the Campus Plan / PUD:
 - a. Exemplary urban design, architecture, and landscaping, including high-quality materials, pedestrian-oriented development, clear separation of vehicular and pedestrian entrances and circulation patterns, and sustainable features;
 - b. Site planning and efficient land utilization, through an appropriately-sized infill development that respects the design and mass of adjacent historic structures;
 - c. Effective and safe vehicular and pedestrian access and transportation management measures. As described in greater detail below, the Project includes operational and physical controls that will minimize impacts from service and loading activity as well as from bus activity related to the Museum. The PUD also includes bicycle parking, which furthers the campuswide transportation demand management program;
 - d. Environmental benefits, including a commitment to achieve the minimum of a Silver rating under the LEED-NC 2009 rating system (which exceeds the minimum commitment of 16 points under the Campus Plan / PUD); and
 - e. Historic preservation, including the renovation of Woodhull House, a historic landmark, and the design of an infill building that is compatible with adjacent historic landmarks.

(Exhibit 4.)

31. The proposed Project also provides uses of special value. The Museum will benefit the entire District community, including the immediate neighborhood, through the provision of educational and cultural opportunities. (Exhibit 4.)

Transportation Issues

32. The road network surrounding Square 102 consists of one-way streets running in a counterclockwise direction. Traffic on 21st Street travels one-way, southbound and traffic on G Street travels one-way, westbound. (Exhibit 17, Tab A.)
33. The Project will not include any parking. The University's traffic expert submitted a report and provided testimony that the proposed use is not expected to generate a significant number of visitor or employee trips that would impact the AM and PM peak hour, particularly given the prevalent public transportation options, the high average vehicle occupancy anticipated for museum visitors, and hours of operation of the Museum. Visitors or employees arriving by car would likely park in one of the many nearby public parking facilities. The University's traffic expert documented that a significant number of these trips are likely to be by public transportation, walking, or biking to the site. For these reasons, the University's traffic expert noted that DDOT did not require a traffic capacity ("level of service") analysis of the surrounding road network. (Exhibit 17, Tab A.)
34. The University testified and submitted written evidence, including an affidavit prepared by the University's expert on museum uses, that interior loading is generally a requirement for new museum construction and is critically important for the proposed facility, which will house valuable and fragile artifacts. The Commission credits the University's testimony that an interior loading facility is a design requirement. (Exhibit 17, Tab B.)
35. The square currently lacks a public alley system, and the existing uses in the square preclude vehicular access from G Street or H Street. Therefore, the University located vehicular access to the loading berth off 21st Street. (Exhibit 17, Tab A.)
36. University representatives testified that the use of the loading berth would be limited to, on average, one delivery per day, three days per week. The University agreed to restrict the use of the loading berth for object movement and deliveries; all other service and delivery activity would take place from a proposed curbside loading zone on 21st Street located immediately in front of the loading berth. (Exhibit 17, Tab A.)
37. The University's traffic expert testified that the Project would include a number of mitigation measures to ensure that the proposed curb cut and loading berth would not adversely impact the vehicular and pedestrian network, including trained traffic control personnel to direct vans and trucks into the loading berth, peak hour prohibitions on the use of the loading berth, and vehicle size limitations. The University also agreed to install a mountable curb, should such curb be required by public space officials as a condition of the public space permit. Finally, the University agreed to monitor the operation of the curb cut during the initial occupancy of the Museum and make adjustments as needed. (Exhibit 17, Tab A.) In its post-hearing submission, the University indicated that it would ensure that an adequate number of employees are trained such that there will always be at least one trained employee available at all times when the Museum's loading berth is accepting deliveries. (Exhibit 36.)
38. By report and testimony, DDOT concurred that the curb cut was the only viable option for the delivery needs of the Museum and supported the proposed loading program with the

mitigation measures proposed by the University. DDOT noted that the design of the curb cut would continue to be addressed through the public space permitting process. (Exhibit 20.)

39. The University also proposed to establish a curbside passenger drop-off and pick-up zone in front of the Museum. (Exhibit 17, Tab A.)
40. The University testified that the Museum is not expected to draw a significant amount of bus traffic, based on current practice at the existing Textile Museum. At the hearing and in its post-hearing submission, the University agreed to implement a series of measures to promote compliance with D.C. regulations that govern the stopping, standing, parking and idling of buses and specifically discourage buses from loading and unloading on 21st Street in front of the Project. (Exhibit 36.)
41. OP testified that the D.C. Fire and Emergency Management Services (“FEMS”) had communicated that FEMS had no comments on the proposed Project and would continue to review the Project as it proceeded through the review of the building permit.
42. The Project will not cause unacceptable impacts on pedestrian or vehicular traffic, as demonstrated by the testimony and reports provided by the University’s traffic expert, the DDOT report and testimony, and the ANC 2A report and recommendation:
 - a. The Commission finds that the Project will not generate adverse or objectionable impacts on the surrounding roadway network due to vehicular traffic. The Commission credits the testimony of the University’s traffic expert that the Museum is not likely to draw a significant number of vehicles, particularly during the peak hour, and agrees that a vehicular capacity study was not warranted given the low vehicular trip generation.
 - b. The Commission finds that the proposed loading berth and related curb cut will not impose adverse or objectionable impacts on the surrounding transportation network. The Commission credits the testimony of the University’s traffic expert as well as DDOT and ANC 2A that the limited use of the curb cut as well as mitigation measures agreed to by the University will ensure that the curb cut does not adversely impact pedestrians or vehicular traffic. The Commission finds, however, that a mountable curb is not needed to deter unauthorized use of the curb cut or driveway and is not appropriate given the fragility of the materials being transported to the Museum. The Commission recognizes that the final measures to be installed will be determined through the public space approval process.
 - c. The Commission finds that the curbside loading and passenger drop-off zones proposed by the University will not impose adverse or objectionable impacts on the surrounding transportation network. The Commission credits the testimony of the University’s traffic expert that portions of the easternmost lane of 21st Street are used for parking at all times and that the lane is wide enough to accommodate parked delivery trucks as well as automobiles. Accordingly, vehicles stopped or parked in either zone will not obstruct through traffic on 21st Street.

- d. The Commission finds that the University's proposed bus management measures will ensure that the relatively infrequent number of buses arriving at the Museum will not impose adverse or objectionable impacts on the surrounding transportation network. Again, the Commission recognizes that the final measures to be installed shall be determined through the public space approval process.
- e. The Commission does not agree with WECA regarding the need for a level of service analysis. Such an analysis is not necessary given the lack of on-site parking, low level of vehicular trip generation, and dispersal of such trips to multiple public parking garages in the nearby area.
- f. The Commission does not agree with WECA's assertion that the loading berth and related back-in movement will impose adverse impacts. The University and DDOT have provided ample testimony that the limited use of the berth and the extensive mitigation measures to be implemented by the University will avoid such impacts.
- g. The Commission does not credit the testimony of WECA regarding the alleged adverse impacts of curbside loading or passenger drop-off. As University representatives and DDOT testified, such activity is not uncommon in an urban environment with one-way streets and occurs throughout the District. Furthermore, it is not uncommon for building entrances to be located on the left side of a one-way street, and the University cited other examples of similarly-located museums and other buildings that generate visitor traffic without adverse impacts.
- h. The Commission finds that the University addressed WECA's concerns regarding bus traffic with the additional measures proposed in the University's post-hearing submission.

Compliance with Requirements of Order No. 06-11/06-12

- 43. Pursuant to Condition P-14 of 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. (Exhibit 4; Exhibit 17.)
- 44. 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. (Exhibit 4.)
- 45. 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 Order No. 06-11/06-12. (Exhibit 4.)
- 46. The Commission finds that the University has satisfied the above conditions and requirements of Order No. 06-11/06-12.

Compliance with Section 210 Standards

47. 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 Section 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 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.
48. For the reasons already 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.
49. 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 proposed curb cut and driveway from 21st Street and related truck management measures. The Commission also credits DDOT’s acceptance of the pedestrian and vehicular safety measures proffered by the University subject to final approval by DDOT and other public space officials.
50. The Commission credits the evidence submitted by the University that total campus FAR would remain well within the density limit approved for the residentially-zoned portions of the campus even after the construction of the Project.
51. The Commission credits the evidence provided by the University and OP that the Project would not be inconsistent with the District of Columbia Comprehensive Plan, and will further the goals and policies of the Comprehensive Plan.

Compliance with PUD Standards

52. 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 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 lot control and roof structure requirements and satisfaction of the PUD standards.

53. The Commission credits the testimony of the University and its architectural experts and finds that the superior design, site planning, streetscape, sustainable design, historic preservation, and uses of special value (museum) all constitute acceptable project amenities and public benefits consistent with the Commission's first-stage approval.
54. 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.
55. For the reasons detailed in this Order, the Commission credits the testimony of the University's traffic consultant and finds that the 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.
56. As detailed in this Order, the Commission agrees with DDOT's conclusions regarding vehicular and pedestrian impacts and related issues with the proposed development.
57. The Commission credits the testimony of the University and OP regarding the compliance of the Project with the District of Columbia 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, Urban Design, and Arts and Culture Elements related to the Land Use policies and goals stated above;
 - 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.

Agency Reports

58. By report dated March 26, 2012 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. (Exhibit 22.)

59. By report dated March 26, 2012, DDOT recommended approval of the University's application based on its review of the vehicular, pedestrian, and other transportation impacts of the Project. (Exhibit 20.)

ANC 2A Report

60. At a regularly scheduled meeting on March 21, 2012, with a quorum present, ANC 2A approved a resolution taking no position on the application and noting that the University had addressed a number of issues raised by the ANC and community members related to building design, access, and transportation impacts. The ANC recommended that the Commission condition approval of the application to ensure that the University would address the ANC's concerns. (Exhibit 21.)
61. The Commission gives "great weight" to the issues and concerns raised by ANC 2A, which took no position provided that the University agree to certain conditions of approval. The Commission further finds that the issues presented by the ANC were addressed by the University in its proposed conditions of approval.

Testimony in Support

62. At the hearing, the Commission received evidence and heard testimony from the Textile Museum as well as faculty, students and neighbors in support of the Application. (Exhibits 19, 26-28, 30-32.)

Testimony in Opposition

63. WECA presented testimony opposition to the application. WECA generally objected to the transportation impacts of the proposed Project, including the proposed plans for service and delivery and bus traffic. (Exhibit 33.)
64. 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 Project's transportation impacts.
65. With regard to WECA's testimony regarding statements made by a representative of FEMS, the Commission credits the report of a District agency as the official position of the agency and notes that FEMS informed OP that the agency had no comments at this time, and would provide further comments during review of the building permit.
66. No other persons or organizations provided testimony in opposition to the application.

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 planned unit development and modification to a first-stage planned unit 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 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 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 lot control and roof

structure 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 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 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, streetscape improvements, and uses of special value 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 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 second-stage approval and further processing approval should be granted.
15. 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 credits the ANC’s report and concludes that the issues raised by the ANC were addressed by the University at the public hearing.

16. Notice of the public hearing was provided in accordance with the Zoning Regulations.
17. 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 of the District of Columbia orders APPROVAL of the applications for (1) second-stage PUD approval for property consisting of a portion of Lot 46 in Square 102 (“Property”); 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 C of Exhibit 17 and Exhibit 24 of the record, as modified by guidelines, conditions, and standards herein.
2. The University shall have flexibility from the lot control and roof structure provisions of the Zoning Regulations.
3. The Project shall be used for university academic and administrative uses, including use as a museum and related accessory uses (such as a gift shop or administrative office space).
4. The University shall provide a minimum of approximately 16 bicycle parking spaces in connection with the Project, as shown on the approved plans.
5. The University shall provide the following mitigation measures:
 - a. Ensure that at least one employee trained in traffic control is available at all times to direct vans and trucks into the loading berth when the Project’s loading berth is accepting deliveries.
 - b. Prohibit use of the curb cut and driveway from 7 AM to 9 AM and from 4 PM to 7 PM, Monday through Friday.
 - c. Limit the size of vehicles using the curb cut and driveway to no larger than 24 feet in length.
 - d. Limit the use of the curb cut and driveway for artifact and exhibit loading only.

- e. Work with DDOT to conduct a monitoring study of the curb cut and driveway during the first three to six months of operation, assess the impact of the use of such curb cut and driveway, and, if necessary, consider additional measures.
- f. Work with DDOT and public space officials to establish a curbside loading zone as well as a passenger drop-off and pick-up zone along 21st Street.
- g. Work with DDOT and public space officials to implement the measures set forth on pages 2-3 of the University's post-hearing submission to address the impacts of bus activity related to the Museum.

The above mitigation measures related to the curb cut and driveway, curbside loading and drop-off zones, and bus activity are subject to final approval from DDOT and other public space officials, and the University shall accordingly have flexibility to modify such improvements either in response to direction from DDOT and other public space officials or as needed over the life of the Project, provided that DDOT and other public space officials agree to such modifications.

- 6. Except in the case of an emergency, the University shall maintain access from 21st Street to the University Yard as shown on the approved plans.
- 7. 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 or in response to comments received from the Historic Preservation Office and the Historic Preservation Review Board;
 - c. To modify the exterior design of the Project to address comments received from the Historic Preservation Office and the Historic Preservation Review Board;
 - d. 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;
 - e. To vary the size, location, orientation and other features of proposed building signage (including banners), or remove such signage, provided that such signage is generally consistent with the locations illustrated on the approved plans or is otherwise permitted under the applicable provisions of the Building Code.

- f. To vary the number, type, and location of doors related to the fourth floor terrace and the ground floor multipurpose room as needed over the life of the Project to accommodate changes in building operation and function.
8. 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.
9. 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.
10. The University is required to comply fully with the provisions of the Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01, et seq. ("Act") and this Order is conditioned upon full compliance with those provisions. In accordance with the 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, 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 also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial, or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.